

20108519D

## SENATE BILL NO. 881

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on February 19, 2020)

(Patron Prior to Substitute—Senator Locke)

*A BILL to amend and reenact §§ 10.1-2202 and 10.1-2211.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-2211.3, relating to historical African American cemeteries and graves; fund.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 10.1-2202 and 10.1-2211.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-2211.3 as follows:**

**§ 10.1-2202. Powers and duties of the Director.**

In addition to the powers and duties conferred upon the Director elsewhere and in order to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural resources; in order to establish and maintain a permanent record of those resources; and in order to foster a greater appreciation of these resources among the citizens of the Commonwealth, the Director shall have the following powers and duties which may be delegated by the Director:

1. To employ such personnel as may be required to carry out those duties conferred by law;
2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth;
3. To apply for and accept bequests, grants and gifts of real and personal property as well as endowments, funds, and grants from the United States government, its agencies and instrumentalities, and any other source. The Director shall have the authority to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;
4. To perform acts necessary or convenient to carry out the duties conferred by law;
5. To promulgate regulations, in accordance with the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and not inconsistent with the National Historic Preservation Act (P.L. 89-665) and its attendant regulations, as are necessary to carry out all responsibilities incumbent upon the State Historic Preservation Officer, including at a minimum criteria and procedures for submitting nominations of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks;
6. To conduct a broad survey and to maintain an inventory of buildings, structures, districts, objects, and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible remains of the Commonwealth's cultural, political, economic, military, or social history;
7. To publish lists of properties, including buildings, structures, districts, objects, and sites, designated as landmarks by the Board, to inspect designated properties from time to time, and periodically publish a complete register of designated properties setting forth appropriate information concerning those properties;
8. With the consent of the landowners, to provide appropriately designed markers for designated buildings, structures, districts, objects and sites;
9. To acquire and to administer battlefield properties and designated landmarks, or easements or interests therein;
10. To aid and to encourage counties, cities and towns to establish historic zoning districts for designated landmarks and to adopt regulations for the preservation of historical, architectural, archaeological, or cultural values;
11. To provide technical advice and assistance to individuals, groups and governments conducting historic preservation programs and regularly to seek advice from the same on the effectiveness of Department programs;
12. To prepare and place, in cooperation with the Department of Transportation, highway historical markers approved by the Board of Historic Resources on or along the highway or street closest to the location which is intended to be identified by the marker;
13. To develop a procedure for the certification of historic districts and structures within the historic districts for federal income tax purposes;
14. To aid and to encourage counties, cities, and towns in the establishment of educational programs and materials for school use on the importance of Virginia's historic, architectural, archaeological, and cultural resources;
15. To conduct a program of archaeological research with the assistance of the State Archaeologist

60 which includes excavation of significant sites, acquisition and maintenance of artifact collections for the  
 61 purposes of study and display, and dissemination of data and information derived from the study of sites  
 62 and collections;

63 16. To manage and administer the Historic Resources Fund as provided in § 10.1-2202.1; and

64 17. ~~Expired.~~ *To manage and administer the Historical African American Cemeteries and Graves*  
 65 *Fund as provided in § 10.1-2211.3.*

66 **§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American**  
 67 **cemeteries and graves.**

68 A. For purposes of this section:

69 "Fund" means the *Historical African American Cemeteries and Graves Fund* created pursuant to  
 70 § 10.1-2211.3.

71 "Historical African American cemetery" means a cemetery that was established prior to January 1,  
 72 1900, for interments of African Americans.

73 "Qualified organization" means a charitable corporation, charitable association, or charitable trust that  
 74 has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary  
 75 purpose is the preservation of historical cemeteries and graves or any person or locality that owns a  
 76 historical African American cemetery.

77 B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual  
 78 warrant upon the State Treasurer from any sum that may be provided *to the Department* in the general  
 79 appropriation act ~~in favor of the treasurer of a qualified organization caring for any cemetery set forth in~~  
 80 ~~this subsection for the purpose of maintaining qualifying cemeteries and graves pursuant to this section.~~  
 81 *Any representative of a qualified organization desiring to receive funding from such appropriation for*  
 82 *the maintenance of qualifying cemeteries and graves pursuant to this section shall submit an application*  
 83 *to the Department on or before May 30 each year.* Such appropriations shall be allocated on the basis of  
 84 the number of graves, monuments, and markers in a cemetery of African Americans who lived at any  
 85 time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave  
 86 markers or, at the discretion of the Director, other historical records. Such number of graves,  
 87 monuments, and markers, ~~as set forth opposite the cemetery name or~~ as documented by the qualified  
 88 organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a  
 89 grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The  
 90 Department shall determine the average actual cost of routine maintenance of a grave, monument, or  
 91 marker in a biennial survey of at least four properly maintained cemeteries, each located in a different  
 92 geographical region of the Commonwealth. *The Director shall deposit any appropriated funds that are*  
 93 *not disbursed during the same fiscal year into the Fund.*

94 IN THE COUNTY OF:

NUMBER:

95 Arlington

96 Calloway Cemetery

29

97 Lomax Cemetery

66

98 Mount Salvation Cemetery

29

99 Buckingham

100 Stanton Family Cemetery

36

101 Henrico

102 East End Cemetery

4,875

103 Loudoun

104 African-American Burial Ground for the Enslaved at Belmont

44

105 Pulaski

106 New River Cemetery

33

107 West Dublin Cemetery

44

108 IN THE CITY OF:

109 Alexandria

110 Baptist Cemetery of the African American Heritage Park

28

111 Contrabands and Freedmen Cemetery

631

112 Douglass Cemetery

83

113 Lebanon Union Cemetery

53

114 Methodist Protestant Cemetery

1,134

115 Penny Hill Cemetery

14

116 Charlottesville

117 Daughters of Zion Cemetery

192

118 Chesapeake

119 Cuffeytown Cemetery

52

120 Hampton

121 Bassette's Cemetery

212

122 Elmerton Cemetery

339

123 Good Samaritan Cemetery

37

124	Pleasant Shade Cemetery	29
125	Queen Street Cemetery	14
126	Tucker Family Cemetery	15
127	Union Street Cemetery	125
128	Harrisonburg	
129	Newtown Cemetery	400
130	Martinsville	
131	Matthews Cemetery	8
132	The People's Cemetery	178
133	Smith Street Cemetery	9
134	Portsmouth	
135	Mt. Calvary Cemetery	266
136	Richmond	
137	Evergreen Cemetery	2,100
138	Suffolk	
139	Oak Lawn Cemetery	468

140 C. In addition to any sum provided to a qualified organization as set forth in subsection B, the  
 141 Director may disburse funds to any qualified organization to fund maintenance and care of additional  
 142 historical African American graves in the Commonwealth that have been certified by the Department  
 143 and documented in the Department's cultural resources database. Funds disbursed under this subsection  
 144 shall be disbursed at the rate set forth in subsection B.

145 ~~A~~ D. A qualified organization receiving funds shall expend the funds for the routine maintenance of  
 146 its historical African American cemetery and its associated graves, and graves certified by the  
 147 Department and documented in the Department's cultural resources database and the erection of and  
 148 caring for markers, memorials, and monuments to the memory of such African Americans.

149 ~~D~~. E. Each qualified organization, through its proper officer, shall after July 1 of each year submit to  
 150 the Director a certified statement that the funds appropriated to the organization during the preceding  
 151 fiscal year were or will be expended for the purposes set forth in subsection ~~C~~ D. No organization that  
 152 fails to comply with any of the requirements of this section shall receive moneys allocated under this  
 153 section for any subsequent fiscal year until the organization fully complies with the requirements.

154 ~~E~~. F. In addition to funds that may be provided pursuant to subsection B or C, any organization set  
 155 forth in that receives funds pursuant to subsection B or C may apply to the Director for a grant to  
 156 perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African  
 157 American cemeteries and graves. Such a grant shall be made from any appropriation made available by  
 158 the General Assembly for such purpose or from the Fund.

159 ~~F~~. G. Any locality may receive and hold funds drawn pursuant to subsection B or C on behalf of  
 160 any qualified organization until such time as the organization is able to receive or utilize such funds. No  
 161 local matching funds shall be required for any grants made pursuant to this section.

162 ~~G~~. H. The owner of a historical African American cemetery shall reasonably cooperate with a  
 163 qualified organization that receives funds pursuant to subsection B or C.

164 **§ 10.1-2211.3. Historical African American Cemeteries and Graves Fund.**

165 There is hereby created in the state treasury a special nonreverting fund to be known as the  
 166 Historical African American Cemeteries and Graves Fund, referred to in this section as "the Fund." The  
 167 Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, all  
 168 funds deposited in the Fund pursuant to subsection B or C of § 10.1-2211.2, and any gifts, donations,  
 169 grants, bequests, and other funds received on its behalf shall be paid into the state treasury and  
 170 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited  
 171 to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall  
 172 not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for  
 173 the purposes set out in subsections B and C of § 10.1-2211.2. Expenditures and disbursements from the  
 174 Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request  
 175 signed by the Director.