

House Bill 1188 (AS PASSED HOUSE AND SENATE)

By: Representative Spencer of the 180th

A BILL TO BE ENTITLED
AN ACT

1 To create the Oak Grove Cemetery Authority; to provide for its purposes, funding,
2 responsibilities, jurisdiction, membership, meetings, records, filling of vacancies, powers and
3 duties, and application of conflicts of interest and ethics provisions; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**
7 Creation of authority.

8 There is created the Oak Grove Cemetery Authority which is referred to in this Act as the
9 "authority." The authority shall be an instrumentality and political subdivision of the State
10 of Georgia and a public corporation. The authority shall have perpetual existence.

11 **SECTION 2.**
12 Purpose of authority.

13 The purpose of the authority shall be to oversee the care and preservation of the cemetery for
14 the City of St. Marys by creating a trust fund for the purpose of providing for the cemetery's
15 maintenance, repair, and preservation in perpetuity; to raise funds and accept donations for
16 such care and other special projects to enhance the cemetery; and to monitor conditions at
17 the cemetery to ensure that it is kept in good condition.

18 **SECTION 3.**
19 Definitions.

20 As used in this Act, the term:

21 (1) 'Authority' means the Oak Grove Cemetery Authority created by this Act.

22 (2) 'Cemetery' means the Oak Grove Cemetery in St. Marys, Georgia, and any additional
23 property purchased by the City of St. Marys adjacent to such cemetery for the purpose
24 of burials.

25 (3) 'Mayor and council' means the mayor and council of the City of St. Marys.

26 **SECTION 4.**

27 Jurisdiction.

28 The authority shall have jurisdiction over the Oak Grove Cemetery and any additional
29 property purchased by the City of St. Marys adjacent to the Oak Grove Cemetery for the
30 purpose of burials.

31 **SECTION 5.**

32 Authority membership.

33 The authority shall be composed of five members appointed by the mayor and council of the
34 City of St. Marys. The initial appointments shall be made no later than June 30, 2012. The
35 initial appointees shall take office on July 1, 2012. In making the initial appointments, the
36 mayor and council of the City of St. Marys shall appoint one member to a term of office
37 ending on December 31, 2013, and until his or her successor is selected and qualified; two
38 members to terms of office ending on December 31, 2014, and until their respective
39 successors are selected and qualified; and two members to terms of office ending
40 December 31, 2015, and until their respective successors are selected and qualified.
41 Thereafter, a successor to each member shall be appointed not later than December 31 of the
42 year immediately preceding the end of such member's term of office, shall take office on
43 January 1 following such appointment, and shall serve terms of three years and until his or
44 her successor is selected and qualified. A member shall not be eligible to succeed himself
45 or herself after serving two full three-year terms of office. In making such appointments, the
46 mayor and council shall, to the extent available and consistent with their discretion, give
47 preference in their appointments to persons from the professional disciplines of financial
48 investment, historic preservation, mortuary science, accounting, and the ministry. All
49 persons appointed shall be residents of the City of St. Marys and shall remain residents
50 throughout their terms of office.

51 **SECTION 6.**

52 Vacancies.

53 (a) A member's position on the authority shall be vacated by failure to attend three
54 consecutive meetings of the authority unless such member is excused in writing by the
55 chairperson for good cause shown.

56 (b) Vacancies shall be filled by appointment by the mayor and council for the unexpired
57 term of the member whose position on the authority has been vacated.

58 **SECTION 7.**

59 Chairperson, vice chairperson, and secretary-treasurer.

60 At its initial meeting and at the first meeting of each calendar year, the authority shall elect
61 from among its members a chairperson, vice chairperson, and secretary-treasurer.

62 **SECTION 8.**

63 Meetings.

64 The authority shall meet not less than quarterly in regular meetings or in special meetings
65 upon call of the chairperson or two members of the authority to monitor the financial
66 investments of the authority and to discuss conditions in the cemetery which need to be
67 addressed. Three members of the authority shall constitute a quorum. All meetings shall be
68 conducted in accordance with Chapter 14 of Title 50 of the O.C.G.A. Minutes of all
69 meetings of the authority shall be kept and filed with the city clerk of the City of St. Marys.

70 **SECTION 9.**

71 Financial report.

72 A financial report shall be made annually by the authority to the mayor and council of the
73 City of St. Marys at a time designated by the mayor and council.

74 **SECTION 10.**

75 Conflicts of interest and ethics.

76 The members of the authority shall be subject to the St. Marys ethics ordinance in the same
77 manner as the mayor and members of the mayor and council.

SECTION 11.

Powers.

80 The authority shall have the power:

- 81 (1) To contract with other entities, including the City of St. Marys, and be contracted
82 with to provide regular maintenance and repairs of the cemetery; to lay out, sell, and
83 record lots; to supervise burials; and to generally provide all operations necessary to keep
84 the cemetery in good order;
- 85 (2) To hire professionals when needed for matters requiring outside expertise on
86 technical subjects regarding the cemetery's care;
- 87 (3) To monitor conditions at the cemetery and notify the mayor and council when the
88 cemetery is not in good condition;
- 89 (4) To receive donations, grants, and funds from various sources and to ensure that those
90 funds are used prudently to improve or maintain the cemetery in the manner specified by
91 the donors or grantors;
- 92 (5) To seek state and federal funds for cemetery preservation for conducting educational
93 programs and the enhancement of the grounds, for signage to encourage tourism, and for
94 any other benefit to the cemetery as deemed necessary by the authority;
- 95 (6) To raise funds for special needs and projects for the cemetery;
- 96 (7) To establish, with the approval of the mayor and council, other burial alternatives
97 such as mausoleums, scattering fields for ashes, and columbaria, in order to increase
98 income to care for the cemetery or for other projects to enhance the cemetery for the
99 visiting public;
- 100 (8) To participate in private, city, state, and federal historic preservation programs in the
101 City of St. Marys;
- 102 (9) To work with the St. Marys Historic Preservation Commission to preserve the
103 historic and aesthetic values of the cemetery;
- 104 (10) To adopt rules of operation for the authority;
- 105 (11) To create and adopt an investment policy to provide for the safety of the funds held
106 by the authority; and
- 107 (12) To decide upon and adopt a method of assessing the performance of the investments
108 chosen to increase the funds held by the authority.

109 **SECTION 12.**

110 Funding.

111 A portion of the proceeds from the sale of each burial lot in the cemetery for the City of St.
112 Marys, to be not less than one-half of the proceeds from each such lot, shall be deposited in
113 trust with the authority in an account held by the authority and designated solely for the care
114 of the cemetery in accordance with the purposes of the authority as specified in Section 2 of
115 this Act. The authority shall have the power to invest such funds subject only to a general
116 duty of fiduciary responsibility. The authority shall be authorized to make prudent
117 investments without being limited to those investments allowed to municipalities under
118 Georgia law.

119 **SECTION 13.**

120 Distribution of investment income.

121 As the City of St. Marys' income from lot sales diminishes, an increasing portion of the
122 authority's annual investment income shall be used to replace it until such time as the entire
123 expense of the cemetery's maintenance and care is paid from authority funds. No uses for
124 authority funds, including investment income, shall be made other than those set forth in this
125 Act. The principal amount held in the authority's care shall remain intact and at no time shall
126 any part of it be used for any purpose, except in the case of emergency damage occurring to
127 the cemetery property itself, such as extreme storm damage or vandalism.

128 **SECTION 14.**

129 Responsibilities of the City of St. Marys.

130 The authority shall contract with the City of St. Marys to provide the maintenance and
131 operations services of the cemetery in exchange for all or part of the annual investment
132 income generated by the principal of the funds held by the authority. Annually, the amount
133 of payment from the authority to the city shall be determined by comparing the investment
134 income of the funds held by the authority and the records of expenses incurred by the city
135 to operate the cemetery.

136 **SECTION 15.**

137 All laws and parts of laws in conflict with this Act are repealed.