

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 498

FINAL READING

Introduced by Fulton, 29; Avery, 28; Campbell, 25; Coash, 27; Haar, 21; McGill, 26; Wallman, 30.

Read first time January 20, 2009

Committee: General Affairs

A BILL

1 FOR AN ACT relating to cemeteries; to amend section 12-101, Reissue
2 Revised Statutes of Nebraska; to add trustees to the
3 board of Wyuka Cemetery; to delete obsolete provisions;
4 to require statements regarding conflicts of interest; to
5 harmonize provisions; to repeal the original section; and
6 to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 12-101 (1) The cemetery in Lincoln, Nebraska, known as
4 Wyuka Cemetery, is hereby declared to be a public charitable
5 corporation. The general control and management of the affairs of
6 such cemetery shall be vested in a board of three trustees ~~who~~
7 until July 1, 2009, and thereafter shall be vested in a board of
8 five trustees. The trustees shall serve without compensation and
9 ~~who~~ shall be a body corporate to be known as Wyuka Cemetery, with
10 power to sue and be sued, to contract and to be contracted with,
11 and to acquire, hold, and convey both real and personal property
12 for all purposes consistent with the provisions of sections 12-101
13 to 12-105, and ~~to~~ shall have the power of eminent domain to be
14 exercised in the manner provided in section 12-201.

15 (2) The trustees of Wyuka Cemetery shall have the power,
16 by resolution duly adopted by a majority vote, to authorize one
17 of their number to sign a petition for paving, repaving, curbing,
18 recurbing, grading, changing grading, guttering, resurfacing,
19 relaying existing pavement, or otherwise improving any street,
20 streets, alley, alleys, or public ways or grounds abutting cemetery
21 property. When such improvements have been ordered, the trustees
22 shall pay, from funds of the cemetery, such special taxes or
23 assessments as may be properly determined.

24 (3) The trustees of Wyuka Cemetery shall be appointed by
25 the Governor of the State of Nebraska at the expiration of each

1 trustee's term of office. ~~The first appointed trustee shall serve~~
2 ~~until January 1, 1965, the second trustee until January 1, 1967,~~
3 ~~and the third trustee until January 1, 1969. The two trustees~~
4 ~~appointed for their initial terms of office beginning July 1, 2009,~~
5 ~~shall be appointed by the Governor to serve a five-year term and a~~
6 ~~six-year term, respectively. Thereafter, each trustee of the five~~
7 ~~trustees shall be appointed by the Governor for a term of six~~
8 years. In the event of a vacancy occurring among the members of the
9 board, the vacancy shall be filled by appointment by the Governor,
10 and such appointment shall continue for the unexpired term.

11 (4) The board of trustees of Wyuka Cemetery shall file
12 with the Secretary of State, on or before the second Tuesday in
13 March of each year, an itemized report of all the receipts and
14 expenditures in connection with its management and control of the
15 cemetery.

16 (5) The trustees of Wyuka Cemetery shall have the power
17 to provide, in their discretion, retirement benefits for present
18 and future employees of the cemetery, and to establish, participate
19 in, and administer plans for the benefit of its employees or
20 its employees and their dependents, which may provide disability,
21 hospitalization, medical, surgical, accident, sickness and life
22 insurance coverage, or any one or more coverages, and which shall
23 be purchased from a corporation or corporations authorized and
24 licensed by the Department of Insurance.

25 (6) (a) Beginning December 31, 1998, and each December

1 31 thereafter, the trustees shall file with the Public Employees
2 Retirement Board an annual report on each retirement plan
3 established pursuant to this section and section 401(a) of the
4 Internal Revenue Code and shall submit copies of such report to
5 the members of the Nebraska Retirement Systems Committee of the
6 Legislature. The annual report shall be in a form prescribed by the
7 Public Employees Retirement Board and shall contain the following
8 information for each such retirement plan:

9 (i) The number of persons participating in the retirement
10 plan;

11 (ii) The contribution rates of participants in the plan;

12 (iii) Plan assets and liabilities;

13 (iv) The names and positions of persons administering the
14 plan;

15 (v) The names and positions of persons investing plan
16 assets;

17 (vi) The form and nature of investments;

18 (vii) For each defined contribution plan, a full
19 description of investment policies and options available to plan
20 participants; and

21 (viii) For each defined benefit plan, the levels of
22 benefits of participants in the plan, the number of members who
23 are eligible for a benefit, and the total present value of such
24 members' benefits, as well as the funding sources which will pay
25 for such benefits.

1 If a plan contains no current active participants, the
2 trustees may file in place of such report a statement with the
3 Public Employees Retirement Board indicating the number of retirees
4 still drawing benefits, and the sources and amount of funding for
5 such benefits.

6 (b) Beginning December 31, 1998, and every four years
7 thereafter, if such retirement plan is a defined benefit plan,
8 the trustees shall cause to be prepared a quadrennial report and
9 shall file the same with the Public Employees Retirement Board
10 and submit to the members of the Nebraska Retirement Systems
11 Committee of the Legislature a copy of such report. The report
12 shall consist of a full actuarial analysis of each such retirement
13 plan established pursuant to this section. The analysis shall be
14 prepared by an independent private organization or public entity
15 employing actuaries who are members in good standing of the
16 American Academy of Actuaries, and which organization or entity
17 has demonstrated expertise to perform this type of analysis and is
18 unrelated to any organization offering investment advice or which
19 provides investment management services to the retirement plan.

20 Sec. 2. Any trustee of Wyuka Cemetery who would be
21 required to take any action or make any decision in the discharge
22 of his or her official duties that may cause financial benefit
23 or detriment to him or her, a member of his or her immediate
24 family, or a business with which he or she is associated, which
25 is distinguishable from the effects of such action on the public

1 generally or a broad segment of the public, shall take the
2 following actions as soon as he or she is aware of such potential
3 conflict or should reasonably be aware of such potential conflict,
4 whichever is sooner:

5 (1) Prepare a written statement describing the matter
6 requiring action or decision and the nature of the potential
7 conflict;

8 (2) Deliver a copy of the statement to the person in
9 charge of keeping records for the board of trustees of Wyuka
10 Cemetery who shall enter the statement onto the public records of
11 the board of trustees; and

12 (3) Abstain from participating or voting on the matter in
13 which the trustee has a conflict of interest.

14 Sec. 3. Original section 12-101, Reissue Revised Statutes
15 of Nebraska, is repealed.

16 Sec. 4. Since an emergency exists, this act takes effect
17 when passed and approved according to law.