

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 500

FINAL READING

Introduced by Karpisek, 32.

Read first time January 20, 2009

Committee: General Affairs

A BILL

1 FOR AN ACT relating to cemeteries; to amend sections 16-242
2 and 17-936, Reissue Revised Statutes of Nebraska, and
3 section 12-402, Revised Statutes Cumulative Supplement,
4 2008; to authorize certain cities and villages to use
5 funds for the general care of cemeteries as prescribed;
6 to harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-402, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 12-402 (1) The mayor and council or the board of
4 trustees, for the purpose of defraying the cost of the care,
5 management, improvement, beautifying, and welfare of such
6 cemeteries and the inhabitants thereof, may each year levy a tax
7 not exceeding five and two-tenths cents on each one hundred dollars
8 upon the taxable value of all the taxable property in such city
9 or village subject to taxation for general purposes. The tax shall
10 be collected and paid to the city or village as taxes for general
11 purposes are collected and paid to the city or village. All taxes
12 collected for this purpose shall constitute and be known as the
13 cemetery fund and shall be used for the general care, management,
14 improvement, beautifying, and welfare of such cemetery and the
15 inhabitants thereof. Warrants upon this fund shall be drawn by the
16 cemetery board and shall be paid by the city or village treasurer.
17 The city council or the board of trustees may issue a warrant from
18 the cemetery fund if a payment is due and the cemetery board is not
19 scheduled to meet prior to such due date to authorize the warrant.

20 ~~(2) If the mayor and council or the board of trustees~~
21 ~~sets aside the proceeds from the sale of lots as a perpetual fund,~~
22 ~~the principal of the fund that is attributable to such proceeds, or~~
23 ~~attributable to any money which has come to the fund by donation,~~
24 ~~bequest, or otherwise that does not prohibit such use, may be used~~
25 ~~for the purchase and development of additional land to be used~~

1 ~~for cemetery purposes as long as no more than twenty-five percent~~
2 ~~of such principal is so used in any fiscal year and no more than~~
3 ~~thirty-five percent of such principal is so used in any period of~~
4 ~~ten consecutive fiscal years.~~

5 (2) The mayor and council or the board of trustees may
6 set aside the proceeds of the sale of lots as a perpetual fund to
7 be invested as provided by ordinance. The income from the fund may
8 be used for the general care, management, maintenance, improvement,
9 beautifying, and welfare of the cemetery. The principal of the
10 perpetual fund may be used for the general care, management,
11 maintenance, improvement, beautifying, and welfare of the cemetery
12 as long as no more than twenty percent of the principal is so used
13 in any fiscal year and no more than forty percent of the principal
14 is so used in any period of ten consecutive fiscal years. The
15 principal of the perpetual fund may also be used for the purchase
16 and development of additional land to be used for cemetery purposes
17 as long as no more than twenty-five percent of the principal is so
18 used in any fiscal year and no more than thirty-five percent of the
19 principal is so used in any period of ten consecutive fiscal years.

20 (3) The mayor and council or the board of trustees may
21 receive money by donation, bequest, or otherwise for credit to
22 the perpetual fund to be invested as provided by ordinance or as
23 conditioned by the donor. The income therefrom may be used for the
24 general care, management, maintenance, improvement, beautifying,
25 and welfare of the cemetery as the donor may designate. The

1 principal therefrom may be used for the general care, management,
2 maintenance, improvement, beautifying, and welfare of the cemetery
3 as the donor may designate as long as no more than twenty percent
4 of the principal is so used in any fiscal year and no more than
5 forty percent of the principal is so used in any period of ten
6 consecutive fiscal years. The principal therefrom may also be used
7 for the purchase and development of additional land to be used for
8 cemetery purposes as the donor may designate as long as no more
9 than twenty-five percent of the principal is so used in any fiscal
10 year and no more than thirty-five percent of the principal is so
11 used in any period of ten consecutive fiscal years.

12 ~~(3)~~ (4) This section does not limit the use of any
13 money that comes to the city or village by donation, bequest, or
14 otherwise that is not designated to be credited to the perpetual
15 fund or that allows greater use for purchase or development of
16 additional land to be used for cemetery purposes.

17 Sec. 2. Section 16-242, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 16-242 (1) A city of the first class may survey, plat,
20 map, grade, fence, ornament, and otherwise improve all burial and
21 cemetery grounds and avenues leading thereto owned by such city. It
22 may construct walks, rear and protect ornamental trees therein, and
23 provide for paying the expenses thereof.

24 (2) After the burial and cemetery grounds are fully
25 paid for, the city may set aside the proceeds of the sale

1 of lots as a perpetual fund to be invested as provided by
2 ordinance. The income from the fund ~~shall~~ may be used for the
3 ~~care, ornamentation, or maintenance of such lots or the cemetery~~
4 ~~in general.~~ general care, management, maintenance, improvement,
5 beautifying, and welfare of the cemetery. The principal of the
6 perpetual fund may be used for the general care, management,
7 maintenance, improvement, beautifying, and welfare of the cemetery
8 as long as no more than twenty percent of the principal is so used
9 in any fiscal year and no more than forty percent of the principal
10 is so used in any period of ten consecutive fiscal years. The
11 principal of the perpetual fund may also be used for the purchase
12 and development of additional land to be used for cemetery purposes
13 as long as no more than twenty-five percent of the principal is so
14 used in any fiscal year and no more than thirty-five percent of the
15 principal is so used in any period of ten consecutive fiscal years.

16 (3) The city may receive money by donation, bequest,
17 or otherwise ~~to be held in trust in perpetuity for credit to~~
18 the perpetual fund to be invested as provided by ordinance or
19 as conditioned by the donor. The income therefrom ~~shall~~ may be
20 used for the ~~care, ornamentation, and maintenance of such property~~
21 general care, management, maintenance, improvement, beautifying,
22 and welfare of the cemetery as the donor may designate. The
23 principal therefrom may be used for the general care, management,
24 maintenance, improvement, beautifying, and welfare of the cemetery
25 as the donor may designate as long as no more than twenty percent

1 of the principal is so used in any fiscal year and no more than
2 forty percent of the principal is so used in any period of ten
3 consecutive fiscal years. The principal therefrom may also be used
4 for the purchase and development of additional land to be used for
5 cemetery purposes as the donor may designate as long as no more
6 than twenty-five percent of the principal is so used in any fiscal
7 year and no more than thirty-five percent of the principal is so
8 used in any period of ten consecutive fiscal years.

9 (4) The city treasurer shall be the custodian of such
10 funds, and the same shall be invested by a board composed of the
11 mayor, city treasurer, and city clerk.

12 (5) This section does not limit the use of any money
13 that comes to the city by donation, bequest, or otherwise that is
14 not designated to be credited to the perpetual fund or that allows
15 greater use for purchase or development of additional land to be
16 used for cemetery purposes.

17 Sec. 3. Section 17-936, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 17-936 In case of the transfer of the management and
20 control of such village or city cemetery, as provided in sections
21 17-934 and 17-935, the cemetery board erected under section 12-401
22 shall have no jurisdiction over the management and control of such
23 cemetery after ~~said~~ the transfer. In the event of such transfer,
24 ~~as aforesaid,~~ any funds or any money to the credit of the cemetery
25 fund or any perpetual fund created under section 12-402, shall

1 be paid over by the village treasurer of such village or by the
2 city treasurer of such city to the treasurer of the cemetery
3 association; and all endowments contemplated under section 12-301
4 to such village or city cemetery shall vest absolutely in the
5 cemetery association to whom the control and management of such
6 cemetery shall have been transferred.

7 Sec. 4. Original sections 16-242 and 17-936, Reissue
8 Revised Statutes of Nebraska, and section 12-402, Revised Statutes
9 Cumulative Supplement, 2008, are repealed.