

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 911

FINAL READING

Introduced by Quick, 35; Brewer, 43; Lowe, 37; Blood, 3; Gragert, 40;
Hansen, M., 26.

Read first time January 10, 2020

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the state veteran cemetery system; to amend
- 2 section 16-201, Reissue Revised Statutes of Nebraska, and sections
- 3 12-1301 and 16-202, Revised Statutes Cumulative Supplement, 2018; to
- 4 change provisions relating to the state veteran cemetery system; to
- 5 state intent; to eliminate obsolete provisions; to provide for
- 6 conveyance of real estate as prescribed; to harmonize provisions; to
- 7 repeal the original sections; and to declare an emergency.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-1301, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 12-1301 (1)(a) (1) ~~The Director of Veterans' Affairs shall~~ ~~may~~
4 establish and operate a state veteran cemetery system. The system shall
5 consist of a facility in the city of Grand Island, subject to subdivision
6 (b) of this subsection, and may include ~~consisting of a facility in Box~~
7 ~~Butte County, a facility in Sarpy County, and the Nebraska Veterans'~~
8 ~~Memorial Cemetery in Hall County.~~ The director may seek and expend
9 private, state, and federal funds for the establishment, construction,
10 maintenance, administration, and operation of the cemetery system as
11 provided in this section. Any gift, bequest, or devise of real property
12 and any acquisition of real property with the proceeds of a donation,
13 gift, bequest, devise, or grant from an individual, an organization, a
14 corporation, a foundation, or a similar entity or from a nonfederal
15 governmental agency for the cemetery system shall be subject to the
16 approval requirements of section 81-1108.33 notwithstanding the value of
17 the real property. All funds received for the construction of the
18 cemetery system shall be remitted to the State Treasurer for credit to
19 the Veteran Cemetery Construction Fund. Any funds remaining in the
20 Veteran Cemetery Construction Fund following the completion of
21 construction of the ~~three~~ facilities comprising the state veteran
22 cemetery system shall upon such completion be transferred to the Nebraska
23 Veteran Cemetery System Endowment Fund, and the Veteran Cemetery
24 Construction Fund shall thereafter terminate.

25 (b) Beginning on the effective date of this act, the Director of
26 Veterans' Affairs shall negotiate with the city of Grand Island to
27 acquire an exclusive option for the transfer of title to the former
28 Nebraska Veterans' Memorial Cemetery in the city of Grand Island and land
29 adjacent to the cemetery, as identified in the required program
30 statement, owned by the city of Grand Island. After being granted funding
31 assistance from the National Cemetery Administration, the director shall

1 accept from the city of Grand Island, at no cost, title to the real
2 estate described in this subdivision in order to establish a state
3 cemetery for veterans. The director shall prepare an initial program
4 statement and make a request to the Legislature for funding as required
5 by section 81-1108.41. The expenses of the initial program statement
6 shall be paid from the Nebraska Veteran Cemetery System Operation Fund.

7 (2)(a) A trust fund to be known as the Nebraska Veteran Cemetery
8 System Endowment Fund is hereby created. The fund shall consist of:

9 (i) Gifts, bequests, grants, or contributions from private or public
10 sources designated for the maintenance, administration, or operation of
11 the state veteran cemetery system;

12 (ii) Any funds transferred from the Veteran Cemetery Construction
13 Fund following the completion of construction of the three facilities
14 comprising the state veteran cemetery system; and

15 (iii) Following the termination of the Veteran Cemetery Construction
16 Fund, any funds received by the state from any source for the state
17 veteran cemetery system.

18 (b) No revenue from the General Fund shall be remitted to the
19 Nebraska Veteran Cemetery System Endowment Fund. The Legislature shall
20 not appropriate or transfer money from the Nebraska Veteran Cemetery
21 System Endowment Fund for any purpose other than as provided in this
22 section. Any money in the Nebraska Veteran Cemetery System Endowment Fund
23 available for investment shall be invested by the state investment
24 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act. No portion of the principal of the Nebraska
26 Veteran Cemetery System Endowment Fund shall be expended for any purpose
27 except investment pursuant to this subdivision. All investment earnings
28 from the Nebraska Veteran Cemetery System Endowment Fund shall be
29 credited on a quarterly basis to the Nebraska Veteran Cemetery System
30 Operation Fund.

31 (3) There is hereby created the Nebraska Veteran Cemetery System

1 Operation Fund. Money in the fund shall be used for the operation,
2 administration, and maintenance of the state veteran cemetery system. The
3 fund may be used for the expenses of the initial program statement under
4 subdivision (1)(b) of this section. Any money in the fund available for
5 investment shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 (4) The Director of Veterans' Affairs ~~director~~ may make formal
9 application to the federal government regarding federal financial
10 assistance for the construction of any of the facilities comprising the
11 state veteran cemetery system which is located in a county with a
12 population of less than one hundred thousand persons when he or she
13 determines that the requirements for such assistance have been met.

14 (5) The director may make formal application to the federal
15 government regarding financial assistance for the construction of any
16 facility comprising a portion of the state veteran cemetery system
17 located in a county with a population of more than one hundred thousand
18 persons when sufficient funds have been remitted to the Nebraska Veteran
19 Cemetery System Endowment Fund such that (a) the projected annual
20 earnings from such fund available for transfer to the Nebraska Veteran
21 Cemetery System Operation Fund plus (b) the projected annual value of
22 formal agreements that have been entered into between the state and any
23 political subdivisions or private entities to subsidize or undertake the
24 operation, administration, or maintenance of any of the facilities within
25 the state veteran cemetery system, has a value that is sufficient to fund
26 the operation, administration, and maintenance of any cemetery created
27 pursuant to this subsection.

28 (6) The director may expend such funds as may be available for any
29 of the purposes authorized in this section.

30 (7) The director, with the approval of the Governor, may enter into
31 agreements for cemetery construction, administration, operation, or

1 maintenance with qualified persons, political subdivisions, or business
2 entities. The director shall provide lots in the cemetery system for the
3 interment of deceased veterans as defined by the National Cemetery
4 Administration of the United States Department of Veterans Affairs. The
5 director shall provide lots for the interment of those veterans' spouses,
6 minor children, and unmarried adult children who were physically or
7 mentally disabled and incapable of self-support. Section 12-501 does not
8 apply to the state veteran cemetery system.

9 (8) The Veteran Cemetery Construction Fund is created. Any money in
10 the fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act and the
12 Nebraska State Funds Investment Act. ~~The balance in the Veteran Cemetery~~
13 ~~Construction Fund shall be transferred to the General Fund on or before~~
14 ~~June 30, 2018, as directed by the budget administrator of the budget~~
15 ~~division of the Department of Administrative Services.~~

16 (9) The director may adopt and promulgate rules and regulations to
17 carry out this section. The rules and regulations shall include
18 requirements for proof of residency, cost of burial if any, and standards
19 for cemeteries, including decorations and headstones.

20 Sec. 2. Section 16-201, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 16-201 Each city of the first class shall be a body corporate and
23 politic and shall have power (1) to sue and be sued, (2) to purchase,
24 lease, lease with option to buy, or acquire by gift or devise and to hold
25 real and personal property within or without the limits of the city and
26 real estate sold for taxes for the use of the city in such manner and
27 upon such terms and conditions as may be deemed in the best interests of
28 the city, (3) to sell and convey, exchange, or lease any real or personal
29 property owned by the city, including park land, in such manner and upon
30 such terms and conditions as may be deemed in the best interests of the
31 city, except that real estate owned by the city may be conveyed without

1 consideration to the State of Nebraska for state veterans' cemetery sites
2 or state armory sites or, if acquired for state armory sites, shall be
3 conveyed in the manner strictly as provided in sections 18-1001 to
4 18-1006, (4) to make all contracts and do all other acts in relation to
5 the property and concerns of the city necessary to the exercise of its
6 corporate powers, and (5) to exercise such other and further powers as
7 may be conferred by law.

8 Sec. 3. Section 16-202, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 16-202 (1) Except as otherwise provided in subsection (4) of this
11 section, the The power to sell and convey any real estate owned by a city
12 of the first class, including park land, ~~except real estate used in the~~
13 ~~operation of public utilities and except real estate for state armory~~
14 ~~sites for the use of the State of Nebraska as expressly provided in~~
15 ~~section 16-201,~~ shall be exercised by ordinance directing the conveyance
16 of such real estate and the manner and terms thereof. Notice of such sale
17 and the terms thereof shall be published for three consecutive weeks in a
18 legal newspaper in or of general circulation in such city immediately
19 after the passage and publication of such ordinance.

20 (2) If within thirty days after the passage and publication of such
21 ordinance a remonstrance petition against such sale is signed by
22 registered voters of the city equal in number to thirty percent of the
23 registered voters of the city voting at the last regular city election
24 held therein and is filed with the city council, the property shall not
25 then, nor within one year thereafter, be sold. If the date for filing the
26 petition falls upon a Saturday, Sunday, or legal holiday, the signatures
27 shall be collected within the thirty-day period, but the filing shall be
28 considered timely if filed or postmarked on or before the next business
29 day. Upon the receipt of the petition, the city council, with the aid and
30 assistance of the election commissioner or county clerk, shall determine
31 the validity and sufficiency of signatures on the petition. The city

1 council shall deliver the petition to the election commissioner or county
2 clerk by hand carrier, by use of law enforcement officials, or by
3 certified mail, return receipt requested. Upon receipt of the petition,
4 the election commissioner or county clerk shall issue to the city council
5 a written receipt that the petition is in the custody of the election
6 commissioner or county clerk. The election commissioner or county clerk
7 shall compare the signature of each person signing the petition with the
8 voter registration records to determine if each signer was a registered
9 voter on or before the date on which the petition was filed with the city
10 council. The election commissioner or county clerk shall also compare the
11 signer's printed name, street and number or voting precinct, and city,
12 village, or post office address with the voter registration records to
13 determine whether the signer was a registered voter. The signature and
14 address shall be presumed to be valid only if the election commissioner
15 or county clerk determines that the printed name, street and number or
16 voting precinct, and city, village, or post office address matches the
17 registration records and that the registration was received on or before
18 the date on which the petition was filed with the city council. The
19 determinations of the election commissioner or county clerk may be
20 rebutted by any credible evidence which the city council finds
21 sufficient. The express purpose of the comparison of names and addresses
22 with the voter registration records, in addition to helping to determine
23 the validity of the petition, the sufficiency of the petition, and the
24 qualifications of the signer, shall be to prevent fraud, deception, and
25 misrepresentation in the petition process. Upon completion of the
26 comparison of names and addresses with the voter registration records,
27 the election commissioner or county clerk shall prepare in writing a
28 certification under seal setting forth the name and address of each
29 signer found not to be a registered voter and the signature page number
30 and line number where the name is found, and if the reason for the
31 invalidity of the signature or address is other than the nonregistration

1 of the signer, the election commissioner or county clerk shall set forth
2 the reason for the invalidity of the signature. If the election
3 commissioner or county clerk determines that a signer has affixed his or
4 her signature more than once to the petition and that only one person is
5 registered by that name, the election commissioner or county clerk shall
6 prepare in writing a certification under seal setting forth the name of
7 the duplicate signature and shall count only the earliest dated
8 signature. The election commissioner or county clerk shall certify to the
9 city council the number of valid signatures necessary to constitute a
10 valid petition. The election commissioner or county clerk shall deliver
11 the petition and the certifications to the city council within forty days
12 after the receipt of the petition from the city council. The delivery
13 shall be by hand carrier, by use of law enforcement officials, or by
14 certified mail, return receipt requested. Not more than twenty signatures
15 on one signature page shall be counted.

16 (3) The city council shall, within thirty days after the receipt of
17 the petition and certifications from the election commissioner or county
18 clerk, hold a public hearing to review the petition and certifications
19 and receive testimony regarding them. The city council shall, following
20 the hearing, vote on whether or not the petition is valid and shall
21 uphold the petition if sufficient valid signatures have been received.

22 (4) This section does not apply to (a) real estate used in the
23 operation of public utilities, (b) real estate for state armory sites for
24 the use of the State of Nebraska as expressly provided in section 16-201,
25 or (c) real estate for state veterans' cemetery sites for the use of the
26 State of Nebraska as expressly provided in section 12-1301.

27 Sec. 4. Original section 16-201, Reissue Revised Statutes of
28 Nebraska, and sections 12-1301 and 16-202, Revised Statutes Cumulative
29 Supplement, 2018, are repealed.

30 Sec. 5. Since an emergency exists, this act takes effect when
31 passed and approved according to law.