

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 911

Introduced by Quick, 35; Brewer, 43.

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;
- 7 and to repeal the original sections.
- 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, ~~and 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) It is the intent of the Legislature for the Director of
26 Administrative Services to negotiate with the city of Grand Island to
27 acquire title to the former Nebraska Veterans' Memorial Cemetery in the
28 city of Grand Island and land adjacent to the cemetery owned by the city
29 of Grand Island in order to establish a state cemetery for veterans and
30 qualify for funding assistance from the National Cemetery Administration.
31 If the title to the former cemetery is acquired, the Director of

1 Veterans' Affairs shall prepare an initial program statement and make an
2 initial request for funding by September 15, 2020, as required by section
3 81-1108.41.

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

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

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

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

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

28 (3) There is hereby created the Nebraska Veteran Cemetery System
29 Operation Fund. Money in the fund shall be used for the operation,
30 administration, and maintenance of the state veteran cemetery system. Any
31 money in the fund available for investment shall be invested by the state

1 investment officer pursuant to the Nebraska Capital Expansion Act and the
2 Nebraska State Funds Investment Act.

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

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

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

25 (7) The director, with the approval of the Governor, may enter into
26 agreements for cemetery construction, administration, operation, or
27 maintenance with qualified persons, political subdivisions, or business
28 entities. The director shall provide lots in the cemetery system for the
29 interment of deceased veterans as defined by the National Cemetery
30 Administration of the United States Department of Veterans Affairs. The
31 director shall provide lots for the interment of those veterans' spouses,

1 minor children, and unmarried adult children who were physically or
2 mentally disabled and incapable of self-support. Section 12-501 does not
3 apply to the state veteran cemetery system.

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

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

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

17 16-201 Each city of the first class shall be a body corporate and
18 politic and shall have power (1) to sue and be sued, (2) to purchase,
19 lease, lease with option to buy, or acquire by gift or devise and to hold
20 real and personal property within or without the limits of the city and
21 real estate sold for taxes for the use of the city in such manner and
22 upon such terms and conditions as may be deemed in the best interests of
23 the city, (3) to sell and convey, exchange, or lease any real or personal
24 property owned by the city, including park land, in such manner and upon
25 such terms and conditions as may be deemed in the best interests of the
26 city, except that real estate owned by the city may be conveyed without
27 consideration to the State of Nebraska for state veterans' cemetery sites
28 or state armory sites or, if acquired for state armory sites, shall be
29 conveyed in the manner strictly as provided in sections 18-1001 to
30 18-1006, (4) to make all contracts and do all other acts in relation to
31 the property and concerns of the city necessary to the exercise of its

1 corporate powers, and (5) to exercise such other and further powers as
2 may be conferred by law.

3 Sec. 3. Section 16-202, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 16-202 (1) Except as otherwise provided in subsection (4) of this
6 section, the ~~The~~ power to sell and convey any real estate owned by a city
7 of the first class, including park land, ~~except real estate used in the~~
8 ~~operation of public utilities and except real estate for state armory~~
9 ~~sites for the use of the State of Nebraska as expressly provided in~~
10 ~~section 16-201,~~ shall be exercised by ordinance directing the conveyance
11 of such real estate and the manner and terms thereof. Notice of such sale
12 and the terms thereof shall be published for three consecutive weeks in a
13 legal newspaper in or of general circulation in such city immediately
14 after the passage and publication of such ordinance.

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

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

1 prepare in writing a certification under seal setting forth the name of
2 the duplicate signature and shall count only the earliest dated
3 signature. The election commissioner or county clerk shall certify to the
4 city council the number of valid signatures necessary to constitute a
5 valid petition. The election commissioner or county clerk shall deliver
6 the petition and the certifications to the city council within forty days
7 after the receipt of the petition from the city council. The delivery
8 shall be by hand carrier, by use of law enforcement officials, or by
9 certified mail, return receipt requested. Not more than twenty signatures
10 on one signature page shall be counted.

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

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

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