

LEGISLATIVE BILL 262

Approved by the Governor March 22, 2005

Introduced by Stuhr, 24

AN ACT relating to cemeteries; to amend sections 12-402, 16-242, and 17-946, Reissue Revised Statutes of Nebraska; to authorize certain cities and villages to use funds for the purchase and development of land as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 12-402, Reissue Revised Statutes of Nebraska, is amended to read:

12-402. (1) The mayor and council or the ~~chairperson~~ and board of trustees, for the purpose of defraying the cost of the care, management, improvement, beautifying, and welfare of such cemeteries, may each year levy a tax not exceeding five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village subject to taxation for general purposes. The tax shall be collected and paid to the city or village as taxes for general purposes are collected and paid to the city or village. All taxes collected for this purpose shall constitute and be known as the cemetery fund and shall be used for the general care, management, improvement, beautifying, and welfare of such cemetery. Warrants upon this fund shall be drawn by the cemetery board and shall be paid by the city or village treasurer.

(2) If the mayor and council or the board of trustees sets aside the proceeds from the sale of lots as a perpetual fund, the principal of the fund that is attributable to such proceeds, or attributable to any money which has come to the fund by donation, bequest, or otherwise that does not prohibit such use, may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of such principal is so used in any fiscal year and no more than thirty-five percent of such principal is so used in any period of ten consecutive fiscal years.

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

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

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

(2) After the burial and cemetery grounds are fully paid for, ~~it~~ the city may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund ~~and the income therefrom~~ shall be used for the care, ornamentation, or maintenance of such lots or the cemetery in general. ~~It~~ The principal of the perpetual fund may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(3) The city may receive money by donation, bequest, or otherwise to be held in trust in perpetuity to be invested as provided by ordinance or conditioned by the donor. The ~~and the~~ income therefrom shall be used for the care, ornamentation, and maintenance of such property as the donor may designate. The principal therefrom may be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

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

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

Sec. 3. Section 17-946, Reissue Revised Statutes of Nebraska, is amended to read:

17-946. ~~Such~~ (1) The board of trustees of a cemetery association formed pursuant to section 17-944 shall have power: ~~(1)~~

(a) To limit the number of cemetery lots that shall be owned by the same person at the same time; ~~(2)~~ ~~to~~

(b) To prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots; ~~(3)~~ ~~to~~

(c) To prohibit any diversions of the use of such lots, and any improper adornment thereof, but no religious tests shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or of such lots; and ~~(4)~~ ~~to~~

(d) To pass rules and ordinances imposing penalties and fines, not exceeding one hundred dollars, regulating, governing, and protecting the cemetery, the owners of lots therein, visitors thereof, and trespassers therein.

(2) The officers of ~~such city~~ a city of the second class or village in which a cemetery association has been formed pursuant to such section shall have as full jurisdiction and power in the enforcing of ~~such~~ rules and ordinances passed pursuant to subsection (1) of this section as though ~~they~~ such rules and ordinances related to the corporation of such city or village itself.

(3) All money received from sale of lots in any such cemetery, or which may come to it by ~~gifts or devise~~ donation, bequest, or otherwise, shall be devoted exclusively to the care, management, adornment, and government of such cemetery itself, and shall be expended exclusively for such purposes under the direction of ~~such~~ the association's board of trustees, except that in addition, and notwithstanding any provision of Chapter 12, article 5, the principal of the fund that is attributable to money received from the sale of lots, or attributable to money which has come to the fund by donation, bequest, or otherwise that does not prohibit such use, may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of such principal is so used in any fiscal year and no more than thirty-five percent of such principal is so used in any period of ten consecutive fiscal years.

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

Sec. 4. Original sections 12-402, 16-242, and 17-946, Reissue Revised Statutes of Nebraska, are repealed.