

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1109

Introduced by Stuhr, 24

Read first time January 16, 2004

Committee: General Affairs

A BILL

1 FOR AN ACT relating to cemeteries; to amend sections 12-402,
2 16-242, and 17-946, Reissue Revised Statutes of Nebraska;
3 to authorize certain cities and villages to use funds for
4 the purchase and development of land as prescribed; to
5 harmonize provisions; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

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

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

17 (2) If the mayor and council or the board of trustees
18 sets aside the proceeds from the sale of lots as a perpetual care
19 fund, the principal of the fund that is attributable to such
20 proceeds, or attributable to any money which has come to the fund
21 by gift or devise or otherwise that does not prohibit such use, may
22 be used for the purchase and development of additional land to be
23 used for cemetery purposes as long as no more than twenty-five
24 percent of such principal is so used in any fiscal year.

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

27 16-242. (1) A city of the first class may survey, plat,
28 map, grade, fence, ornament, and otherwise improve all burial and

1 cemetery grounds and avenues leading thereto owned by such city.
 2 It may construct walks, rear and protect ornamental trees therein,
 3 and provide for paying the expenses thereof.

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

13 (3) The city may receive money by donation, bequest, or
 14 otherwise to be held in trust in perpetuity to be invested as
 15 provided by ordinance or conditioned by the donor. The ~~and the~~
 16 income therefrom shall be used for the care, ornamentation, and
 17 maintenance of such property as the donor may designate. The
 18 principal therefrom may be used for the purchase and development of
 19 additional land to be used for cemetery purposes as the donor may
 20 designate.

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

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

26 17-946. ~~Such~~ (1) The board of trustees of a cemetery
 27 association formed pursuant to section 17-944 shall have power:

28 ~~(1)~~

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

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

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

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

13 (2) The officers of a ~~such~~ city of the second class or
14 village in which a cemetery association has been formed pursuant to
15 section 17-944 shall have as full jurisdiction and power in the
16 enforcing of ~~such~~ rules and ordinances passed pursuant to
17 subsection (1) of this section as though they related to the
18 corporation of such city or village itself.

19 (3) All money received from sale of lots in any such
20 cemetery, or which may come to it by gifts or devise, or otherwise,
21 shall be devoted exclusively to the care, management, adornment,
22 and government of such cemetery itself, and shall be expended
23 exclusively for such purposes under the direction of ~~such~~ the
24 association's board of trustees, except that in addition, and
25 notwithstanding any provision of Chapter 12, article 5, the
26 principal of the fund that is attributable to money received from
27 the sale of lots, or attributable to money which has come to the
28 fund by gift or devise or otherwise that does not prohibit such

1 use, may be used for the purchase and development of additional
2 land to be used for cemetery purposes as long as no more than
3 twenty-five percent of such principal is so used in any fiscal
4 year.

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