

LEGISLATIVE BILL 911

Approved by the Governor August 06, 2020

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

A BILL FOR AN ACT relating to the state veteran cemetery system; to amend section 16-201, Reissue Revised Statutes of Nebraska, and sections 12-1301 and 16-202, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to the state veteran cemetery system; to state intent; to eliminate obsolete provisions; to provide for conveyance of real estate as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

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

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

(b) Beginning on the effective date of this act, the Director of Veterans' Affairs shall negotiate with the city of Grand Island to acquire an exclusive option for the transfer of title to the former Nebraska Veterans' Memorial Cemetery in the city of Grand Island and land adjacent to the cemetery, as identified in the required program statement, owned by the city of Grand Island. After being granted funding assistance from the National Cemetery Administration, the director shall accept from the city of Grand Island, at no cost, title to the real estate described in this subdivision in order to establish a state cemetery for veterans. The director shall prepare an initial program statement and make a request to the Legislature for funding as required by section 81-1108.41. The expenses of the initial program statement shall be paid from the Nebraska Veteran Cemetery System Operation Fund.

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

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

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

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

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

(3) There is hereby created the Nebraska Veteran Cemetery System Operation Fund. Money in the fund shall be used for the operation, administration, and maintenance of the state veteran cemetery system. The fund may be used for the expenses of the initial program statement under subdivision (1)(b) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and

the Nebraska State Funds Investment Act.

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

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

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

(7) The director, with the approval of the Governor, may enter into agreements for cemetery construction, administration, operation, or maintenance with qualified persons, political subdivisions, or business entities. The director shall provide lots in the cemetery system for the interment of deceased veterans as defined by the National Cemetery Administration of the United States Department of Veterans Affairs. The director shall provide lots for the interment of those veterans' spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support. Section 12-501 does not apply to the state veteran cemetery system.

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

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

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

16-201 Each city of the first class shall be a body corporate and politic and shall have power (1) to sue and be sued, (2) to purchase, lease, lease with option to buy, or acquire by gift or devise and to hold real and personal property within or without the limits of the city and real estate sold for taxes for the use of the city in such manner and upon such terms and conditions as may be deemed in the best interests of the city, (3) to sell and convey, exchange, or lease any real or personal property owned by the city, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the city, except that real estate owned by the city may be conveyed without consideration to the State of Nebraska for state veterans' cemetery sites or state armory sites or, if acquired for state armory sites, shall be conveyed in the manner strictly as provided in sections 18-1001 to 18-1006, (4) to make all contracts and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate powers, and (5) to exercise such other and further powers as may be conferred by law.

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

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

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

petition. The city council shall deliver the petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the petition, the election commissioner or county clerk shall issue to the city council a written receipt that the petition is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the city council. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the petition was filed with the city council. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the city council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the city council the number of valid signatures necessary to constitute a valid petition. The election commissioner or county clerk shall deliver the petition and the certifications to the city council within forty days after the receipt of the petition from the city council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

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

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

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

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