



**House
Legislative
Analysis
Section**

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PRIVATE CEMETERIES: PROVIDE FLAGS

Senate Bill 340 with House committee amendments
First Analysis (5-10-88)

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Sponsor: Senator Frederick Dillingham
House Committee: Military & Veterans' Affairs
Senate Committee: Local Government & Veterans

THE APPARENT PROBLEM:

Public Act 63 of 1915 provides for the furnishing at public expense of flags and flag holders for graves of honorably discharged veterans of the United States' armed forces. Under the act, a city, village, or township is required to furnish a flag and flag holder for each veteran who is buried within the limits of the locality, within the limits of a cemetery "belonging" to a locality, or within the limits of a cemetery "generally used by the population of the city, village, or township...and which is not controlled by the township authorities." When the law was drafted originally, most persons who used the local cemetery for burial of their family members were residents of the locality. With the expansion of urban areas in the intervening years, many cemeteries, in particular privately owned cemeteries, have located in rural areas that are adjacent to cities. Many of these cemeteries sell their services to persons who reside outside of the jurisdiction of the locality in which the cemetery is located. Yet, some of these persons reportedly expect the local government to provide the same services, such as the placing of a flag at a veteran's grave site, as the services to which local residents who use the cemetery owned by the local government are entitled. These requests for services reportedly are based on the language found in Public Act 63. Officials in Watertown Township, in Eaton County, contend that they have a private cemetery located in the township that is used almost exclusively by Lansing residents. These township officials say they are expected to provide flags on veterans' graves, even though the veterans and their families are not residents of the township. While there is no argument that veterans should be honored for their service to the country, some people contend that the law is ambiguous about a local government's responsibility in servicing private cemeteries situated within a locality's jurisdiction, but used by persons residing outside of the locality.

THE CONTENT OF THE BILL:

The bill would amend Public Act 63 of 1915 to require a privately owned cemetery, upon request of a member of a veteran's family, to provide a suitable United States flag, of a size not more than 12" X 18", for the grave of the veteran. The privately owned cemetery would be responsible for providing flags on Memorial Day, the Fourth of July, and Veterans Day, could provide flags during other times of the year if it so desired, and would have the right to remove the flag after the holiday if the family member did not do so. The cemetery would also be responsible for the maintenance of the flag. The veteran's family member would be responsible for placing the flag on the grave and for supplying a suitable flag holder.

In the case of a mausoleum or other burial chamber containing the graves of more than one veteran, a privately

operated cemetery would only be required to supply one flag to memorialize all the veterans' graves at the mausoleum or burial chamber.

MCL 35.831 et al.

HOUSE COMMITTEE ACTION:

The House Military and Veterans' Affairs Committee adopted amendments to the bill as it passed the Senate. The major impact of the amendments include provisions to make the United States flags of a uniform size, and to allow the cemetery to remove flags left untended after a holiday.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have no fiscal implications to the state. (2-29-88)

ARGUMENTS:

For:

The bill would clarify the responsibilities of a local government by requiring that a United States flag be placed only on veterans' graves that are within a cemetery "belonging to" a local government. Privately owned cemeteries would be responsible for the cost, placement, and maintenance of flags on veterans' graves within their boundaries. This would remove the costly burden for local governments of locating graves and purchasing flags for burial sites that are located in private cemeteries. Privately owned cemeteries maintain records on their own grave sites. Thus, it would be easier for personnel of these cemeteries, rather than local government employees, to place and maintain these flags. Furthermore, privately owned cemeteries are better able to absorb the cost of these flags through the rates they charge, as opposed to local governments, which must rely on tax revenues.

Against:

The bill may not be necessary. Some townships reportedly have been successful in using the provision currently in the act, which requires that the private cemetery must be used generally by the population of the locality, before the local government will place a flag on the veteran's grave. Thus, private cemeteries that may be situated in one locality, but used primarily by persons of another locality, do not qualify for this service by the local government, and are responsible for placing the flags.

Against:

The bill could create more problems than it would solve. Two of Michigan's largest cities, Detroit and Grand Rapids,

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provide veterans' groups with funds to place flags on the graves of all veterans, regardless of where the cemeteries are located. Since these cities are currently facing budget problems, some veterans' groups fear that the bill would provide them with an excuse to withdraw this funding. In addition, veterans' groups point out that the bill does not specify which entity would be responsible for flags on the graves of recent veterans who had no relatives, or on the graves of veterans from past wars (e.g., the Civil War and World War I), whose relatives would now be deceased.

POSITIONS:

The Michigan Cemetery Association supports the bill as amended by the House Committee on Military and Veterans' Affairs. (5-4-88)

The Michigan Association of Municipal Cemeteries supports the bill. (5-4-88)

The Michigan Municipal League supports the bill. (5-5-88)

The Michigan Townships Association supports the bill. (5-4-88)

The Veterans of Foreign Wars supports the bill. (5-5-88)

The American Legion supports the bill. (5-9-88)

The American Veterans of World War II, Korea and Vietnam opposes the bill. (5-5-88)

The Joint Memorial Day Association of Detroit takes no position on the bill. (5-5-88)