

HOUSE BILL No. 5838

May 12, 1998, Introduced by Reps. Scranton, Richner and Varga and referred to the Committee on Regulatory Affairs.

A bill to amend 1871 PA 164, entitled
"An act to provide for vacating cemetery plats and cemetery grounds in the limits of incorporated cities and villages,"
by amending the title and sections 1 and 3 (MCL 128.41 and 128.43).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2 An act to provide for vacating AND ACQUISITION OF cemetery
3 plats and cemetery grounds in the limits of incorporated cities
4 and villages.

5 Sec. 1. (1) ~~That whenever the~~ THE trustees of any incor-
6 porated village ~~,~~ or the common council of any city ~~,~~ ~~shall~~
7 MAY, by resolution adopted by them, ~~determine~~ DO THE
8 FOLLOWING:

1 (A) DETERMINE that the dead bodies buried in any public or
2 private cemetery located in ~~such~~ THE city or village should be
3 removed ~~therefrom~~ FROM THE CEMETERY, for the reason that ~~such~~
4 THE cemetery ~~shall have~~ HAS become commons, ~~or has become~~
5 ~~neglected or abandoned by its owner or owners, or~~ has become a
6 public nuisance, or ~~shall impede~~ IMPEDES the growth of ~~any~~
7 ~~such~~ THE city or village, or ~~shall endanger~~ ENDANGERS the
8 health of the people living in the immediate vicinity. ~~thereof,~~

9 (B) DETERMINE THAT THE CEMETERY IS ABANDONED AND SHOULD BE
10 ACQUIRED AND MAINTAINED BY THE VILLAGE OR CITY.

11 (2) IF THE TRUSTEES OR COMMON COUNCIL MAKES A FINDING AS
12 DESCRIBED IN SUBSECTION (1) AND BRINGS AN APPROPRIATE ACTION IN
13 the circuit court ~~in chancery~~ of the county in which ~~such~~
14 THAT cemetery is located, THE COURT is ~~hereby~~ authorized to
15 ~~vacate~~ ORDER THE VACATION OF the ~~same~~ CEMETERY, or any part
16 ~~thereof, on petition made to such court as hereinafter provided~~
17 OF THE CEMETERY, OR ORDER THE ACQUISITION AND MAINTENANCE OF THE
18 CEMETERY BY THE VILLAGE OR CITY.

19 (3) IN THE CASE OF THE ACQUISITION OF A CEMETERY, THE TOWN-
20 SHIP SHALL ARRANGE FOR THE LONG-TERM MAINTENANCE AND UPKEEP OF
21 THE CEMETERY.

22 Sec. 3. (1) ~~That the~~ THE FOLLOWING APPLY TO A PETITION
23 FILED UNDER SECTION 1:

24 (A) THE hearing of such petition may be continued from term
25 to term in the discretion of the court, without further notice.

26 ~~, that all~~

1 (B) ALL testimony may be taken in open court. ~~or the taking~~
2 ~~of the same may be referred in the discretion of the court to a~~
3 ~~circuit court commissioner of the proper county. That under~~
4 ~~direction of the court proper issues may be made for the determi-~~
5 ~~nation of all-~~

6 (C) ALL questions of law and fact and all questions of com-
7 pensation to any person ~~or persons to be~~ affected by such pro-
8 ceedings ~~and all issues of fact~~ may be tried by a jury. ~~if the~~
9 ~~court shall so order, and any-~~

10 (D) ANY person adversely ~~interested~~ AFFECTED may ~~cause~~
11 ~~himself to~~ be made A defendant to ~~such~~ THE petition. ~~In all~~
12 ~~cases where reference shall be made to a jury to determine the~~
13 ~~compensation to be paid to any person or persons as aforesaid,~~
14 ~~the proceedings upon such reference shall so far as practicable~~
15 ~~be like those had in cases where a jury is empaneled to ascertain~~
16 ~~and determine the necessity of taking lands, franchises and other~~
17 ~~property for the construction of railroads and to apprise the-~~

18 (E) THE QUESTION OF damages and compensation ~~to~~ MAY be
19 ~~allowed therefor~~ DETERMINED. ~~If upon-~~

20 (2) AT the hearing, ~~of such petition~~ IF the petitioner
21 ~~shall produce~~ PRODUCES satisfactory evidence to the court that
22 ~~said~~ THE trustees or common council ~~have determined as afore-~~
23 ~~said, that~~ HAS MADE THE DETERMINATION DESCRIBED IN SECTION 1 AND
24 HAS PROVIDED the notice required by this act ~~has been given,~~
25 and that ~~such~~ THE cemetery should be vacated in whole or in
26 part ~~as a place of burial~~ OR ACQUIRED BY THE VILLAGE OR CITY
27 for any of the reasons given in this act for vacating OR

1 ACQUIRING cemeteries, ~~such~~ THE court shall ~~thereupon~~ order
2 that such cemetery shall be vacated OR ACQUIRED in whole or in
3 part. ~~as a place of burial. That a~~

4 (3) A CERTIFIED copy of ~~such~~ THE order ~~certified by the~~
5 ~~register of such court under his seal~~ shall be recorded by the
6 petitioner in the office of the register of deeds of the proper
7 county.