

HOUSE BILL No. 5839

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

A bill to amend 1929 PA 297, entitled

"An act to provide for vacating private and public cemetery plats and cemetery grounds in the limits of incorporated cities and villages and to provide for the acquisition by said cities and villages of the cemetery grounds and plats vacated hereunder,"

by amending sections 1, 2, and 5 (MCL 128.51, 128.52, and 128.55).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~That, whenever the~~ THE trustees of an incor-
2 porated village ~~,~~ or the common council of any city, ~~shall,~~
3 by a resolution adopted by them, ~~determine~~ MAY DO EITHER OF THE
4 FOLLOWING:

5 (A) DETERMINE that the dead bodies buried in any private or
6 public cemetery located in ~~such~~ A city or village should be
7 removed ~~therefrom~~ FROM THE CEMETERY for the reason that ~~such~~
8 THE cemetery ~~shall impede~~ IMPEDES the establishment,

1 maintenance, development, or enhancement of any public
 2 improvement by ~~such~~ THE city or village. ~~, the~~

3 (B) DETERMINE THAT THE CEMETERY IS ABANDONED AND SHOULD BE
 4 VACATED OR ACQUIRED AND MAINTAINED.

5 (2) UPON AN APPROPRIATE ACTION BROUGHT BY THE TRUSTEES OR
 6 COMMON COUNCIL IN THE circuit court ~~in chancery~~ of the county
 7 in which ~~such~~ THAT cemetery is located ~~,~~ AND upon such find-
 8 ings ~~,~~ ~~and under the conditions hereinafter set forth,~~ AS
 9 DESCRIBED IN SUBSECTION (1), THE COURT is ~~hereby~~ authorized to
 10 ~~vacate~~ ORDER THE VACATION OF the ~~same~~ CEMETERY, or any part
 11 ~~thereof, on petition made to such court, as hereinafter~~
 12 ~~provided~~ OF THE CEMETERY OR ORDER THE ACQUISITION AND MAINTE-
 13 NANCE OF THE CEMETERY BY THE VILLAGE OR CITY.

14 Sec. 2. ~~That, upon~~ UPON the adoption of ~~such~~ a resolu-
 15 tion DESCRIBED IN SECTION 1, ~~it shall be competent for~~ the
 16 board of directors ~~,~~ or ~~board of~~ trustees ~~,~~ of ~~such~~ THE
 17 cemetery association ~~,~~ ~~as is the owner of such cemetery, to~~ MAY
 18 agree upon a contract for the sale of ~~such~~ THE cemetery to
 19 ~~such~~ A city or village. ~~:-~~ ~~Provided, however, That the valid-~~
 20 ~~ity and enforceability of such~~ THE contract shall be conditioned
 21 upon the ~~aforesaid~~ circuit court authorizing the vacating OR
 22 THE ACQUIRING AND MAINTAINING of ~~such~~ THE cemetery. ~~under the~~
 23 ~~terms hereof:~~ ~~Provided further, That such contract shall be~~
 24 ~~approved by a 3/4 vote of the scrip holders or stockholders of~~
 25 ~~such cemetery association, at a special meeting called for that~~
 26 ~~purpose, notice of such meeting to be mailed to the last known~~
 27 ~~place of residence of such scrip holders or stockholders:~~ And

1 ~~provided further, That such~~ THE contract shall provide that
 2 ~~such~~ THE cemetery association agrees to provide, within a rea-
 3 sonable distance from ~~such~~ THE city or village, a cemetery
 4 ground suitable for the reinterment of ~~such~~ THE dead bodies and
 5 remains as are ordered to be vacated ~~:- And provided further,~~
 6 ~~That such contract shall provide that such cemetery association~~
 7 ~~agrees to~~ AND reinter ~~such~~ THOSE dead bodies and remains. ~~—~~
 8 ~~except as to such as are interred in the lots of objecting lot~~
 9 ~~owners or grave owners, as hereinafter set forth.~~ IN THE CASE OF
 10 AN ACQUISITION OF THE CEMETERY BY A VILLAGE OR CITY, THE CONTRACT
 11 SHALL PROVIDE THAT THE VILLAGE OR CITY MAINTAIN THE CEMETERY.

12 Sec. 5. (1) ~~That the~~ THE FOLLOWING APPLY TO A PETITION
 13 FILED UNDER SECTION 1:

14 (A) THE hearing of ~~such~~ THE petition may be continued from
 15 term to term, in the discretion of the court, without further
 16 notice. ~~;- that all~~

17 (B) ALL testimony may be taken in open court. ~~—, or the~~
 18 ~~taking of the same may be referred, in the discretion of the~~
 19 ~~court, to a circuit court commissioner of the proper county;~~
 20 ~~that, under direction of the court, proper issues may be made for~~
 21 ~~the determination of all~~

22 (C) ALL questions of law and fact ~~—~~ and all questions of
 23 compensation to any person ~~—, or persons, to be~~ affected by such
 24 proceedings ~~—, and all issues of fact~~ may be tried by a jury. ~~—~~
 25 ~~if the court shall so order, and any~~

26 (D) ANY person adversely ~~interested~~ AFFECTED may ~~cause~~
 27 ~~himself to~~ be made A defendant to ~~such~~ THE petition. ~~In all~~

~~1 cases where reference shall be made to a jury to determine the
 2 compensation to be paid to any person or persons, as aforesaid,
 3 the proceedings upon such reference shall, so far as practicable,
 4 be like those had in cases where a jury is empaneled to ascertain
 5 and determine the necessity of taking lands and other property as
 6 provided by the charter of the municipality or as provided in Act
 7 No. 149 of the Public Acts of 1911, as amended by Act No. 37 of
 8 the Public Acts of 1925, entitled "An act to provide for the con-
 9 demnation by state agencies and public corporations of private
 10 property for the use or benefit of the public, and to define the
 11 terms 'public corporations,' 'state agencies' and 'private
 12 property' as used herein," being sections 353 to 373, inclusive,
 13 of the Compiled Laws of 1915, or such other appropriate provi-
 14 sions therefor as exist or shall be made by law, and to appraise
 15 the-~~

16 (E) THE QUESTION OF damages and compensation ~~to be allowed~~
 17 therefor. ~~If, upon~~ MAY BE DETERMINED.

18 (2) IF AT the hearing, ~~of such petition,~~ the petitioner
 19 ~~shall produce~~ PRODUCES satisfactory evidence to the court ~~,~~
 20 that ~~said~~ THE trustees ~~,~~ or common council ~~,~~ ~~have deter-~~
 21 mined, as aforesaid, that HAS MADE THE DETERMINATION DESCRIBED
 22 IN SECTION 1 AND PROVIDED the notice required by this act, ~~has~~
 23 ~~been given;~~ that, IF APPLICABLE, the ~~aforesaid~~ contract
 24 between ~~such~~ THE city or village and ~~said~~ THE cemetery asso-
 25 ciation has been executed in accordance with the terms ~~hereof~~
 26 OF THIS ACT, and that ~~such~~ THE cemetery should EITHER be
 27 vacated OR ACQUIRED AND MAINTAINED BY THE VILLAGE OR CITY, in

1 whole or in part, ~~as a place of burial, for the reasons given in~~
2 ~~this act for vacating cemeteries, such~~ THE court shall
3 ~~thereupon~~ order that such cemetery shall be vacated OR ACQUIRED
4 AND MAINTAINED, in whole or in part, ~~as a place of burial; upon~~
5 ~~this condition, however, that said~~ SO LONG AS THE city or vil-
6 lage ~~shall perform~~ PERFORMS its obligations and agreements
7 under the terms of the ~~said~~ contract, IF APPLICABLE. ~~That a~~
8 (3) THE PETITIONER SHALL RECORD A CERTIFIED copy of ~~such~~
9 THE order ~~certified by the register of such court under his seal~~
10 ~~shall be recorded by the petitioner~~ in the office of the regis-
11 ter of deeds of the proper county. ~~That such order, when~~ WHEN
12 so recorded, ~~shall be~~ THE ORDER IS a complete bar to the rights
13 of any ~~person or persons, as~~ lot owners and grave owners of
14 ~~such~~ THE cemetery, ~~:- Provided, however, That~~ EXCEPT THAT the
15 rights of objecting lot owners and grave owners ~~shall not be~~
16 ARE NOT barred until the compensation ~~awarded hereunder shall~~
17 ~~be~~ IS paid by ~~said~~ THE city or village to the person ~~or~~
18 ~~persons~~ SO entitled ~~to same~~ or to the clerk of the county
19 where ~~such~~ THE judgment was ~~rendered~~ ENTERED.