



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 303 (as passed by the Senate)  
Sponsor: Senator Marty Knollenberg  
Committee: Regulatory Reform

Date Completed: 10-23-15

### **RATIONALE**

Public Act 215 of 1937 authorizes municipalities that own or control a cemetery to collect an agreed upon sum from either the owner of a lot or another person in exchange for perpetual care of the cemetery lot. The Act also allows municipalities to establish and maintain an irrevocable endowment and perpetual care fund as a component fund within a community foundation under an irrevocable agreement with the community foundation. Public Act 20 of 1943 allows the governing bodies of public corporations (local units of government) to authorize an investment officer to invest their funds in a variety of bonds, securities, and other investment vehicles. In conjunction with Public Act 215 of 1937, this allows a municipality to invest money from its cemetery's perpetual care and maintenance fund. Ideally, the interest generated from the investments allows the cemetery to be perpetually paid for by those using it, without burdening the taxpayers. There is concern, however, that the interest being generated from the investment opportunities allowed under Public Act 20 of 1943 does not yield enough return to perpetually pay for a cemetery.

### **CONTENT**

**The bill would amend Public Act 215 of 1937 to allow a municipality's legislative body to invest in mutual funds using money in a perpetual care and maintenance fund of a cemetery owned or controlled by that municipality.**

Specifically, the bill would allow a municipality's legislative body to invest in mutual funds consisting of fixed income securities, equity securities, or both, using money deposited in a perpetual care and maintenance fund, if both of the following requirements were met:

- The equity position of the perpetual care and maintenance fund did not exceed 60% of the perpetual care and maintenance fund balance.
- Each mutual fund was rated in the top two of five or more tiers by Morningstar, Inc. or another nationally recognized mutual fund rating agency.

The bill would not prohibit any other investments that may be authorized by law

The bill would take effect 90 days after it was enacted.

MCL 128.1

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The current laws do not take into account the long-term investment costs of perpetual cemetery care. All of the investment options available to local units of government are considered short-

term and do not yield a strong-enough return. With the ability to invest money from a perpetual cemetery care fund in long-term investment options, local units could receive the proper return to take care of a municipally owned cemetery.

Specifically, Public Act 20 of 1943 allows the governing body of a public corporation to authorize investment of its funds in various instruments, including mutual funds registered under the Federal Investment Company Act of 1940, with authority to purchase only investment vehicles that are legal for direct investment by a public corporation. However, the options that are authorized under the Act are short-term. Senate Bill 303 would allow the investment of cemetery funds in mutual funds consisting of fixed income securities, equity securities, or both, which would have to be top tier mutual funds as rated by nationally recognized mutual fund rating agencies. These investments are long-term and provide greater returns.

For example, according to Committee testimony on behalf of the City of Rochester Hills, that city would expect to gain at least \$50,000 more in investment revenue based on a 5.0% average return on an annual basis over traditional investment options currently available to the City. The City then would reinvest this money in its Cemetery Perpetual Care Trust Fund so as to continue accruing interest. Ideally, the Fund would be healthy enough to sustain itself off of interest alone even after all of the lots were sold. This would relieve the burden on the City's general fund to cover the shortages in the Cemetery Perpetual Care Trust Fund.

Many other municipalities own cemeteries and could encounter situations similar to what Rochester Hills is currently facing. Therefore, the bill could help all such municipalities to afford the perpetual cost of a cemetery.

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on a municipality with a perpetual care and maintenance fund for a municipal cemetery. The impact would depend on the decision of a municipality to invest a portion of the fund balance in mutual funds under the authority provided by the bill, the size of the investment, and the performance of the mutual funds. The bill would have no fiscal impact on State government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.