

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

SENATE BILL 8

4
5 By: Senator J. Key

For An Act To Be Entitled

8 AN ACT TO PROVIDE ADDITIONAL INVESTMENT AUTHORITY FOR
9 MUNICIPAL CEMETERY PERPETUAL CARE TRUST FUNDS; AND
10 FOR OTHER PURPOSES.

Subtitle

14 TO PROVIDE ADDITIONAL INVESTMENT
15 AUTHORITY FOR MUNICIPAL CEMETERY
16 PERPETUAL CARE TRUST FUNDS.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Arkansas Code Title 19, Chapter 1, Subchapter 5 is amended
22 to add an additional section to read as follows:

23 19-1-506. Cemetery perpetual care trust funds – Definitions.

24 (a) As used in this section:

25 (1) “Cemetery perpetual care trust fund” means a fund that is:

26 (A) Established by a municipality to maintain the
27 cemeteries owned by the municipality; and

28 (B) Governed by a board of trustees; and

29 (2)(A) “Investment advisor” means a person who:

30 (i) For compensation:

31 (a) Engages in the business of advising
32 others, either directly or through publications or writings, as to the value
33 of securities or as to the advisability of investing in, purchasing, or
34 selling securities; or

35 (b) Issues or promulgates analyses or reports
36 concerning securities; and



1 (B) Either:

2 (i) Is required to be registered as an investment
3 advisor with the State Securities Department; or

4 (ii) Is an officer of a bank trust department even
5 though the officer is not required to be registered with the State Securities
6 Department.

7 (b)(1) The board of trustees of a cemetery perpetual care trust fund
8 in which assets exceed one hundred thousand dollars (\$100,000) may employ the
9 following:

10 (A) An investment advisor to invest the assets of the
11 cemetery perpetual care trust fund, subject to the conditions imposed under
12 this section; and

13 (B) A trustee or custodian to hold the assets of a
14 cemetery perpetual care trust fund.

15 (2) Investments are not limited to interest-bearing bonds.

16 (c) The total amount of fees that the board of trustees of a cemetery
17 perpetual care trust fund pays for investment advisors, investment advisory
18 services, investment educational services, trustee services, custodial and
19 administrative services, and investment management services when the
20 investment managers are required to perform security trades on a best
21 execution basis shall be:

22 (1) Limited to the sum of not more than:

23 (A) Three percent (3%) annually of the first five hundred
24 thousand dollars (\$500,000) of cemetery perpetual care trust fund assets;

25 (B) Two percent (2%) annually of the next five hundred
26 thousand dollars (\$500,000) of cemetery perpetual care trust fund assets; and

27 (C) One percent (1%) annually of cemetery perpetual care
28 trust fund assets over one million dollars (\$1,000,000); and

29 (2) Clearly stated in total on all monthly, quarterly, and
30 annual statements prepared for the board of trustees of the cemetery
31 perpetual care trust fund.

32 (d) From time to time, the investment advisor under contract to the
33 board of trustees of a cemetery perpetual care trust fund shall formulate the
34 policy to be followed in future investment activity, and the investment
35 advisor shall promptly furnish the policy to the board of trustees in writing
36 each time he or she changes the policy.

1 (e) The investment advisor under contract to the board of trustees of
2 a cemetery perpetual care trust fund may purchase, sell, assign, transfer, or
3 dispose of any of the moneys or investments of the cemetery perpetual care
4 trust fund in accordance with this section and the current investment policy
5 filed with the board of trustees of the cemetery perpetual care trust fund.

6 (f) At least semiannually, the investment advisor under contract to
7 the board of trustees of a cemetery perpetual care trust fund shall file with
8 the board of trustees a written report stating, for the period since the
9 investment advisor's last report:

10 (1) All investments purchased and sold;

11 (2) All receipts and disbursements; and

12 (3) Any other transactions concerning cemetery perpetual care
13 trust fund moneys.

14 (g) At each regular meeting, the board of trustees of a cemetery
15 perpetual care trust fund shall examine each written report received from the
16 investment advisor under contract to the board of trustees since the last
17 regular meeting.

18 (h) From time to time, the board of trustees of a cemetery perpetual
19 care trust fund may direct a specific investment activity and shall be fully
20 responsible for the direction.

21 (i) Investment activity shall be otherwise subject to the conditions
22 imposed by law upon state public employee retirement plans in the making and
23 disposing of investments of state public employee retirement plans.

24 (j) Until the assets of the cemetery perpetual care trust fund amount
25 to at least five million dollars (\$5,000,000), the funds of the cemetery
26 perpetual care trust fund not in a checking account may be invested in shares
27 of no-load mutual funds, each of which shall have the following
28 characteristics:

29 (1) The mutual fund shall be an open-end, diversified investment
30 company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-
31 1 et seq., as it existed on January 1, 2013;

32 (2) The management company of the investment company shall have
33 been in operation for at least ten (10) years and shall have assets of more
34 than one hundred million dollars (\$100,000,000) under management; and

35 (3) There shall not be a:

36 (A) Sales charge for purchasing shares of the mutual fund;

1 or

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(B) Redemption charge for selling the shares of the mutual

3 fund.

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