

HOUSE BILL NO. 85

INTRODUCED BY J. MUSGROVE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CEMETERY DISTRICT LAWS; AUTHORIZING THE TRUSTEES OF A CEMETERY DISTRICT TO NOT ESTABLISH A PERMANENT CARE AND IMPROVEMENT FUND OR TO MODIFY OR DISSOLVE AN EXISTING PERMANENT CARE AND IMPROVEMENT FUND; AMENDING SECTIONS 7-35-2131, 7-35-2132, AND 7-35-2147, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-35-2131, MCA, is amended to read:

**"7-35-2131. Establishment and maintenance of permanent care and improvement fund -- exception.** Any (1) Except as provided in subsection (2), the trustees of a public cemetery district formed under the provisions of this part which shall have established and be who are responsible for establishing and maintaining a cemetery shall, provide, in the manner set forth as provided in 7-35-2131 through 7-35-2150, for the establishment and maintenance of establish a permanent care and improvement fund; the income of which shall be devoted to the care, maintenance, and improvement of such cemetery. This fund shall be known as the permanent care and improvement fund of such public cemetery district. The income from the permanent care and improvement fund must be used for the care, maintenance, and improvement of the cemetery.

(2) The trustees of a cemetery district established under this part may, by a two-thirds vote and with the consent of the county governing body, elect to:

- (a) not establish a permanent care and improvement fund;
- (b) modify an existing permanent care and improvement fund; or
- (c) dissolve an existing permanent care and improvement fund.

(3) If, pursuant to subsection (2), trustees of a cemetery district established under this part elect to modify an existing permanent care and improvement fund, the trustees shall certify to the district court that the trustees have elected to modify the fund and provide the district court with a detailed report of the modifications.

(4) If, pursuant to subsection (2), trustees of a cemetery district established under this part elect to dissolve an existing permanent care and improvement fund, the trustees shall:



- 1           (a) certify to the district court that the trustees have elected to dissolve the fund; and  
 2           (b) use the principal of the fund for the care, maintenance, and improvement of the cemetery."

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4           **Section 2.** Section 7-35-2132, MCA, is amended to read:

5           **"7-35-2132. Application for appointment of trustees of fund.** ~~Whenever money to the amount of \$100~~  
 6 ~~shall have been received by such public cemetery district heretofore or hereafter formed; Except as provided in~~  
 7 ~~7-35-2131, if a public cemetery district receives money either from the sale of lots or from direct payments of such~~  
 8 ~~public cemetery district toward such a fund by lot owners, the trustees of such the public cemetery district shall~~  
 9 ~~immediately make submit an application to the district court judge of the district court of in the judicial district in~~  
 10 ~~which the cemetery for which such trust fund exists for the appointment of a trustee or of a board of trustees of~~  
 11 ~~such fund district is located to appoint trustees for a permanent care and improvement fund."~~

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13           **Section 3.** Section 7-35-2147, MCA, is amended to read:

14           **"7-35-2147. Financial management of fund.** (1) ~~The~~ Except as provided in 7-35-2131, principal of such  
 15 a permanent care and improvement fund shall in all cases must remain intact and inviolate.

16           (2) ~~The principal of such a permanent care and improvement fund may~~ must, with the approval of the  
 17 board of trustees, be invested in the way in which public employees' retirement funds are permitted to be invested  
 18 in Montana and not otherwise, provided that each investment made by the trustee or by the board of trustees shall  
 19 be subject to the approval of the board of trustees of the public cemetery district in a manner consistent with  
 20 investments made on behalf of Montana public employees' retirement funds.

21           (3) ~~The trustees of such the fund shall, on January 1 and July 1 in each year, turn over~~ transfer to the  
 22 treasurer of such the public cemetery district all accrued income arising from such the fund, and the receipt of  
 23 such treasurer therefor shall be a sufficient voucher in the hands of such trustees."

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25           NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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