

Dear Legislators:

This bill is submitted by the Great Falls Cemetery Association which owns and operates Highland Cemetery, the largest in North Central Montana. The purpose of the proposed changes is to eliminate burdensome restrictions placed on Permanent Care and Improvement Funds (PC&I) which are managed by cemetery associations throughout Montana. Present Section 35-20-311 provides in part:

“The principal of such fund shall in all cases remain intact and inviolate.”

Section 35-20-313 provides in part:

“The principal of such fund may be invested in the way in which public employees retirement funds are permitted to be invested in the State of Montana as prescribed by Section 17-6-211 and not otherwise.”

Under present law only interest and dividends can be distributed from the fund. Capital gains, even in years where stock market gains are great, cannot be invaded. In past years traditional fixed income securities such as certificates of deposit and U.S. Treasury Bonds provided returns of 5% or more and were a stable source of revenue. Today with very low returns on fixed income investments and low paying dividends the fund yields minimal benefit to the Association. The “income” from the Association’s fund in 2013 was \$16,857 from principal of \$644,374. After deducting fees the net for cemetery operations was \$11,622, less than two percent.

The proposed changes provide that PC&I Funds be treated as an endowment trusts under the Montana Uniform Prudent Management of Institutional Funds Act (M.C.A. Section 72-30-101 to 213). These changes would accomplish two things. First they would allow the trustees of such funds to distribute a reasonable percentage of the value of the fund each year. A prudent distribution would be in the range of 5% per year. Assuming a distribution of 5% of the fair market value of the fund, Highland Cemetery would have received \$32,930.00, less the trustee’s fee of \$5,235.00, leaving a net of \$27,695.00, almost two and one-half times the amount which the Association received in 2013. Secondly the statutory requirement that the fund be invested as required by the Montana Employee Retirement Fund as prescribed by 17-6-211 requires cemetery associations to comply with an extremely complicated set of statutes. First, the reference to 17-6-211 is a codification error because that section provides that retirement funds may be invested in Montana Board of Housing bonds. But even if the statutory error is corrected the many complicated provisions that apply to employee retirement funds, which may be appropriate for the tens of millions of dollars invested in such funds, are not appropriate for cemetery associations which are managed by volunteers and have very limited resources. Allowing such funds to be treated as “endowment trusts” under the Montana Uniform Prudent Management of Institutional Funds Act provides sound management guidelines for handling such funds without the administrative complications that apply to public employee retirement funds.