

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 570

Introduced by Coash, 27; McGill, 26.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to cemeteries; to amend section 77-2704.15,
2 Reissue Revised Statutes of Nebraska, and section 12-101,
3 Revised Statutes Cumulative Supplement, 2010; to change
4 provisions relating to Wyuka Cemetery; to exempt certain
5 cemetery purchases from sales and use taxes as
6 prescribed; to provide operative dates; to repeal the
7 original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-101, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 12-101 (1) The cemetery in Lincoln, Nebraska, known as
4 Wyuka Cemetery, is hereby declared to be a public charitable
5 corporation. The general control and management of the affairs of
6 such cemetery shall be vested in a board of three trustees until July
7 1, 2009, and thereafter shall be vested in a board of five trustees.
8 The trustees shall serve without compensation and shall be a body
9 corporate to be known as Wyuka Cemetery, with power to sue and be
10 sued, to contract and to be contracted with, and to acquire, hold,
11 and convey both real and personal property for all purposes
12 consistent with the provisions of sections 12-101 to 12-105, and
13 shall have the power of eminent domain to be exercised in the manner
14 provided in section 12-201.

15 (2) The trustees of Wyuka Cemetery shall have the power,
16 by resolution duly adopted by a majority vote, to authorize one of
17 their number to sign a petition for paving, repaving, curbing,
18 recurbing, grading, changing grading, guttering, resurfacing,
19 relaying existing pavement, or otherwise improving any street,
20 streets, alley, alleys, or public ways or grounds abutting cemetery
21 property. When such improvements have been ordered, the trustees
22 shall pay, from funds of the cemetery, such special taxes or
23 assessments as may be properly determined.

24 (3) The trustees of Wyuka Cemetery shall be appointed by
25 the Governor of the State of Nebraska at the expiration of each

1 trustee's term of office. The two trustees appointed for their
2 initial terms of office beginning July 1, 2009, shall be appointed by
3 the Governor to serve a five-year term and a six-year term,
4 respectively. Thereafter, each of the five trustees shall be
5 appointed by the Governor for a term of six years. In the event of a
6 vacancy occurring among the members of the board, the vacancy shall
7 be filled by appointment by the Governor, and such appointment shall
8 continue for the unexpired term.

9 (4) The board of trustees of Wyuka Cemetery shall file
10 with the ~~Secretary of State, Auditor of Public Accounts,~~ on or before
11 the second Tuesday in ~~March~~ June of each year, an itemized report of
12 all the receipts and expenditures in connection with its management
13 and control of the cemetery.

14 (5) The trustees of Wyuka Cemetery shall have the power
15 to provide, in their discretion, retirement benefits for present and
16 future employees of the cemetery, and to establish, participate in,
17 and administer plans for the benefit of its employees or its
18 employees and their dependents, which may provide disability,
19 hospitalization, medical, surgical, accident, sickness and life
20 insurance coverage, or any one or more coverages, and which shall be
21 purchased from a corporation or corporations authorized and licensed
22 by the Department of Insurance.

23 (6)(a) Beginning December 31, 1998, and each December 31
24 thereafter, the trustees shall file with the Public Employees
25 Retirement Board an annual report on each retirement plan established

1 pursuant to this section and section 401(a) of the Internal Revenue
2 Code and shall submit copies of such report to the members of the
3 Nebraska Retirement Systems Committee of the Legislature. The annual
4 report shall be in a form prescribed by the Public Employees
5 Retirement Board and shall contain the following information for each
6 such retirement plan:

- 7 (i) The number of persons participating in the retirement
8 plan;
- 9 (ii) The contribution rates of participants in the plan;
- 10 (iii) Plan assets and liabilities;
- 11 (iv) The names and positions of persons administering the
12 plan;
- 13 (v) The names and positions of persons investing plan
14 assets;
- 15 (vi) The form and nature of investments;
- 16 (vii) For each defined contribution plan, a full
17 description of investment policies and options available to plan
18 participants; and
- 19 (viii) For each defined benefit plan, the levels of
20 benefits of participants in the plan, the number of members who are
21 eligible for a benefit, and the total present value of such members'
22 benefits, as well as the funding sources which will pay for such
23 benefits.

24 If a plan contains no current active participants, the
25 trustees may file in place of such report a statement with the Public

1 Employees Retirement Board indicating the number of retirees still
2 drawing benefits, and the sources and amount of funding for such
3 benefits.

4 (b) Beginning December 31, 1998, and every four years
5 thereafter, if such retirement plan is a defined benefit plan, the
6 trustees shall cause to be prepared a quadrennial report and shall
7 file the same with the Public Employees Retirement Board and submit
8 to the members of the Nebraska Retirement Systems Committee of the
9 Legislature a copy of such report. The report shall consist of a full
10 actuarial analysis of each such retirement plan established pursuant
11 to this section. The analysis shall be prepared by an independent
12 private organization or public entity employing actuaries who are
13 members in good standing of the American Academy of Actuaries, and
14 which organization or entity has demonstrated expertise to perform
15 this type of analysis and is unrelated to any organization offering
16 investment advice or which provides investment management services to
17 the retirement plan.

18 Sec. 2. Section 77-2704.15, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2704.15 (1) Sales and use taxes shall not be imposed
21 on the gross receipts from the sale, lease, or rental of and the
22 storage, use, or other consumption in this state of purchases by the
23 state, including public educational institutions recognized or
24 established under the provisions of Chapter 85, or by any county,
25 township, city, village, rural or suburban fire protection district,

1 city airport authority, county airport authority, joint airport
2 authority, drainage district organized under sections 31-401 to
3 31-450, natural resources district, elected county fair board,
4 housing agency as defined in section 71-1575 except for purchases for
5 any commercial operation that does not exclusively benefit the
6 residents of an affordable housing project, cemetery created under
7 section 12-101, or joint entity or agency formed to fulfill the
8 purposes described in the Integrated Solid Waste Management Act by
9 any combination of two or more counties, townships, cities, or
10 villages pursuant to the Interlocal Cooperation Act, the Integrated
11 Solid Waste Management Act, or the Joint Public Agency Act, except
12 for purchases for use in the business of furnishing gas, water,
13 electricity, or heat, or by any irrigation or reclamation district,
14 the irrigation division of any public power and irrigation district,
15 or public schools or learning communities established under Chapter
16 79.

17 (2) The appointment of purchasing agents shall be
18 recognized for the purpose of altering the status of the construction
19 contractor as the ultimate consumer of building materials which are
20 physically annexed to the structure and which subsequently belong to
21 the state or the governmental unit. The appointment of purchasing
22 agents shall be in writing and occur prior to having any building
23 materials annexed to real estate in the construction, improvement, or
24 repair. The contractor who has been appointed as a purchasing agent
25 may apply for a refund of or use as a credit against a future use tax

1 liability the tax paid on inventory items annexed to real estate in
2 the construction, improvement, or repair of a project for the state
3 or a governmental unit.

4 (3) Any governmental unit listed in subsection (1) of
5 this section, except the state, which enters into a contract of
6 construction, improvement, or repair upon property annexed to real
7 estate without first issuing a purchasing agent authorization to a
8 contractor or repairperson prior to the building materials being
9 annexed to real estate in the project may apply to the Tax
10 Commissioner for a refund of any sales and use tax paid by the
11 contractor or repairperson on the building materials physically
12 annexed to real estate in the construction, improvement, or repair.

13 Sec. 3. Sections 1 and 4 of this act become operative on
14 their effective date. The other sections of this act become operative
15 on January 1, 2007.

16 Sec. 4. Original section 12-101, Revised Statutes
17 Cumulative Supplement, 2010, is repealed.

18 Sec. 5. Original section 77-2704.15, Reissue Revised
19 Statutes of Nebraska, is repealed.

20 Sec. 6. Since an emergency exists, this act takes effect
21 when passed and approved according to law.