

## LEGISLATIVE HISTORY CHECKLIST

NJSA: 8A:2-1 (Cemetery Act--amendments)

LAWS OF: 1973 CHAPTER: 219

BILL NO: A2233

Sponsor(s): Jackman and others

Date Introduced: March 19, 1973

Committee: Assembly: Commerce, Industry and Professions

Senate: Law, Public Safety and Defense

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Date of Passage: Assembly: April 12, 1973

Senate: April 26, 1973

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Following statements are attached if available:

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Committee statement: Assembly No

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**ASSEMBLY, No. 2233**

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# STATE OF NEW JERSEY

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INTRODUCED MARCH 19, 1973

By Assemblymen JACKMAN, J. J. HORN, HYNES, VEIT,  
M. M. HORN, BEDELL and H. D. STEWART

Referred to Committee on Commerce, Industry and Professions

AN ACT concerning cemeteries and amending, supplementing, re-  
pealing, and revising various parts of the statutory law and  
making an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. N. J. S. 8A:2-1 is amended to read as follows:

2 8A:2-1. a. There is hereby established in the Department of  
3 Banking a board which shall be known as the New Jersey Cemetery  
4 Board.

5 b. The New Jersey Cemetery Board shall consist of nine mem-  
6 bers, three of whom shall be ex-officio members, viz., the Attorney  
7 General, the Commissioner of Banking and the Commissioner of  
8 Health, or when so designated by them, their designees; five regular  
9 members, each of whom has served, for a period of at least 5  
10 consecutive years immediately preceding his appointment, as a  
11 member of a board of managers, directors, trustees, general man-  
12 ager or superintendent of a cemetery company; and one public  
13 member who shall have no interest directly or indirectly in any  
14 cemetery company or any allied industries. Each of the regular  
15 members and the public member shall be appointed by the Governor  
16 with the advice and consent of the Senate, *to serve during the term*  
17 *of office and until the qualification and appointment of his successor.*

18 c. The terms of the five regular members and one public member  
19 first appointed shall be arranged by the Governor so that two of  
20 such terms shall expire in 1 year, two in 2 years, and two in 3 years.  
21 Thereafter all appointments shall be for the term of 4 years.  
22 Vacancies shall be filled in the same manner as original appoint-  
23 ments but for the unexpired term only.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

24 d. Any member of the New Jersey Cemetery Board may be re-  
 25 moved from office by the Governor for cause, upon notice and  
 26 opportunity to be heard.

27 e. The members of the New Jersey Cemetery Board shall serve  
 28 without compensation but shall be reimbursed for reasonable and  
 29 necessary expenses incurred in the performance of their official  
 30 duties.

31 f. The members of the board shall elect a chairman and secre-  
 32 tary from among their own number. The board shall meet at least  
 33 four times each year, at the call of its chairman or at the written  
 34 request of two members of the board directed to its chairman. The  
 35 chairman shall fix the time and place for such meetings.

36 g. The work of the New Jersey Cemetery Board shall be under  
 37 the immediate supervision of an executive director who shall be  
 38 appointed by the board for a term of 6 years. The board shall fix  
 39 the compensation of the executive director within the limits of  
 40 available appropriations.

41 The executive director shall not have any interest directly or  
 42 indirectly in any cemetery company or in any individual, partner-  
 43 ship or corporate entity which does business with or at any  
 44 cemetery.

45 h. Subject to the approval of the Commissioner of Banking and  
 46 the provisions of Title 11, Civil Service, the New Jersey Cemetery  
 47 Board may appoint, employ or remove such assistants and em-  
 48 ployees as may be necessary to carry out the provisions of this act.  
 49 The board shall be entitled to call upon its assistants and avail  
 50 itself of the services of such employees of any State department  
 51 or agency as it may require and as may be made available to it for  
 52 such purpose. [Expenditures of the board in any given fiscal year  
 53 shall not exceed board revenues and all expenditures shall be in  
 54 accordance with the annual appropriations act.]

55 i. [Seven] Six members of the New Jersey Cemetery Board shall  
 56 constitute a quorum to transact business of the board and all  
 57 actions of the board shall require the affirmative vote of at least  
 58 six members.

59 \*j. *The New Jersey Cemetery Board shall make an annual*  
 60 *detailed report to the Commissioner of Banking of the performance*  
 61 *of its duties and the operations of the board and shall make such*  
 62 *other reports to the Commissioner of Banking as the commissioner*  
 63 *may require from time to time.\**

1 2. N. J. S. 8A:2-2 is amended to read as follows:

2 8A:2-2. The New Jersey Cemetery Board shall have full power  
 3 and authority to administer the provisions of this act and shall

4 have general supervision and regulation of and jurisdiction and  
 5 control over all cemetery companies and their property, property  
 6 rights, equipment and facilities so far as may be necessary for the  
 7 purpose of carrying out the provisions of this Title.

1 3. N. J. S. 8A:2-3 is amended to read as follows:

2 8A:2-3. In any action or proceeding affecting or instituted by  
 3 any cemetery company the *Attorney General and the New Jersey*  
 4 Cemetery Board shall be served with notice thereof in the same  
 5 manner as any necessary party and shall take such steps in the  
 6 action or proceeding as [it] may [deem] *be deemed* necessary to  
 7 protect the public interest.

1 4. N. J. S. 8A:3-2 is amended to read as follows:

2 8A:3-2. Before any cemetery company organized after the effec-  
 3 tive date of this act, subject to the provisions of this act, shall en-  
 4 gage in any function or operation of a cemetery *or crematory* there  
 5 shall be issued to *the cemetery company operating* such cemetery  
 6 *or crematory* a certificate of authority to so operate. Such cer-  
 7 tificate shall be issued by the New Jersey Cemetery Board in  
 8 accordance with this chapter.

1 5. N. J. S. 8A:3-3 is amended to read as follows:

2 8A:3-3. The application for such certificate of authority by any  
 3 cemetery company organized after the effective date of this act  
 4 shall be made in writing to the cemetery board, be verified under  
 5 oath and shall contain such information as the cemetery board by  
 6 regulation shall require to enable the board, in its discretion to  
 7 determine whether the issuance of the certificate is warranted.  
 8 This information shall be directed to the fitness of the applicant;  
 9 its ability to properly perform the services proposed; its ability  
 10 to conform to the provisions of this act and the requirements, rules  
 11 and regulations of the cemetery board; its ability to comply with  
 12 any pertinent regulation for the protection of health, promulgated  
 13 by either the New Jersey Department of Health, *New Jersey De-*  
 14 *partment of Environmental Protection*, the cemetery board, or  
 15 local health authorities; the necessity for the services sought to be  
 16 provided, taking into consideration such factors as the present or  
 17 future public need and convenience, and any pertinent territorial  
 18 qualifications.

1 6. N. J. S. 8A:3-14 is amended to read as follows:

2 8A:3-14. a. No person shall build, construct or erect, wholly or  
 3 partially above *or below* the surface of the ground, a public  
 4 mausoleum, vault, crypt or other structure intended to hold or  
 5 contain dead bodies, without obtaining a building permit from the

6 building inspector of the municipality in which it is proposed to  
7 build or erect said structure. A denial or failure to issue said  
8 permit shall be reviewable in the Superior Court by a proceeding  
9 in lieu of prerogative writ. *The provisions of this section shall*  
10 *have application to every cemetery company, religious corporation*  
11 *and religious society.*

12 b. Full detailed plans and specifications of said structure shall  
13 be presented to the State Department of **Health** *Environmental*  
14 *Protection* for its examination and approval before the commence-  
15 ment of the erection thereof. Before approving the plans and  
16 specifications the State Department of **Health** *Environmental*  
17 *Protection* shall be satisfied that the mausoleum proposed to be  
18 constructed can be operated and maintained without constituting  
19 a hazard to public health or safety.

20 The approval of the plans and specifications by the State Depart-  
21 ment of **Health** *Environmental Protection* shall be evidenced by  
22 a certificate in writing, properly signed, which certificate with the  
23 detailed plans and specifications so approved shall, before work is  
24 begun on the structure, be filed in the office of the clerk of the county  
25 wherein the structure is to be erected and there remain as a public  
26 record.

27 c. The process of construction and erection of the structure shall  
28 be at all times under the supervision of the said building inspector,  
29 whose duty it shall be to see that the approved plans and specifi-  
30 cations are complied with in every particular as to kind, quality,  
31 character and quantity of all materials. No departure or deviation  
32 from the original plans and specifications shall be permitted, except  
33 upon the approval of the said State Department of **Health**  
34 *Environmental Protection* evidenced and filed in like manner and  
35 form as the approval of the original plans and specifications.

36 d. No structure erected under the provisions of this section shall  
37 be used for the purpose of interring or depositing therein any dead  
38 body until there shall have been obtained a certificate signed by  
39 the building inspector of the municipality in which the structure  
40 shall have been erected, which certificate shall show that the plans  
41 and specifications as filed have been complied with fully in every  
42 particular, nor until the certificate shall be filed with the clerk of  
43 the county wherein the structure is located.

44 e. No structure constructed or erected under the provisions of  
45 this section shall be used for the interment or depositing therein  
46 of a dead body until a trust fund shall have been established and  
47 set apart in accordance with the laws regulating trust funds in this

48 State, of not less than 10% of the total cost of the structure. The  
 49 interest on the trust fund, and the interest only, shall be used  
 50 for the perpetuation of the structure. This provision shall not  
 51 apply to private mausoleums or temporary receiving vaults.

52 f. This section shall not apply to a public mausoleum, vault, crypt  
 53 or other structure intended to hold or contain dead bodies, con-  
 54 structed or erected or in the course of construction or erection  
 55 prior to March 21, 1916.

56 g. Any officer, manager or director of a cemetery **[company]**  
 57 willfully failing to comply with the provisions of this section shall  
 58 be personally liable therefore and shall be liable to a penalty of  
 59 \$1,000.00.

1 7. N. J. S. 8A:3-15 is amended to read as follows:

2 8A:3-15. In the case of cemeteries other than those owned by  
 3 shareholders, each owner of **[a]** *an [lot] interment space* shall be  
 4 considered a member of the cemetery company and shall have one  
 5 vote *for each grave, crypt or niche* wherever voting by the members  
 6 is required under the provisions of any law, subject to the follow-  
 7 ing qualifications:

8 a. If any **[lot]** *interment space* is owned by more than one per-  
 9 son, then a majority of the owners thereof shall decide among  
 10 themselves who shall cast the vote represented by said ownership.

11 b. No **[lot]** *interment space* owner shall be entitled to vote unless  
 12 all charges and assessments against the **[lot]** *interment space* of  
 13 said owner have been paid.

14 c. Proxy voting shall be permitted except that no proxy shall be  
 15 valid more than 3 years following the date of said proxy.

16 d. Any person owning certificates of indebtedness or certificates  
 17 of interest shall have one vote for each **[\$500.00]** *\$250.00* value  
 18 thereof.

19 e. An organization shall have one vote for each **[lot]** *interment*  
 20 *space* owned, except that it shall not have more than 100 votes.

1 8. N. J. S. 8A:3-17 is amended to read as follows:

2 8A:3-17. The managers, trustees or directors of a cemetery  
 3 company shall at each annual meeting report **[to the lot owners]**  
 4 as to their activities and management and also as to the condition  
 5 of the property and affairs of the cemetery company. At least  
 6 20 days prior to the occurrence of such annual meeting a notice  
 7 thereof shall be placed at some prominent place at the office of  
 8 the cemetery company and shall be published in a newspaper hav-  
 9 ing general circulation in the county in which such cemetery com-  
 10 pany operates a cemetery.

1 9. N. J. S. 8A:3-21 is amended to read as follows:

2 8A:3-21. The *Attorney General and the cemetery board* shall be  
3 **[a]** necessary and indispensable **[party]** *parties* to any litigation  
4 involving or pertaining to a cemetery company.

1 10. N. J. S. 8A:4-4 is amended to read as follows:

2 8A:4-4. Each and every cemetery company organized before the  
3 effective date of this act which has obtained a certificate of au-  
4 thority to operate a cemetery from the board, shall within 1 month  
5 following the issuance of the certificate of authority, cause to be  
6 established a custodial trust fund in a banking institution au-  
7 thorized by law to maintain trust accounts and having and main-  
8 taining a place of business within this State, *except that where the*  
9 *trust funds of the cemetery company do not exceed \$50,000.00, then*  
10 *the cemetery company need not establish a custodial trust fund in*  
11 *accordance with this section but shall otherwise be subject to all*  
12 *other provisions of this act as well as the laws of the State of New*  
13 *Jersey regarding trust funds.* This fund shall be called the Mainte-  
14 nance and Preservation Fund and shall be augmented from time to  
15 time as set forth in this act, or as ordered by the cemetery board.

1 11. N. J. S. 8A:4-5 is amended to read as follows:

2 8A:4-5. The cemetery company shall collect and pay into the  
3 Maintenance and Preservation Fund the following fees and  
4 charges:

5 a. From the proceeds in the initial sale by a cemetery company  
6 a sum equal to a minimum of 15% of the gross sales price of the  
7 lot *or grave or \$25.00 per grave, whichever is greater*; provided,  
8 however, that no cemetery *\*company\** shall be prevented from pay-  
9 ing into the Maintenance and Preservation Fund an amount greater  
10 than 15% of the gross sales price of the lot *or grave*; on resale,  
11 except upon resale made to the cemetery company in accordance  
12 with the provisions of this act, a minimum of 15% of the gross sales  
13 price of the interment space;

14 b. From the proceeds at the time of interment a minimum of  
15 \$10.00 for each interment;

16 c. A minimum of \$0.05 per square inch of surface area of the  
17 base of a memorial;

18 d. From the proceeds *at the time of the initial sale by a cemetery*  
19 *company* a minimum of 10% of the sale price of crypts or niches  
20 in a public mausoleum or columbarium which shall be in addition  
21 to any other funds required by law; *on resale, except upon resale*  
22 *made to the cemetery company in accordance with the provisions*  
23 *of this act, a minimum of 10% of the gross sale price of the inter-*  
24 *ment space*;

25     *e. Resale for purposes of subparagraphs a. and d. above shall,*  
 26     *except for transfers to heirs or next of kin which shall be at the*  
 27     *price set forth in an affidavit executed by the vendor and vendee,*  
 28     *mean the selling price for interment spaces in existence at the time*  
 29     *of transfer as had been established by the cemetery company;*

30     **[e.]** *f. Where prior to the effective date of this act cemetery*  
 31     *companies were under obligation by virtue of contracts or court*  
 32     *judgments to contribute percentages of the proceeds of land sales*  
 33     *to trust funds for maintenance and preservation, the charges re-*  
 34     *quired by section 8A:4-5 (a) shall be reduced by the extent of the*  
 35     *contribution percentages required by such prior contracts or court*  
 36     *judgments.*

1     12. N. J. S. 8A:4-6 is amended to read as follows:

2     8A:4-6. Any cemetery company which operated as such prior to  
 3     the effective date of this act and which in the course of said opera-  
 4     tion had established a fund or funds for the maintenance and pres-  
 5     ervation or for the perpetual care of the cemetery shall, upon the  
 6     establishment of the Maintenance and Preservation Fund, as pro-  
 7     vided in this act, transfer to and commingle with said Maintenance  
 8     and Preservation Fund all of the aforesaid funds previously  
 9     accrued and held in trust, except that this section shall not apply  
 10    to specially designated funds held in trust as provided in this  
 11    act. Where prior to the effective date of this act a cemetery com-  
 12    pany has contracted for the payment of annual care and main-  
 13    tenance charges, it may continue to collect such annual care and  
 14    maintenance charges in accordance with the terms of said con-  
 15    tracts. The governing body of a cemetery company may assess a  
 16    reasonable annual charge against each lot and grave which was sold  
 17    without any provision for maintenance and preservation on the  
 18    part of the cemetery company. *Said annual charge shall not be*  
 19    *effective until such time as the New Jersey Cemetery Board shall*  
 20    *have approved the assessment of such a charge after having*  
 21    *reviewed all relevant financial data submitted by the cemetery com-*  
 22    *pany and further being satisfied that such annual charge is needed*  
 23    *to enable the cemetery \*company\* to continue to operate.*

24    The annual charge so levied shall be a lien on the lots and graves  
 25    and no interments may be made in or any memorials installed on  
 26    any lot or grave while such charge remains unpaid and arrange-  
 27    ments are made with the cemetery company for continuing care of  
 28    the lot or grave in question, *provided that no lien shall be effective*  
 29    *for any interment certified by a county welfare board to be a wel-*  
 30    *fare burial.*



1 13. N. J. S. 8A:4-12 is amended to read as follows:

2 8A:4-12. a. Every cemetery company shall file with the New  
3 Jersey Cemetery Board on a form established by the board, an  
4 annual report showing the extent of and sources of augmentation  
5 of the **[permanent]** maintenance and preservation fund and the  
6 manner of employment by said cemetery company of the income  
7 of the **[permanent]** maintenance and preservation fund during the  
8 preceding year, which report shall also contain a list of the securi-  
9 ties in which said trust funds are invested. If the report so filed  
10 is deemed inadequate to properly apprise the New Jersey  
11 Cemetery Board of the information it requires to effectively  
12 administer the provisions of this act, it shall request a supple-  
13 mental report and in its discretion conduct an investigation of the  
14 operations of the cemetery company.

15 Officials, managers and trustees or employees of every cemetery  
16 company shall exhibit its books, papers and securities to the board  
17 when required and otherwise facilitate any examination of said  
18 company. Any cemetery official or employee may be required to  
19 testify under oath as to the conditions and affairs of the cemetery  
20 company.

21 b. To defray the expenses of examination and administration,  
22 each cemetery company, except any religious corporation, shall,  
23 at the time of filing its accounting and report as to its **[permanent]**  
24 maintenance and preservation fund, but not later than 120 days  
25 after the close of the cemetery company's fiscal year, pay to the  
26 cemetery board the sum of \$1.00 per interment in excess of 25  
27 interments for the preceding fiscal year~~],~~ but in no event shall a  
28 cemetery company pay in excess of \$1,000.00 per fiscal year~~].~~

29 c. The annual report required by this section shall be filed by  
30 the cemetery company no later than 120 days after the close of  
31 the cemetery company's fiscal year.

1 14. N. J. S. 8A:4-14 is amended to read as follows:

2 8A:4-14. If, as the result of any report required by this act, or  
3 investigation by the New Jersey Cemetery Board or otherwise, it  
3A shall appear that the Maintenance and Preservation Fund is not  
4 being maintained as herein provided, *or is inadequate after apply-*  
5 *ing the provisions of chapter 4 of this Title,* the board may formu-  
6 late a plan which will supplement the Maintenance and Preserva-  
7 tion Fund. The effectuation of such a plan, when approved by the  
8 board, shall be deemed a mandate upon the cemetery company and  
9 its officials, and failure on their part to institute the recommended  
10 plan within 60 days following the presentation of said plan to the  
11 cemetery company by the board, shall be a violation of this act.

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1 15. N. J. S. 8A:4-15 is amended to read as follows:

2 8A:4-15. A cemetery company may sell free from any dedication  
3 for cemetery purposes, *subject to prior approval of the board*, any  
4 land or interest in land which is not, in the judgment of the ceme-  
5 tery company, necessary or suitable for interment purposes, pro-  
6 viding no interment has been made therein. As a further condition  
7 of any such sale, the deed of conveyance shall be required to in-  
8 clude a perpetual prohibition on the use of the premises so con-  
9 veyed for any of the purposes or uses in which cemetery com-  
10 panies are, by the terms of this act (N. J. S. 8A:5-3), specifically  
11 prohibited from engaging. Not less than 15% of the proceeds of  
12 said sale shall be deposited in the maintenance and preservation  
13 fund.

1 16. N. J. S. 8A:5-1 is amended to read as follows:

2 8A:5-1. The governing body of every cemetery *\*company\** shall:

3 a. Make reasonable rules and regulations for the use, care, man-  
4 agement and protection of the property of the cemetery company  
5 and of all lots, plots and parts thereof; for regulating the dividing  
6 marks between the lots, plots and parts thereof: for prohibiting  
7 or regulating the erection of structures upon such lots, plots or  
8 parts thereof; for preventing unsightly monuments, effigies and  
9 structures within the cemetery grounds, and for the removal  
10 thereof.

11 b. Fix and make reasonable charges for any acts and services  
12 rendered by the cemetery company in connection with the use, care,  
13 including **[perpetual]** *endowed*, annual and special care, manage-  
14 ment and protection of lots, plots and parts thereof.

1 17. N. J. S. 8A:5-4 is amended to read as follows:

2 8A:5-4. a. The governing body of any cemetery company or-  
3 ganized on or before the effective date of this act shall file in the  
4 office of the cemetery board the name and address of the cemetery  
5 company together with its rules, regulations and its charges for  
6 services within 90 days after the time this act takes effect. The  
7 directors of any cemetery company organized after the effective  
8 date of this act shall file in the office of the cemetery board the  
9 name and address of the cemetery company together with its rules,  
10 regulations, and its charges for services within 90 days after the  
11 date of the filing of the certificate of incorporation in the office of  
12 the Secretary of State.

13 b. The rules and regulations of a cemetery company may be  
14 amended or added to by the cemetery company by filing such pro-  
15 posed amendments or additions in the office of the cemetery board.

16 c. Any filing pursuant to **[paragraphs a. and]** *paragraph b.*

17 above shall be accompanied by a filing fee of \$10.00 payable to the  
18 New Jersey Cemetery Board.

19 d. If any member of the public shall file a written complaint  
20 with the cemetery board concerning the operations or activities of  
21 any cemetery company, then the cemetery board may require of the  
22 cemetery company:

23 (1) A statement of the source and amount of all revenue and  
24 income. It shall not be necessary for the purposes of compliance  
25 with this paragraph that the sale of lots be reported on an indi-  
26 vidual sale basis.

27 (2) A detailed statement of all expenses and disbursements  
28 including deposits to trust funds. Except as otherwise specifically  
29 stated in this section, it shall not be necessary for the purposes  
30 of compliance with this paragraph to recite each such disburse-  
31 ment but total disbursements in specific categories shall be deemed  
32 to be sufficient compliance.

33 e. *The board may, upon notice, by order in writing require any*  
34 *cemetery company:*

35 (1) *To keep its books, records and accounts so as to afford an*  
36 *intelligent understanding of the conduct of its business.*

37 (2) *To furnish periodically a detailed report of finances and*  
38 *operations in such form and containing such matters as the board*  
39 *may from time to time prescribe.*

1 18. N. J. S. 8A:5-10 is amended to read as follows:

2 8A:5-10. Cemetery companies shall be exempt from the payment  
3 of any real estate taxes on lands dedicated for cemetery purposes,  
4 personal property taxes, business taxes, sales taxes, income taxes,  
5 and inheritance taxes. *All annual maintenance and special care*  
6 *charges paid by the interment space owner to any cemetery shall*  
7 *be exempt from the payment of any sales or use tax.*

8 The cemetery property of whatsoever nature of any cemetery  
9 company, and lands dedicated prior to or in accordance with this  
10 act shall be exempt from all taxes, rates or assessments, and shall  
11 not be liable to be sold on execution, or to be applied in payment  
12 of debts due from any owner or holder of interment spaces, and  
13 their heirs, devisees or assigns shall hold the same exempt from  
14 taxation so long as the same shall remain dedicated to cemetery  
15 purposes. The aforesaid exemptions shall apply also to all land,  
16 structures, buildings, and equipment used for the operation and  
17 maintenance of said lands so dedicated.

1 19. N. J. S. 8A:5-20 is amended to read as follows:

2 8A:5-20. Remains interred in **[a]** *an* **[lot]** *interment space* in  
3 a cemetery may be removed therefrom, with the consent of the

4 cemetery company and a written consent of the *owner or one of the*  
 5 owners of the [lot] *interment space* and of the surviving spouse  
 6 and children, if of full age. [If the consent of any such person or  
 7 of the cemetery company cannot be obtained, the permission of  
 8 the New Jersey Cemetery Board shall be sufficient. The notice of  
 9 application for such permission must be given, at least 10 days  
 10 prior thereto, personally, or at least 30 days prior thereto, by  
 11 certified mail return receipt requested, to the cemetery company  
 12 or to the persons not consenting, if any, and to every other person  
 13 or corporation to whom service of notice may be required by the  
 14 New Jersey Cemetery Board.]

1 20. a. The interment space owner, or owners or other interested  
 2 party in any cemetery *\*controlled, owned or operated by a ceme-*  
 2A *tery company\** in this State shall be notified by the cemetery  
 3 management prior to the removal of any unsightly monument, rail-  
 4 ing, box or other form of monumentation from the said interment  
 5 space. The cemetery management shall notify the interment space  
 6 owner in writing and shall secure the written consent of the said  
 7 owner or owners. In the event the cemetery fails to secure such  
 8 written authorization, the cemetery may then make application to  
 9 the cemetery board for written consent to such removal. The board,  
 10 if satisfied from the evidence presented that the monumentation is  
 11 unsightly, may give written authority to the cemetery for the re-  
 12 moval of such unsightly monumentation. Any evidence presented  
 13 to the board shall contain photographic evidence of the monumenta-  
 14 tion sought to be removed. Prior to the board giving any written  
 15 authority to remove an unsightly monumentation, it may require  
 16 of the cemetery publication of notice of said action of removal in  
 17 such manner as it may determine. Any such authority given by the  
 18 board shall contain directions to the cemetery as the board deems  
 19 necessary for continued monumentation of the interment space.  
 20 Any interment space owner or other person whose interests are  
 21 affected by any such application by a cemetery shall be afforded  
 22 an opportunity to appear before the board in opposition to such  
 23 application before any such authority is given by the board.

24 b. The cemetery management of any cemetery in this State may  
 25 remove any dangerous monumentation in the cemetery subject to  
 26 the conditions hereinafter set forth. Prior to any such removal  
 27 the cemetery shall take photographs of the monumentation and its  
 28 condition and shall retain same in the permanent records of the  
 29 cemetery. Any such removal by the cemetery shall be placed on  
 30 the interment space. The cemetery shall immediately notify the  
 31 interment space owner, or owners or interested parties in writing

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32 as to such removal. If after a period of 6 months, the interment  
 33 space owner, or owners or interested parties have not communi-  
 34 cated with the cemetery, the cemetery may make application to the  
 35 board for such relief as the board deems appropriate to protect the  
 36 public interest regarding the removal of the monumentation from  
 37 the interment space. Any interment space owner, or owners, or  
 38 other interested parties who may claim that such a removal was  
 39 not necessary may make application to the board to review the  
 40 action of the cemetery. The board, after having reviewed all of the  
 41 evidence, may order such relief as it deems appropriate if it finds  
 42 that such removal was unnecessary.

1 21. No cemetery *\*company\** shall engage in any general renova-  
 2 tion of grave areas without the prior approval of the cemetery  
 3 board in writing. The board before granting such consent may  
 4 conduct a hearing and in its determination shall take into con-  
 5 sideration the interests of the cemetery, grave owners and the  
 6 general public. Before the board shall grant any consent to a  
 7 renovation, the cemetery shall furnish evidence to the board as to  
 8 the notification to the grave owners or other interested parties of  
 9 the proposed renovation. The board may, prior to considering any  
 10 such application, require notice by publication in the manner  
 11 deemed to provide the maximum notice to grave owners or other  
 12 interested parties. Any grave owner or other interested party may  
 13 appear in opposition to any such application for such a renovation.

1 \*22. N. J. S. 8A:6-7 is amended to read as follows:

2 8A:6-7. Lands hereafter acquired and held under authority of  
 3 this act or such parts thereof as may, from time to time, be re-  
 4 quired for cemetery purposes, shall be surveyed and divided into  
 5 sections, lots or graves of such size as the managers, directors  
 6 or trustees of the cemetery company from time to time may direct,  
 7 with such avenues, paths, alleys and walks as they deem proper.  
 8 A map or maps of all that land which shall be subdivided or has  
 9 been subdivided as above shall be filed, and kept in the office of  
 10 the cemetery company, open to the inspection of the interment  
 11 space owners and a copy of such map or maps shall be filed in the  
 12 office of the board, and such filings shall constitute a dedication  
 13 of the lands for cemetery purposes, *except that no map or maps*  
 14 *need be filed in the office of the cemetery board by a religious*  
 15 *corporation or a religious society.】\**

1 \*22. N. J. S. 8A:6-1 is amended to read as follows:

2 8A:6-1. *A cemetery company heretofore or hereafter incorpo-*  
 3 *rated, may take by gift, purchase or devise and hold, lands not to*  
 4 *exceed 250 acres in extent at any one location.\**

1     \*23. N. J. S. 8A:6-2 is amended to read as follows:

2     8A:6-2. A cemetery company may exchange its lands for other  
3 lands provided no body has been interred therein. A cemetery com-  
4 pany may lease for a term of years such parts of its lands as have  
5 not been laid out into burial plots or lots and use the proceeds of  
6 such lease to pay its debts and liabilities and to improve its ceme-  
7 tery. Any lease entered into pursuant to this section shall be  
8 acknowledged or proved in the office of the county recording officer  
9 and the lands and property the subject of such lease shall not be  
10 entitled to the tax and other exemptions set forth in [8A:5-5]  
11 8A:5-10. A cemetery company shall not lease any of its lands  
12 directly or indirectly to any person or entity in any business in  
13 which a cemetery company is specifically prohibited from engaging  
14 in accordance with the terms of 8A:5-3 of this act.\*

1     \*24. N. J. S. 8A:6-6 is amended to read as follows:

2     8A:6-6. No more than five cemeteries shall be located or placed  
3 in any one municipality in any county of this State, except that, in  
4 any municipality of this State where the capacity of an existing  
5 cemetery is exhausted, so that no further interment spaces can be  
6 purchased, an additional cemetery may be created or placed at a  
7 distance of not less than 3 miles from any other existing cemetery  
8 in such municipality, subject to all laws or provisions thereof  
9 governing and regulating cemeteries in this State.

10    Not more than 3% of the area of any municipality shall be  
11 devoted to cemetery purposes.

12    However upon application the governing body of any munici-  
13 pality may by resolution waive any of the aforementioned limita-  
14 tions as to the number of cemeteries in the municipality or per-  
15 centage of land use for cemeteries when, in its opinion, there is a  
16 public need for additional cemetery lands and that it is in the public  
17 interest to so waive any of the aforementioned limitations.

18    Nothing contained in this section shall prevent any cemetery  
19 company incorporated and in operation prior to the effective  
20 date hereof, and which owns lands in which interments have been  
21 made, and which obtains a certificate of authority as provided in  
22 this act from continuing to maintain and conduct its cemetery in  
23 any municipality of this State.\*

1     \***[23.]**\* \*25.\* The provisions of \***[this chapter (N. J. S. 8A:6-1**  
2 et seq.)]\* \*N. J. S. 8A:6-1, 8A:6-5 and 8A:6-6\* shall have applica-  
3 tion to every cemetery company, religious corporation and religious  
4 society.

1     \***[24.]**\* \*26.\* N. J. S. 8A:7-1 is amended to read as follows:

2 8A:7-1. All interment spaces [owned and occupied exclusively  
 3 as cemeteries for the interment of the dead and designated on the  
 4 map or maps filed in accordance with the provisions of this act,  
 5 and numbered as separate interment spaces] shall become, upon  
 6 the transfer thereof in whole or in part, the sole and separate  
 7 property of the person or persons named in the conveyance or  
 8 certificate as transferee[;], his heirs, devisees and assigns. Any  
 9 such conveyance or certificate of transfer issued by a cemetery  
 10 company may contain a provision that the owner or owners take  
 11 title subject to the rules and regulations of the cemetery company  
 12 then existing and those reasonable rules and regulations that may  
 13 thereafter be adopted by the cemetery company and also any other  
 14 reasonable valid restrictions upon use or transfer not inconsistent  
 15 with the provisions of this law.

1 \***[25.]**\* \*27.\* N. J. S. 8A:7-3 is amended to read as follows:

2 8A:7-3. The owner [or holder] of [a] *an* [plot or lot] *interment*  
 3 *space* or an interest therein in a cemetery owned by a cemetery  
 4 company may, subject to the provisions of this act, transfer and  
 5 convey the same or part thereof to any person or to the cemetery  
 6 company having charge of the cemetery in which the [plot or lot]  
 7 *interment space* is situated. Before any such transfer or convey-  
 8 ance is made, the board of managers, directors or trustees shall  
 9 authorize the same by a vote of at least three-fifths of the board at  
 10 a regularly called meeting. Consent to such transfer shall not be  
 11 unreasonably withheld by the cemetery company.

1 \***[26.]**\* \*28.\* Any grave owner, owners or interested parties  
 2 shall have the right to maintain their own grave, or graves, or pro-  
 3 vide for the same service by an outside contractor without any  
 4 financial obligation to the cemetery *company* for doing so; pro-  
 5 vided, however, that any such service rendered by the grave owner  
 6 or outside contractor shall be subject to the supervision of the  
 7 cemetery management to insure compliance with the rules and  
 8 regulations of the cemetery.

1 \***[27.]** The provisions of this chapter (N. J. S. 8A:7-1 et seq.)  
 2 shall have application to every cemetery company, religious  
 3 corporation and religious society.\*

1 \***[28.]**\* \*29.\* N. J. S. 8A:8-3 is amended to read as follows:

2 8A:8-3. The directors of any cemetery owning lands in which  
 3 burials have been made may remove the bodies buried therein and  
 4 sell such lands, or any part thereof. Before making such removal  
 5 and sale the corporation shall obtain the consents in writing of  
 6 the living owner or owners of the [burial plots or lots] *interment*  
 7 *spaces* and permits for burials in such lands, and the consents in

8 writing of the living lineal descendants and widow or widower,  
 9 if any, of the person or persons buried in such lands, or the part  
 10 thereof sold. *In addition to the foregoing, the corporation or*  
 11 *society shall obtain the consent of the cemetery board in writing.*

12 If the consents required cannot be obtained because the persons  
 13 from whom they are required to be obtained cannot, upon diligent  
 14 inquiry, be found, the corporation or society may apply to the  
 15 Superior Court for an order for the sale thereof. The application  
 16 shall show the name of the applying corporation, the location of  
 17 the land sought to be sold, the names of all known persons owning  
 18 plots or lots and permits for burials in such lands, and a descrip-  
 19 tion and map of the lands sought to be sold.

20 Upon proof of the facts set forth in the application, the Superior  
 21 Court may make an order setting forth the nature of the appli-  
 22 cation and the names of all owners of **[plots or lots]** *interment*  
 23 *spaces* and permits for burials in the lands sought to be sold who  
 24 have not consented in writing to the sale, requiring them to show  
 25 cause, at a time to be fixed by the court, why such lands should  
 26 not be sold. A notice of such order shall be published in a news-  
 27 paper designated by such court, for 4 successive weeks, or as the  
 28 court shall direct.

29 At the time fixed in the order and notice, or upon such adjourn-  
 30 ment day as the Superior Court may fix, no objections in writing  
 31 being made thereto or filed with such court previous thereto by  
 32 the lineal descendants or widow or widower of the persons buried  
 33 in such lands, such court may make an order authorizing the sale  
 34 of the lands and the removal of any bodies buried therein.

1 \***[29.]**\* \*30.\* N. J. S. 8A:10-1 is amended to read as follows:

2 8A:10-1. a. The cemetery board shall have power to enforce  
 3 this act, and any person violating any of its provisions *or any*  
 4 *order of the board* shall forfeit and pay to the board a penalty of  
 5 not less than \$25.00 nor more than **[\$50.00]** *\$500.00* for the first  
 6 offense; not less than \$50.00 nor more than **[\$100.00]** *\$1,000.00*  
 7 for the second offense; and not less than \$100.00 nor more than  
 8 **[\$300.00]** *\$1,500.00* for the third and each subsequent offense.

9 b. In the event the offending person does not pay any penalty  
 10 within the time fixed by the board, the penalty shall be sued for  
 11 and recovered by and in the name of the New Jersey Cemetery  
 12 Board.

1 \***[30.]**\* \*31.\* N. J. S. 8A:10-2 is amended to read as follows:

2 8A:10-2. Any penalty imposed because of the violation of any  
 3 of the provisions of this act, shall be collected and enforced by  
 4 summary proceedings in a civil action pursuant to the penalty



5 enforcement law (N. J. S. 2A:58-1 et seq.). Process shall issue  
 6 at the suit of the board as plaintiff, and shall be either in the  
 7 nature of a summons or warrant. *If judgment be rendered for the*  
 8 *plaintiff, the court shall cause any defendant, who refuses or*  
 9 *neglects to pay forthwith the amount of the judgment rendered*  
 10 *against him and all the costs and charges incident thereto, to be*  
 11 *committed to the county jail for a period of not less than 10 and*  
 12 *not exceeding 100 days.*

1 \***[31.]**\* \*32.\* N. J. S. 8A:10-4 is amended to read as follows:

2 8A:10-4. After notice of hearing as hereinafter provided, the  
 3 board may refuse to grant or renew, or may suspend or revoke  
 4 any license or certificate of authority if it determines that the  
 5 applicant for or holder of such license or certificate of authority  
 6 has been guilty of any of the following acts or omissions:

7 a. Fraud and deception in applying for a license or its renewal  
 8 or in applying for a certificate of authority or in the passing of  
 9 an examination provided for in this act;

10 b. Conviction in a court of competent jurisdiction of a high  
 11 misdemeanor;

12 c. False or fraudulent advertising or willfully advertising in  
 13 any manner which is deceptive, misleading, improbable or unethi-  
 14 cal or which is calculated to deceive the public with respect to  
 15 either merchandise or services, including the offering of free ser-  
 16 vices;

17 d. Any conduct which is of a character likely to deceive or de-  
 18 fraud the public;

19 e. Engaged in fraudulent business activities; and

20 f. The willful, deliberate and persistent failure or refusal to  
 21 comply with the terms of this act or the orders, rules or regula-  
 22 tions of the New Jersey Cemetery Board;

23 g. In addition the board may refuse to grant or renew or may  
 24 suspend the license of a cemetery salesman for:

25 (1) Chronic and persistent inebriety, or the habitual use of  
 26 narcotics;

27 (2) Conviction of a crime involving moral turpitude; or where  
 28 any licensee or applicant for a license has pleaded nolo contendere  
 29 or non vult to any indictment, allegation or complaint, alleging  
 30 the commission of a crime involving moral turpitude. The record  
 31 of conviction or the entry of such a plea in any court of this State  
 32 or any other state, or in any of the courts of the United States  
 33 shall be sufficient warrant for the revocation or suspension of a  
 34 license.

35    *The board may, after hearing, upon notice, by order in writing,*  
 36    *require any cemetery company:*

37    *a. To comply with the laws of the State, rules and regulations*  
 38    *of the board, and any municipal ordinance relating thereto, and*  
 39    *to conform to the duties imposed upon it thereby or by the provi-*  
 40    *sions of its own charter, whether obtained under general or special*  
 41    *law of this State.*

42    *b. The board may when issuing certain of its orders of an emer-*  
 43    *gent nature dispense with the notice and hearing provisions re-*  
 44    *quired above when it determines that it is in the interest of the*  
 45    *public health, safety and welfare to do so and the subject matter*  
 46    *of the order does not permit the holding of such a hearing upon*  
 47    *notice. Any such order issued by the board pursuant to this sub-*  
 48    *paragraph shall also contain a notice to the cemetery company*  
 49    *providing that said cemetery company upon notice to the board*  
 50    *in writing may have a hearing scheduled within 5 days of receipt*  
 51    *of said notice to the board regarding the subject matter of the said*  
 52    *order. The board shall then conduct such hearing in accordance*  
 53    *with the provisions of this Title and upon conclusion thereof may*  
 54    *modify its previous order or order such further relief as is neces-*  
 55    *sary to enforce the provisions of this Title.*

56    *c. In addition to the foregoing, where a complaint has been*  
 57    *brought against a cemetery company or a practice or procedure*  
 58    *of the cemetery company is brought into question, the board may*  
 59    *schedule a conference upon notice in writing to the cemetery com-*  
 60    *pany if the board determines that the matter may be resolved at*  
 61    *such a conference. If the conference does not result in a resolu-*  
 62    *tion of the complaint or questioned practice or procedure, a hearing*  
 63    *may then be scheduled by the board in accordance with the provi-*  
 64    *sions of this Title.*

1    \***[32.]**\* \*33.\* N. J. S. 8A:10-6 is amended to read as follows:

2    8A:10-6. a. The executive **[secretary]** director, the chairman,  
 3    **[or]** any member of the New Jersey Cemetery Board or any person  
 4    designated by the cemetery board or the Commissioner of Bank-  
 5    ing may administer oaths and affirmations and shall have power  
 6    to issue subpoenas, to compel the attendance of any person, or the  
 7    production of any books or papers necessary or incidental to any  
 8    hearing before the board. Such subpoena may be served and the  
 9    same witness fees paid as in cases in the County or Superior Court,  
 10   as allowed by law.

11   b. In the event any person who has been duly served with a  
 12   subpoena by the board fails or refuses to attend and testify and  
 13   answer proper questions or to produce books, records, documents,

The board would specifically be given the authority to deal with emergency situations and in addition the violator of any order of the board would be subject to increased penalties.

#### FISCAL IMPACT

This bill would delete the limitation on expenditures by the board to the board revenues by amending N. J. S. 8A:2-1. This is necessary due to the investigation of complaints of lot owners by the board and the volume of administrative work including examination of trust fund reports which was previously performed by the Department of Banking. This bill would appropriate \$25,000.00 to enable the board to hire additional personnel to assist the board in its responsibilities of administering the New Jersey Cemetery Law.

15 said subpena, the board is authorized to apply to the Superior  
 16 Court for an order compelling compliance with the subpena or  
 17 order of the board. Failure to obey the subpena or the order of the  
 18 court in reference thereto shall, in addition to any other action  
 19 that may properly be taken by the courts, carry a penalty of \$100.00  
 20 to be collected by the board as provided in chapter 9 of this act.

1 33. N. J. S. 8A:10-7 is amended to read as follows:

2 8A:10-7. **Whenever the** *The* board **shall** suspend the cer-  
 3 tificate of authority of any cemetery company, it **may**, when  
 4 deemed necessary to protect the public interest, institute an action  
 5 in the name of the State on the relation of the board in the Superior  
 6 Court for the appointment of a receiver, injunctive or other relief  
 7 as may be necessary to protect the public interest, or to prohibit the  
 8 violation of this act or the orders, rules or regulations of the board.  
 9 The relief authorized by this paragraph shall not be limited or  
 10 barred by the imposition of any penalties imposed by the board  
 11 under chapter 10 or any other provision of this act. The receiver-  
 12 ship shall be discharged as soon as the condition which caused the  
 13 suspension has been corrected.

1 34. N. J. S. 8A:8-2 is repealed.

1 35. There is hereby appropriated from the General State Fund  
 2 to the Department of Banking for the use of the cemetery board  
 3 the sum of \$25,000.00 to carry out the provisions of Title 8A, which  
 4 sum shall be in addition to the fees and revenues appropriated and  
 5 the expenditure thereof subject to the same conditions as provided  
 6 for in section 8A:12-5.

1 36. Section 2 of P. L. 1954, c. 219 (C. 2A:95-3) is amended to  
 2 read as follows:

3 2. It shall be unlawful to buy or receive for use as junk or scrap  
 4 metal any grave marker, **[or]** emblem, *or metallic memorial*  
 5 *marker* except upon written authorization of the *owner of the in-*  
 6 *terment space or the* organization whose name is shown on the  
 7 marker or emblem.

1 37. This act shall take effect immediately.

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#### STATEMENT

This bill provides for amendments to various sections of the New Jersey Cemetery Law as well as supplementing the law to strengthen the powers of the board to deal with problem areas in cemeteries. In addition, it makes explicit in statutory form the rights of lot owners with regard to monumentation on their graves and in addition imposes certain requirements on the cemetery with regard to the removal of unsightly and dangerous monumentation.

The board would specifically be given the authority to deal with emergency situations and in addition the violator of any order of the board would be subject to increased penalties.

#### FISCAL IMPACT

This bill would delete the limitation on expenditures by the board to the board revenues by amending N. J. S. 8A:2-1. This is necessary due to the investigation of complaints of lot owners by the board and the volume of administrative work including examination of trust fund reports which was previously performed by the Department of Banking. This bill would appropriate \$25,000.00 to enable the board to hire additional personnel to assist the board in its responsibilities of administering the New Jersey Cemetery Law.

SENATE LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 2233**  
[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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DATED: APRIL 16, 1973

This bill provides for amendments to various sections of the New Jersey Cemetery Law as well as supplementing the law to strengthen the powers of the board to deal with problem areas in cemeteries. In addition, it makes explicit in statutory form the rights of lot owners with regard to monumentation on their graves and in addition imposes certain requirements on the cemetery with regard to the removal of unsightly and dangerous monumentation.

The board would specifically be given the authority to deal with emergency situations and in addition the violator of any order of the board would be subject to increased penalties.

This bill would delete the limitation on expenditures by the board to the board revenues by amending N. J. S. 8A:2-1. This is necessary due to the investigation of complaints of lot owners by the board and the volume of administrative work including examination of trust fund reports which was previously performed by the Department of Banking. This bill would appropriate \$25,000.00 to enable the board to hire additional personnel to assist the board in its responsibilities of administering the New Jersey Cemetery Law.

SEPTEMBER 10, 1973

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill today signed into law a bill calling for extensive amendments to the New Jersey Cemetery Act to increase the ability of the State Cemetery Board to deal with recurring problems concerning the management and operations of cemeteries.

In signing Assembly 2233, sponsored by Assemblyman Christopher Jackman (D., Hudson) the Governor said:

"This bill, in effect, brings about a modernization of our cemetery law to strengthen the powers of the New Jersey Cemetery Board to effectively deal with problems concerning cemeteries in this State.

"It further spells out the rights of cemetery lot owners with regard to monumentation on graves and imposes requirements on the cemetery with regard to the removal of unsightly and dangerous grave markers."

The legislation was a response to many complaints from the public concerning certain cemetery companies which allegedly removed monuments without just cause and charged excessive maintenance to all lot owners.

Among the changes in the Cemetery Act are the following:

. It increases the power of the Cemetery Board to deal with situations it feels to be in violation of the Act or contrary to public interest, through such provisions as giving a board general supervision, regulation and jurisdiction over all cemetery companies and their property. It further empowers the board to order any cemetery company to keep its books, records and accounts in such a manner as to afford an independent understanding of the conduct of its business and to furnish periodic detailed financial reports to the Cemetery Board.

. It permits the assessment of reasonable annual maintenance charges against a lot or grave but only after the Cemetery Board has determined that the charge is necessary to allow the cemetery company to continue to operate.

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. It increases the maximum penalties for violation of the provisions of the Cemetery Act from the present \$50 for the first offense, \$100 for the second offense and \$300 for offenses after the second to \$500 for the first offense, \$1,000 for the second offense and \$1,500 for each subsequent offense.

. It permits the removal of unsightly monuments by the cemetery operator with the prior consent of the lot owner or the board. However, hazardous monuments may be removed without prior consent, but prompt notice must be given to the lot owner, who may seek redress from the Cemetery Board if the action is an improper one.

. The board can, after hearing and upon notice, order any cemetery company in writing to comply with the laws of New Jersey, the rules and regulations of the board and any relevant municipal ordinances. The amendments also provide for the issuance of emergency orders without notice and a hearing when the board determines that the interest of public health, safety and welfare do not permit the holding of such a hearing.

. It provides that all annual maintenance and special care charges paid by the lot owner to any cemetery shall be exempt from the State's sales or use tax.

. The present Cemetery Act is amended to permit the governing body of any municipality to waive the present limitations on cemetery size and the number of cemeteries within a municipality when, in its opinion, there is a public need for additional cemetery land. It was pointed out that this waiver provision is necessary because of the existence of many small private cemeteries, which could prevent the establishment of larger public cemeteries if no waiver is possible.



. The present cemetery provision requiring that the expenditures by the Cemetery Board in any given fiscal year shall not exceed the revenues collected by the board is stricken from the Act. In addition, the bill appropriates \$25,000 to the State Department of Banking for the use of the Cemetery Board in carrying out the provisions of the Cemetery Act. This change is needed to enable the board to carry out its increased powers and duties under this bill.

. The bill reduces the necessary quorum from seven to six of the nine Cemetery Board members in order for them to legally meet and carry out their function.

. The bill also transfers from the Department of Health to the Department of Environmental Protection the present requirement for approving plans and specifications for monuments, vaults, crypts and other cemetery structures.

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