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SENATE BILL 83

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Timothy Z. Jennings

AN ACT

**RELATING TO CEMETERIES; LIMITING LIABILITY WHEN A MUNICIPALITY
ACQUIRES A CEMETERY THAT HAS NO RECORDS OR OTHER MATERIALS;
DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 3-40-7 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-41-8) is amended to read:**

**"3-40-7. TRANSFER OF OTHER CEMETERIES TO CEMETERY
BOARD. --**

**A. Subject to the approval of the governing body
of the municipality, a cemetery board may accept any cemetery
within or adjacent to the municipality [~~and~~] used as a burial
place by the inhabitants of the municipality from any person,
corporation or organization owning, controlling or maintaining
the cemetery.**

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 B. If the cemetery board accepts a cemetery whose
2 records have been lost or destroyed or are otherwise
3 nonexistent, the cemetery board or the municipality shall not
4 be liable for any liabilities of prior owners.

5 [~~B.~~] C. Any cemetery accepted by the cemetery
6 board as provided in this section shall become part of the
7 municipality and shall be governed as any other municipal
8 cemetery is governed. "

9 Section 2. Section 3-40-9 NMSA 1978 (being Laws 1973,
10 Chapter 395, Section 8) is amended to read:

11 "3-40-9. ACQUISITION OR CONDEMNATION OF AN EXISTING
12 CEMETERY. --

13 A. [~~No~~] Except as provided in Subsection B of
14 Section 3-40-7 NMSA 1978, a municipality shall not acquire or
15 condemn [any] a cemetery or part [thereof] of a cemetery
16 unless a detailed audit listing all the assets and liabilities
17 of the cemetery is prepared by a certified public accountant
18 and submitted to the governing body. The municipality shall
19 not be held liable for any liabilities not shown in the audit.

20 B. Any person, estate, trust, receiver or other
21 group acting as a unit shall transfer to the municipality all
22 records, property, trusts and other relevant material
23 pertaining to the cemetery or part [~~thereof~~] of the cemetery
24 acquired or condemned by the municipality. The acquisition or
25 condemnation and transfer of a cemetery or part [~~thereof~~] of a

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[bracketed material] = delete

1 cemetery shall be in compliance with the Endowed Care Cemetery
2 Act of 1961 and other provisions relating to cemeteries [~~or~~
3 ~~any part thereof~~]. "

4 Section 3. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.

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