

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 8

By: Senator J. Key

For An Act To Be Entitled

AN ACT TO PROVIDE ADDITIONAL INVESTMENT AUTHORITY FOR
MUNICIPAL CEMETERY PERPETUAL CARE TRUST FUNDS; AND
FOR OTHER PURPOSES.

Subtitle

TO PROVIDE ADDITIONAL INVESTMENT
AUTHORITY FOR MUNICIPAL CEMETERY
PERPETUAL CARE TRUST FUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 19, Chapter 1, Subchapter 5 is amended to add an additional section to read as follows:

19-1-506. Cemetery perpetual care trust funds – Definitions.

(a) As used in this section:

(1) “Cemetery perpetual care trust fund” means a fund that is:

(A) Established by a municipality to maintain the cemeteries owned by the municipality; and

(B) Governed by a board of trustees; and

(2)(A) “Investment advisor” means a person who:

(i) For compensation:

(a) Engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; or

(b) Issues or promulgates analyses or reports concerning securities; and



(B) Either:

(i) Is required to be registered as an investment advisor with the State Securities Department; or

(ii) Is an officer of a bank trust department even though the officer is not required to be registered with the State Securities Department.

(b)(1) The board of trustees of a cemetery perpetual care trust fund in which assets exceed one hundred thousand dollars (\$100,000) may employ the following:

(A) An investment advisor to invest the assets of the cemetery perpetual care trust fund, subject to the conditions imposed under this section; and

(B) A trustee or custodian to hold the assets of a cemetery perpetual care trust fund.

(2) Investments are not limited to interest-bearing bonds.

(c) The total amount of fees that the board of trustees of a cemetery perpetual care trust fund pays for investment advisors, investment advisory services, investment educational services, trustee services, custodial and administrative services, and investment management services when the investment managers are required to perform security trades on a best execution basis shall be:

(1) Limited to the sum of not more than:

(A) Three percent (3%) annually of the first five hundred thousand dollars (\$500,000) of cemetery perpetual care trust fund assets;

(B) Two percent (2%) annually of the next five hundred thousand dollars (\$500,000) of cemetery perpetual care trust fund assets; and

(C) One percent (1%) annually of cemetery perpetual care trust fund assets over one million dollars (\$1,000,000); and

(2) Clearly stated in total on all monthly, quarterly, and annual statements prepared for the board of trustees of the cemetery perpetual care trust fund.

(d) From time to time, the investment advisor under contract to the board of trustees of a cemetery perpetual care trust fund shall formulate the policy to be followed in future investment activity, and the investment advisor shall promptly furnish the policy to the board of trustees in writing each time he or she changes the policy.

(e) The investment advisor under contract to the board of trustees of a cemetery perpetual care trust fund may purchase, sell, assign, transfer, or dispose of any of the moneys or investments of the cemetery perpetual care trust fund in accordance with this section and the current investment policy filed with the board of trustees of the cemetery perpetual care trust fund.

(f) At least semiannually, the investment advisor under contract to the board of trustees of a cemetery perpetual care trust fund shall file with the board of trustees a written report stating, for the period since the investment advisor's last report:

(1) All investments purchased and sold;

(2) All receipts and disbursements; and

(3) Any other transactions concerning cemetery perpetual care trust fund moneys.

(g) At each regular meeting, the board of trustees of a cemetery perpetual care trust fund shall examine each written report received from the investment advisor under contract to the board of trustees since the last regular meeting.

(h) From time to time, the board of trustees of a cemetery perpetual care trust fund may direct a specific investment activity and shall be fully responsible for the direction.

(i) Investment activity shall be otherwise subject to the conditions imposed by law upon state public employee retirement plans in the making and disposing of investments of state public employee retirement plans.

(j) Until the assets of the cemetery perpetual care trust fund amount to at least five million dollars (\$5,000,000), the funds of the cemetery perpetual care trust fund not in a checking account may be invested in shares of no-load mutual funds, each of which shall have the following characteristics:

(1) The mutual fund shall be an open-end, diversified investment company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as it existed on January 1, 2013;

(2) The management company of the investment company shall have been in operation for at least ten (10) years and shall have assets of more than one hundred million dollars (\$100,000,000) under management; and

(3) There shall not be a:

(A) Sales charge for purchasing shares of the mutual fund;

or

fund.

(B) Redemption charge for selling the shares of the mutual