

5381--A

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I N   S E N A T E

May 13, 2011

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Introduced by Sens. BALL, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the executive law, in relation to providing for the establishment of a state veteran's cemetery

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 12 of section 353 of the executive law, as  
2     added by chapter 613 of the laws of 1984, is amended to read as follows:  
3     12. To make application to the government of the United States or any  
4     political subdivision, agency or instrumentality thereof, for funds for  
5     the purpose of acquiring lands for, establishing, operating and main-  
6     taining veteran's cemeteries in this state; to enter into contracts with  
7     any political subdivision, agency or instrumentality of the state for  
8     the establishment, operation and maintenance of veteran's cemeteries in  
9     this state; and to evaluate, monitor and otherwise oversee the operation  
10    of veteran's cemeteries [provided, however,]  
11    (A) THE STATE DIRECTOR SHALL PROMULGATE RULES AND REGULATIONS GOVERN-  
12    ING THE SUBMISSION OF REQUESTS AND PROPOSALS BY A POLITICAL SUBDIVISION,  
13    AGENCY OR INSTRUMENTALITY OF THE STATE DESIRING TO ESTABLISH, OPERATE  
14    AND MAINTAIN A STATE VETERAN'S CEMETERY.  
15    (B) THE STATE MAY ENTER INTO A CONTRACT WITH ANY POLITICAL SUBDIVI-  
16    SION, AGENCY OR INSTRUMENTALITY OF THE STATE FOR THE ESTABLISHMENT,  
17    OPERATION AND MAINTENANCE OF A STATE VETERAN'S CEMETERY IN THE STATE.  
18    ANY SUCH CONTRACT SHALL PROVIDE: that all costs of such establishment,  
19    operation and maintenance, TO THE EXTENT SUCH COSTS ARE NOT PAID OR  
20    REIMBURSED BY THE GOVERNMENT OF THE UNITED STATES, shall be borne by the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 political subdivision, agency or instrumentality [with which the divi-  
2 sion has contracted] AND THAT THE POLITICAL SUBDIVISION, AGENCY OR  
3 INSTRUMENTALITY WILL MEET ANY APPLICABLE FEDERAL STANDARDS AND REQUIRE-  
4 MENTS FOR THE PERPETUAL OPERATION AND MAINTENANCE OF SUCH STATE VETER-  
5 AN'S CEMETERY.

6 (C) THE STATE SHALL ACQUIRE REAL PROPERTY AS NECESSARY AND APPROPRIATE  
7 FOR THE ESTABLISHMENT OF A STATE VETERAN'S CEMETERY. ALL LANDS UPON  
8 WHICH SUCH CEMETERY IS ESTABLISHED SHALL BE OWNED BY THE STATE AND SHALL  
9 BE USED SOLELY FOR STATE VETERAN'S CEMETERY PURPOSES. BY CONTRACT, THE  
10 POLITICAL SUBDIVISION, AGENCY OR INSTRUMENTALITY SHALL BE REQUIRED TO  
11 ASSIST THE DIVISION IN CHOOSING A SITE FOR SUCH STATE VETERAN'S CEME-  
12 TERY. ANY COSTS ASSOCIATED WITH THE ACQUISITION OF REAL PROPERTY ON  
13 WHICH SUCH CEMETERY WILL BE SITED SHALL BE DEEMED TO BE A COST OF THE  
14 ESTABLISHMENT OF THE CEMETERY FOR PURPOSES OF THIS SECTION.

15 (D) IN THE EVENT THAT THE POLITICAL SUBDIVISION, AGENCY OR INSTRUMEN-  
16 TALITY FAILS TO PERFORM ITS OBLIGATIONS UNDER THE CONTRACT, THE STATE  
17 DIRECTOR SHALL CERTIFY TO THE COMPTROLLER ANY UNPAID AMOUNTS OR ANY  
18 AMOUNTS NECESSARY FOR THE STATE TO ASSUME THE OBLIGATIONS WHICH THE  
19 POLITICAL SUBDIVISION, AGENCY OR INSTRUMENTALITY FAILED TO PERFORM, AND  
20 THE COMPTROLLER SHALL, TO THE EXTENT NOT OTHERWISE PROHIBITED BY LAW,  
21 WITHHOLD SUCH AMOUNT FROM ANY STATE AID OR OTHER AMOUNT PAYABLE TO SUCH  
22 POLITICAL SUBDIVISION, AGENCY OR INSTRUMENTALITY. TO THE EXTENT THAT  
23 SUFFICIENT FUNDS ARE NOT AVAILABLE FOR SUCH WITHHOLDING, THE STATE MAY  
24 PURSUE ANY AND ALL AVAILABLE LEGAL REMEDIES TO ENFORCE THE TERMS OF THE  
25 CONTRACT.

26 (E) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-  
27 SION, THE STATE SHALL BE RESPONSIBLE TO THE GOVERNMENT OF THE UNITED  
28 STATES FOR ANY COSTS ASSOCIATED WITH THE ESTABLISHMENT, OPERATION AND  
29 MAINTENANCE OF STATE VETERAN'S CEMETERIES AND FOR MEETING ANY APPLICABLE  
30 FEDERAL STANDARDS AND REQUIREMENTS FOR THE PERPETUAL OPERATION AND MAIN-  
31 TENANCE OF SUCH CEMETERIES.

32 S 2. This act shall take effect immediately; provided, however, that  
33 the division of veterans' affairs may process any request by a political  
34 subdivision, agency or instrumentality for the establishment, operation  
35 and maintenance under consideration by such division on such effective  
36 date prior to the promulgation of rules and regulations pursuant to  
37 subdivision 12 of section 353 of the executive law, as amended by  
38 section one of this act.