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WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for
SENATE BILL NO. 494

(By Senator Hunter, et al)

PASSED March 8, 2003

In Effect ninety days from Passage

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SPEAKER

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 494

(SENATORS HUNTER, UNGER, OLIVERIO, CALDWELL, MINARD,
DEMPSEY, KESSLER, WEEKS, ROWE, MCCABE, BOWMAN,
PREZIOSO, WHITE, LOVE, JENKINS, BOLEY, DEEM, SHARPE,
PLYMALE, HELMICK, EDGELL, CHAFIN, BAILEY, FANNING,
ROSS, SMITH, MINEAR, FACEMYER, GUILLS
AND TOMBLIN, MR. PRESIDENT, *original sponsors*)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new chapter, designated chapter twenty-four-f, relating to authorizing the public service commission to regulate transactions between cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting United States department of veterans' affairs grave markers at the graves of deceased veterans; legislative findings; exemptions; enforcement of

orders; judicial review; and designation of the affected cemeteries as outside the purview of utility regulation.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new chapter, designated chapter twenty-four-f, to read as follows:

CHAPTER 24F. VETERANS' GRAVE MARKERS.

ARTICLE 1. VETERANS' GRAVE MARKERS.

§24F-1-1. Legislative findings.

1 (a) The Legislature finds that it is in the public interest
2 to regulate transactions between cemeteries, companies
3 that set and install memorial monument markers and
4 veterans in the fees and total charges for the setting of
5 United States department of veterans' affairs grave
6 markers at the graves of deceased United States armed
7 forces veterans by authorizing the public service commis-
8 sion to regulate the fees and total charges.

9 (b) The Legislature further finds that the public service
10 commission is the appropriate agency to determine the
11 reasonable rates as charged by these cemeteries and
12 companies that set and install memorial monument
13 markers for the setting of these markers. .

§24F-1-2. Powers and duties.

1 (a) In addition to its other powers and duties, the public
2 service commission may determine, establish and modify,
3 in a manner that it considers appropriate, the fees and
4 total charges imposed by cemeteries and companies that
5 set and install memorial monument markers for the setting
6 of United States department of veterans' affairs grave
7 markers at the graves of deceased United States armed
8 forces veterans.

9 If the commission establishes fees and total charges as
10 authorized by this section, its shall establish:

11 (1) A maximum fee schedule to be designated “the
12 permanent endowment care fund” which represents the
13 costs to a cemetery for the perpetual care of the grave
14 marker; and

15 (2) A maximum fee schedule to be designated as “the
16 regional installation fees” which represents the costs of
17 installation of the veteran grave marker.

18 Any fees established under this section shall consider
19 regional market forces and may consider classes of veter-
20 ans’ markers or any other relevant conditions. The fees
21 described in this section, when added together, shall be
22 designated as the “total charges” permitted for the
23 installation of a veteran’s affairs memorial marker. No
24 other fees, charges or other costs may be assessed to the
25 veteran’s estate or family for the installation or mainte-
26 nance of the veteran’s grave marker.

27 (b) Any fees and total charges established by the public
28 service commission may only apply to the installation of
29 memorial markers that are provided to the veteran with-
30 out charge by the U. S. government upon application.

**§24F-1-3. Cemeteries and companies that set and install memo-
rial monument markers affected by rate regulation
for setting of department of veterans’ affairs grave
markers.**

1 Unless otherwise exempted in accordance with section
2 six, article five-a, chapter thirty-five of this code, all
3 cemeteries, cemetery associations, cemetery companies
4 and perpetual care cemetery companies, irrespective of
5 how each may be defined in articles five, five-a and five-b,
6 chapter thirty-five of this code, and companies that set
7 and install memorial monument markers fall within the
8 purview of the regulatory powers exercised by the public
9 service commission in accordance with this chapter.

§24F-1-4. Enforcement powers.

1 The public service commission may compel obedience to
2 its lawful orders, as issued pursuant to this chapter, by
3 mandamus or injunction or other proper proceedings in
4 the name of the state in any circuit court having jurisdic-
5 tion of the parties or of the subject matter, or the supreme
6 court of appeals direct, and the proceedings shall have
7 priority over all pending cases.

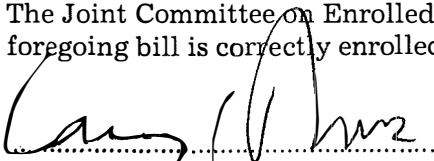
§24F-1-5. Review of final orders of commission.

1 Any party feeling aggrieved by the entry of a final order
2 by the commission, which affects that party, may present
3 a petition in writing to the supreme court of appeals, or to
4 a judge thereof in vacation, within thirty days after the
5 entry of the order praying for the suspension of the final
6 order. The applicant shall deliver a copy of the petition to
7 the secretary of the commission on or before the date the
8 petition is presented to the court or the judge and the
9 secretary shall promptly file with the clerk of the court all
10 papers, documents, evidence and other records constitut-
11 ing the complete record in the case or certified copies of
12 the records that were before the commission at the time of
13 the entry of the order which is appealed. The court or
14 judge shall fix a time for the hearing on the application,
15 but the hearing, unless by agreement of the parties, may
16 not be held sooner than five days after its presentation;
17 and notice of the time and place of the hearing shall be
18 immediately delivered to the secretary of the commission.
19 The commission may be represented at the hearing by one
20 or more of its members or by counsel. After hearing the
21 appeal, if the court or judge is of the opinion that an order
22 suspending order should be issued, the court or the judge
23 may require bond, upon reasonable conditions and in
24 reasonable penalty, and impose terms and conditions upon
25 the petitioner that are just and reasonable. Before the day
26 fixed for the final hearing, the commission shall file a
27 written statement of its reasons for the entry of the order
28 with the court. After arguments by counsel, the court shall
29 decide the matter in controversy.

§24F-1-6. Cemeteries and companies that set and install memorial monument markers not regulated as utilities.

1 No provision of this chapter may be construed to grant
2 the public service commission the power to regulate an
3 affected cemetery or a company that sets and installs
4 memorial monument markers as a utility.

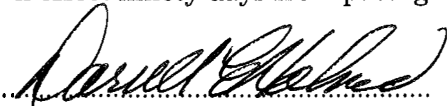
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



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Chairman Senate Committee


.....
Chairman House Committee

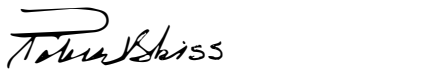
Originated in the Senate.

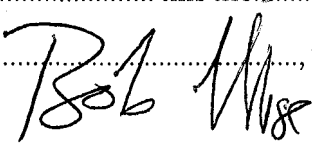
In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 2nd
Day of April, 2003.

.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/27/03

Time 10:10am