



# OHIO TOWNSHIP ASSOCIATION

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## House State & Local Government Committee May 16, 2017 Proponent Testimony HB 168 Modify Cemetery Law

Good morning Chair Anielski, members of the House State & Local Government Committee. On behalf of the Ohio Township Association (OTA), thank you for the opportunity to testify in support of House Bill 168. Specifically, the OTA supports the provision of the bill that creates a cemetery grant program (R.C. §4767.10) using funds received from burial permits issued in Ohio.

### *Townships and Cemeteries*

Townships maintain over 2400 cemeteries in Ohio. Township cemetery law may generally be found in Ch. 517 of the *Ohio Revised Code*. A township is required to have a cemetery laid out in lots, number the lots, and the township fiscal officer must keep careful records of said actions (ORC §517.06). The board of trustees is required to make and enforce all needful rules and regulations for the division of the cemetery into lots and the allotment of lots to families or individuals, and for the care, supervision and improvements of said lots. ORC §517.06 further requires that the grass and weeds in the cemetery be cut at least twice a year.

The ORC mandates that a township provide for the protection and preservation of cemeteries under its jurisdiction (ORC §517.11). While the Code states that townships may re-erect any fallen tombstones, a 1975 Attorney General Opinion (OAG 75-083) states that “boards of township trustees *have a duty* to repair and re-erect monuments and tombstones in public cemeteries within their jurisdiction when the repair is necessary to keep the cemetery in good repair.” The opinion further states that “a board of township trustees has a duty to repair and re-erect monuments in a cemetery that has been vandalized.”

The township may choose to enclose township cemeteries with a fence or hedge but should they do so, the township is required to keep the fence or hedge in good repair (ORC §517.11). When a board of county commissioners has enclosed with a fence all abandoned public cemeteries in the county from which remains have not been removed, the board of township trustees shall keep the fence in good repair and remove the undergrowth and weeds at least once a year (ORC §517.32).

Townships, per ORC §517.11, are charged with the protection and preservation of cemeteries under their jurisdiction. If a public cemetery or a cemetery association wishes to have a board of township trustees take over responsibility of said cemetery, the board of trustees shall accept the transfer (ORC §517.27). Furthermore, a municipal corporation may abandon a cemetery outside the boundaries of the municipality and the trustees shall assume responsibility for the cemetery (ORC §517.28).

### *Funding for Cemetery Maintenance & Operation*

Townships have seen the following revenue sources reduced or eliminated over the last six years: 50% reduction of Local Government Fund, the accelerated phase-out of the Tangible Personal Property (TPP) tax and electric deregulation reimbursements, and the elimination of the estate tax. With reduction in revenue that is primarily used for general township purposes, townships have been forced to seek additional revenue. In November 2016, there were 59 cemetery levies on the ballot across Ohio. While a good majority of those levies passed, 15 of those levies were for additional funding and nine of those levies failed.

Being that the care and maintenance of the cemeteries is mandated by law, a township must find the funds to care for the cemeteries. Unless a township is collecting on a cemetery levy, general fund and cemetery fee monies are

primarily used to provide for the maintenance and operation of township cemeteries. One plank included in our 132nd General Assembly legislative platform is the following:

*Grant Program for Abandoned Cemeteries*

*With the discovery of abandoned cemeteries, townships become responsible for their maintenance and upkeep. Procedures for the takeover of an abandoned cemetery need to be clarified in the Revised Code. The OTA strongly urges the Department of Commerce - Real Estate Division to set up a grant program to assist townships in maintaining abandoned cemeteries using revenue derived from cemetery registration fees.*

***Background on Cemetery Grant Program Proposal***

In 2013, the Ohio Department of Commerce - Division of Real Estate & Professional Licensing approached local government organizations, the Ohio Cemetery Association and the Ohio Cemetery Foundation about potential changes to cemetery laws. This included the ability to set minimum maintenance standards, the ability to open complaints against a cemetery that should be registered with the division and the possibility of creating a grant program for public cemeteries.

Included in HB 59 (130th Ohio General Assembly) was language creating the Ohio Cemetery Law Task Force. The Task Force met in 2014 and on September 29, 2014, issued a report to legislative leaders of the Ohio House and Senate and the Governor. Included in the Ohio Cemetery Law Task Force report was a recommendation (page 22) to “create and authorize a grant program as proposed by the Division...” that would help defray the costs of maintenance and operation of not-for-profit cemeteries, including township and municipal cemeteries. Draft language creating the grant program was also included in the Task Force report. To view the Task Force report, please visit [http://www.com.ohio.gov/documents/real\\_CemeteryTaskForceFinalReport.pdf](http://www.com.ohio.gov/documents/real_CemeteryTaskForceFinalReport.pdf).

***Information on Burial Permit Fees in Ohio***

Pursuant to R.C. §3705.17, no body of a person shall interred, deposited in a vault or tomb, cremated or otherwise disposed of by a funeral director until a burial permit is issued by a local registrar or sub-registrar of vital statistics. HB 531 (122<sup>nd</sup> General Assembly) increased the burial permit fee from \$2.50 to \$3.00. The legislation, which was effective September 22, 2000, also required \$2.50, as opposed to \$2.00, be paid into the state treasury to the credit of the Division of Real Estate in the Department of Commerce to be used by the Division in discharging its duties prescribed in Ch. 4767 of the Revised Code and the Ohio Cemetery Dispute Resolution Commission created by R.C. §4767.05. As of August 2015, the fund had \$894,783.94. (*information taken from Ohio Department of Commerce Division of Real Estate - Cemetery - Financial Report 7/31/2015-8/31/2015*)

***Conclusion***

The Ohio Township Association supports House Bill 168. The creation of the Cemetery Grant Program will help many townships across the state fulfill their mandated responsibility of maintaining over 2,400 cemeteries. Madam Chair and members of the Committee, thank you for the opportunity to testify and I would be happy to answer any questions you may have.