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Are towns prohibited from spending more than \$500 on cemetery maintenance in any given year?

No. There is no such limit imposed by statute. The confusion surrounding how much money towns can spend on cemetery maintenance stems from the following provision of state law:

When lots or walks in a public burial ground become unsightly with weeds or by an unchecked growth of grass or from any other cause, or when headstones or monuments have become displaced or out of repair, the selectmen or cemetery commissioners shall cause such lots and walks to be cleared of weeds and grass, the headstones or monuments to be replaced or repaired or other disfigurements removed, and may draw orders on the town treasurer for the expenses incurred. The amount drawn from the treasury of a town for such purpose in any year shall not exceed \$500.00. 18 V.S.A. § 5362. (Emphasis added.)

This statute provides a classic example of why it is important to interpret statutes within their legislative context. On its own, this statute seems to impose a \$500 spending cap for clearing weeds from cemetery grounds, cutting the grass, and repairing and replacing headstones and monuments. However, when considered in conjunction with other relevant statutes, a different meaning emerges. For example, the statute that imposes penalties on selectpersons or cemetery commissioners who willfully neglect their duty to maintain cemeteries provides as follows: “A selectman, cemetery commissioner, or trustee, who violates a provision of this chapter, or willfully neglects any of the duties imposed by this chapter, for which other penalties are not provided, shall be fined not more than \$200.00.” 18 V.S.A. § 5363. But how can selectpersons or cemetery commissioners possibly fulfill their statutory duties if they are limited to spending only \$500 a year? The answer is that most cannot. The preceding statute, 18 V.S.A. § 5361, gives us some additional insight. It states that “[a] town may vote sums of money necessary for purchasing, holding, and keeping in repair suitable grounds and other conveniences for burying the dead ...” Giving voters the authority to approve whatever sums they deem appropriate for the keeping and repair of cemetery grounds is in stark contrast to a \$500 spending cap, if there is one.

So, what should we make of the “shall not exceed \$500.00” language in 18 V.S.A. § 5362? A court of law would apply common law principles of statutory interpretation to guide its analysis. Those principles instruct that “[w]hen interpreting independent statutory schemes with overlapping subject matters, we prefer to first look for a construction that will harmonize the seemingly-inconsistent statutes. Our ultimate objective, of course, is to implement the intent of the Legislature. We achieve that end by examining the language of the statute in question, and, if necessary, the statutory scheme in its entirety, keeping in mind its subject matter, its effect and consequences, and the reason and spirit of the law.” *Hartford Bd. of Library Trustees v. Town of Hartford*, 174 Vt. 598 (2002). (Internal citations removed.)

Following that guidance, the interpretation that appears to harmonize these seemingly contradictory provisions of Vermont cemetery law is that 18 V.S.A. § 5362 is not a limit on the authority of the selectboard or cemetery commission to spend money lawfully appropriated by the voters for cemetery purposes, but is rather a limitation on those making demands on the selectboard/cemetery commission for the care and maintenance of a town cemetery. In the event the voters do not appropriate any monies, a selectboard or cemetery commission could still draw orders upon the town treasurer for maintaining its cemeteries, but could not be required to draw more than \$500 in any one year. This interpretation coincides with that of former Deputy Secretary of State Paul S. Gillies in his publication “A Book of Opinions”:

Aside from the national spotlight on the maintenance policy of one town’s cemeteries where sheep are employed, there was a movement in some towns in the summer of 1991 on the question of a municipality’s obligations to maintain cemeteries. Suppose a town neglected to appropriate any money at town meeting for the purpose. What then? Look at 18 V.S.A. § 5362. It says, ‘When lots or walks in a public burial ground become unsightly with weeds or by an unchecked growth of grass or from any other cause, or when headstones or monuments have become displaced or out of repair, the selectmen or cemetery commissioners shall cause such lots and walks to be cleared of weeds and grass, the headstones or monuments to be replaced or repaired or other disfigurements removed, and may draw orders on the town treasurer for the expenses incurred. The amount drawn from the treasury for such purpose shall not exceed \$500.00.’ There’s even a penalty for a selectman, cemetery commissioner, or trustee who violates the section, or for those who fail to keep in repair fences around a public burial ground. 18 V.S.A. §§ 5363 and 5364.

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