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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

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### **AB 351 (Cristina Garcia) - Reduction of human remains and the disposition of reduced human remains**

**Version:** June 27, 2022

**Policy Vote:** G.O. 15 - 0, B., P. & E.D. 10  
- 0, HEALTH 9 - 0

**Urgency:** No

**Mandate:** Yes

**Hearing Date:** August 1, 2022

**Consultant:** Janelle Miyashiro

**Bill Summary:** AB 351 establishes new regulatory processes for the disposal of reduced human remains and imposes the same requirements and prohibitions on reduced remains as for cremated and hydrolyzed remains, as specified.

**Fiscal Impact:** The California Department of Public Health (CDPH) estimates total General Fund costs of \$1,095,000 over the first three years of the program and \$193,000 ongoing. Initial costs include workload associated with developing and adopting regulations prescribing the standards for human remains reduction chambers. Ongoing costs include workload associated with reviewing applications for the evaluation of a reduction chamber. The CDPH's ongoing administrative costs may be offset to some extent by application and renewal fees.

The Cemetery and Funeral Bureau anticipates costs of approximately \$6,000 for staff time associated with reviewing and processing applications (Cemetery and Funeral Fund). The Bureau anticipates ongoing annual revenue increases of approximately \$4,500 for initial application and license renewal fees, which may offset its administrative costs to some extent. This estimate assumes there will be five reduction facilities that would seek licensure under this bill, with application and license renewal fees of \$900 each. The actual increase in fee revenue is unknown and would depend on the number of reduction facilities that seek a license with the Bureau.

The Office of Information Services within the Department of Consumer Affairs estimates a total one-time IT impact of \$140,000 to create a new platform, which may be absorbed through the redirection of existing maintenance resources.

**Background:** The Cemetery and Funeral Bureau regulates more than 13,000 licensees in 13 different licensing categories, including cremated remains disposers and the facilities where these licensees operate. Currently, cremated remains disposers are authorized, among other things, to dispose of or offer to dispose of cremated or hydrolyzed human remains over land or sea.

However, cremation and hydrolysis are not the only methods of treating human remains. Another alternative method is "reduction." Reduction transforms human remains into soil through accelerated decomposition using natural materials. The remains are processed in a reduction chamber approved by the DPH, and not placed directly into the ground. California law does not currently authorize the return of reduced remains to the environment.

**Proposed Law:**

- Beginning January 1, 2025, authorizes a corporation, partnership, or natural person to operate, establish, or maintain a Licensed Reduction Facility (LRF) with a valid license issued by the Bureau. Subjects an LRF to discipline from the Bureau.
- Requires an applicant for an LRF to prove compliance with all applicable laws, rules, regulations, ordinances and orders and prohibits the Bureau from issuing a license until it is satisfied that public interest, human health, and environmental quality is served by the applicant. Requires an applicant for a license to present the Bureau any state or locally required permits for business operations.
- Requires any change in ownership of an LRF to be reported to the Bureau, and a transfer in a single transaction or related transactions of more than 50% of the equitable interest in an LRF to constitute a change of ownership. Requires, when a change in ownership in an LRF occurs, the existing license to lapse and requires the new owner to obtain a license from the Bureau, as specified.
- Requires the Bureau to adopt, and amend as necessary, rules and regulations prescribing standards for applicants for LRF licenses. Authorizes the Bureau to consider acts of an applicant, including those of its incorporators, officers, directors, and stockholders of the applicants in reviewing an application.
- Requires CDPH to adopt, and permits it to amend as necessary, the rules and regulations prescribing the standards for LRFs to preserve the public health and safety and to ensure the destruction of pathogenic micro-organisms. Authorizes a reduction chamber manufacturer to apply to CDPH for approval of its product and for sale and use in the state. Requires CDPH to charge an application fee for approval of a reduction chamber to cover the reasonable regulatory costs, as specified.
- Requires the Bureau to issue a license to only those applicants that will employ a reduction chamber approved by CDPH and prohibits a LRF from using a reduction chamber unless it has been approved by CDPH.
- Requires an LRF to ensure or conduct annual maintenance of all reduction chambers in their use. Prohibits the Bureau from renewing an LRF license without proof of annual maintenance of all reduction chambers in use by the facility.
- Prohibits an LRF from conducting the reduction of human remains unless all of the following conditions are met:
  - The facility is operated under the supervision of a manager qualified with rules operated by the Bureau. Permits a licensed crematory manager to be designated as a reduction facility manager with appropriate certification demonstrating an understanding of the applicable law;
  - The licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition of the remains, in which the person or persons entitled to custody of the remains agree to pay the licensee's regular fee for reduction,

- disposition, and other services rendered, and any other contractual provisions required by the Bureau, as specified;
- Reduction of the remains begins not more than 24 hours after delivery of the remains to the license, unless the remains have been preserved in the interim by refrigeration; and,
  - The licensee has either:
    - A contractual relationship with a licensed cemetery authority for final disposition of reduced human remains by burial, entombment, or inurnment of any remains that are not lawfully disposed of or that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death; or,
    - A contractual relationship with, or ownership of, a conservation area where the reduction facility may lawfully integrate the reduced remains into the soil, as authorized, and prohibits the facility from integrating human remains into the soil that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.
- Makes it a misdemeanor for a person, firm, or corporation to reduce human remains, or to dispose of reduced human remains, without a valid, unexpired reduction facility license, as specified.
  - Requires the Bureau to establish the fee to obtain or renew a reduction facility license. Requires the Bureau to set the fees in amounts that cumulatively do not exceed the reasonable of administering the licensing program, and the fee for individual reductions may not exceed \$8.50 per reduction. Requires LRFs to pay an additional charge per reduction made during the preceding quarter, as set by the Bureau.
  - Imposes the same requirements for reduced human remains as exists for cremated human remains or hydrolyzed remains, for registered cremated remains disposers, funeral directors, and funeral establishments, as specified. Imposes similar penalty violations for removal or reduced remains, as specified. Imposes the same requirements for the integration of reduced remains into the soil as the scattering of cremated or hydrolyzed remains, as specified.
  - Prohibits a person, unless expressly authorized by the person entitled to control the disposition of human remains, from doing any of the following:
    - Reduce the remains of more than one person at the same time and in the same reduction chamber, or introduce the remains of a second person into the reduction chamber until the reduction of preceding remains has been terminated and reasonable efforts made to remove fragments of preceding remains, as specified;

- Dispose of human remains in a manner or location that the remains are commingled with another person, as specified; or,
- Place reduced human remains, or the remains of more than one person in the same reduced human remains container, except as follows: members of the same family, placed in a container previously designated at the time of sale as being intended for more than one person, disposal of the residue in the reduction chamber, or a written authorization by the person entitled to control the disposition of human remains into the soil of a conservation area.
- Prohibits an LRF from making or enforcing rules requiring that human remains be placed in a casket prior to reduction, refusing to except remains not in a casket, as specified.
- Requires an LRF to maintain on its premises, or other business location within the state, an accurate record of all reductions performed, including the following:
  - Name of referring funeral director, if any, name of the deceased, and date of reduction;
  - Disposition of the reduced human remains, including split disposition where a portion of the remains are returned to the person entitled to control the disposition of the remains and a portion integrated into the soil in a conservation area, as specified;
  - Time and date body was inserted into and removed from the LRF;
  - Time and date that final processing of the reduced remains was complete;
  - Name and address of the authorizing agent;
  - Identification number assigned to the deceased, as specified;
  - A photocopy of the disposition permit filed in connection with the disposition; and,
  - Any documentation of compliance with appropriate environmental and safety laws.
- Requires LRFs to maintain documentation of specified materials for at least 10 years after the reduction is performed and requires the documentation to be subject to inspection by the Bureau.
- Requires an LRF to maintain a system allowing identification of each decedent, beginning from the time the reduction facility accepts delivery of remains until the point at which it releases the reduced human remains to a third party. Requires, after the reduction, an identifying disk, tab, or other permanent label, to be placed with the reduced human remains container or containers before the reduced human remains are released from the LRF. Requires each identification tab, label, or disk to have the LRF license number and a unique identification number, as specified.

- Provides 15 days from the date of a failure to provide the cemetery and the Bureau with the written procedure for identification of remains to produce the procedure before licensure suspension, as specified.
- Requires an LRF to refrigerate a body within two hours of taking custody if the body was not embalmed, as specified.
- Requires an LRF, or its authorized representatives, to provide instruction to all personnel involved in the reduction process, which must lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during reduction, operation of the reduction chamber and related equipment, and all laws relevant to the handling of a body and reduced human remains. The instruction must be outlined in a written plan maintained by the licensee for inspection and comment by the Bureau.
- Prohibits an employee from operating a reduction chamber or related equipment until the employee has demonstrated, to the LRF certified manager or authorized representative, that the employee understands the procedures required to ensure that health and safety conditions are maintained and that reduced human remains are not comingled, as specified.
- Provides 15 days from the date of a failure to provide the Bureau with the written employee instruction plan or record of employee training to produce a plan or training record before licensure suspension, as specified.
- Incorporates the reduction of human remains into the requirements for the certificate of death, as specified. Adds reduced human remains to the requirements for a permit for disposition of remains, as specified.
- Establishes and amends definitions.
- Makes other technical and conforming changes. Delays the implementation of this bill until January 1, 2025.

**Related Legislation:** AB 501 (Cristina Garcia, 2021) and AB 2592 (Cristina Garcia, 2020) were substantially similar to this bill. AB 501 and AB 2592 were both held on the Suspense File in this committee.

**Staff Comments:** The boards and bureaus within the Department of Consumer Affairs are special fund agencies whose activities are funded by regulatory and license fees and generally receive no support from the General Fund. New legislative mandates, even those modest in scope, may in totality create new cost pressures and impact the entity's operating costs, future budget requests, or license fees.

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