SENATE RULES COMMITTEE SB 1312
Office of Senate Floor Analyses
(916) 651-4171

UNFINISHED BUSINESS

Bill No: SB 1312
Author: Richardson (D)
Amended: 8/21/26
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT PURSUANT TO SENATE RULE 29.10(d)

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-1, 8/26/26
AYES: Wahab, Choi, Archuleta, Caballero, Grayson, Menjivar, Smallwood-Cuevas, Strickland
NOES: Niello
NO VOTE RECORDED: Arreguín, Umberg

ASSEMBLY FLOOR: 61-9, 8/25/26 - See last page for vote

SUBJECT: Cemeteries

SOURCE: Author

DIGEST: This bill 1) establishes a process for an endowment care cemetery to be declared abandoned and have its title transferred to the county in which the cemetery is located; and 2) permits the county to transfer the care and maintenance of the cemetery to a California nonprofit public benefit corporation, as specified.

Assembly Amendments delete the current version of the bill and create a new bill; establish a process for a county to declare an endowment care cemetery abandoned; create a process for a county to take ownership of an abandoned endowment care cemetery and obtain the endowment care funds for purposes of care of the cemetery; alleviate the county from any taxes or other liabilities from the prior owner; permit a county, city and county, or a city to transfer the care and maintenance of an abandoned endowment care cemetery to a nonprofit benefit corporation to manage the cemetery and permits the nonprofit public benefit corporation to seek reimbursement from the Cemetery and Funeral Bureau

(Bureau) for expenditure of endowment care funds by the nonprofit public benefit corporation for maintenance, care and embellishment of the cemetery.

ANALYSIS:

Existing law:

1) Establishes the Bureau within the Department of Consumer Affairs (DCA) to administer and enforce the Cemetery and Funeral Act (Act), subject to review by the Legislature as though it were scheduled to be repealed on January 1, 2029. (Business and Professions Code (BPC) § 7602)

2) Defines a "cemetery manager" as a person who engages in or conducts those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under the Act, the interring of human remains, and the care, preservation, and embellishment of cemetery property. (BPC § 7611.4(a))

3) Exempts the following from the provisions of the Act: 1) a religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them; 2) a public cemetery; and 3) any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, those cemeteries are subject to the cemetery brokerage provisions of the Act, and any cemetery is subject to all of the provisions of the Act, if it collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes, as specified, including funeral services such as mortuary, cremation, or other commodities or services furnished at the time of and in connection with that funeral or cremation. (BPC § 7612.2)

4) Requires the Bureau, to protect consumers, to adopt regulations that establish minimum standards of maintenance for endowment care cemeteries under the jurisdiction of the Bureau. The regulations must consider differences in cemetery size, location, topography, and type of interments, along with the extent to which funds are available from the cemetery's endowment care funds to perform maintenance. (BPC § 7612.4(a))

5) Clarifies that maintenance standards adopted by the Bureau cannot supersede any standards of a higher level of care established by a local ordinance, as specified. (BPC § 7612(b))

This bill:

1) Exempts from the cemetery and funeral act any California nonprofit public benefit corporation that manages the continued care and maintenance of an abandoned endowment care cemetery that oversees or performs interments pursuant to prepaid burial contracts and does not enter into any new contracts for the sale of new burial spaces to consumers.

2) Defines “abandoned endowment care cemetery” to mean a cemetery that was formally licensed by the Bureau that meets the following criteria:

   a) The certificate of authority has been canceled, surrendered, or revoked and ownership has not been transferred in accordance with current law within one year of the cancellation, suspension, or revocation.

   b) The Bureau has conserved the endowment care fund, as specified.

   c) The cemetery property is negatively impacting the public health, safety, or welfare as identified by the county in which the cemetery is located.

3) States that if a county determines that a cemetery has been abandoned as specified in 2) above, the county must provide the owner of the property with 90 days’ written notice to correct the public health, safety, or welfare concerns identified by the county, as specified.

4) Requires a county upon the expiration of the 90-day notice period where the county’s concerns have not been addressed to declare the property an abandoned endowment care cemetery.

5) Authorizes a county upon declaring a cemetery property abandoned, the ownership of the abandoned endowment care cemetery real property may transfer to the county in which the cemetery is located by operation of law and county must record the transfer in the real property records of the county.

6) Requires a written notice be provided to the local agency formation commission 90 days prior to and upon declaration of abandonment and requires the written notice to at a minimum identify the record owner or possessor of the property, last known address of the record owner or possessor, the date the city, county, or city and county began the process to declare the property abandoned and a description of the real property subject to abandonment.

7) Requires a county that acquires title to the real property of an abandoned endowment care cemetery to keep a record of and honor all remaining contracts for burial entered into by the prior cemetery authority.

8) Provides a county that acquires title to real property of an abandoned endowment care cemetery is not liable for the debts, obligations, taxes, fines or judgement of the previous owner, with the exception of contracts for burials, as specified in 7) above.

9) Makes the property owner, whose cemetery has been subject to abandonment to remain responsible for satisfying any outstanding property taxes due at the time of transfer, as well as any other debts secured by the real property.

10) Requires a county within three years of the transfer of title to any remaining endowment care funds of the prior cemetery authority held by the Bureau and take possession of all necessary books, records, property, real and personal, and assets of the funds, and the assets of the funds must be placed in a special fund within the country treasury and may only be spent on care, maintenance, embellishment of the cemetery.

11) Authorizes a city, county, or city and county to transfer the care and management of an abandoned endowment care cemetery to a California nonprofit public benefit corporation in good standing to oversee burials, care, maintenance, and embellishment of the cemetery.

12) States that if the Bureau controls the endowment care fund, the nonprofit public benefit corporation that manages an abandoned endowment care cemetery may request reimbursement from available income in the endowment care fund for care, maintenance, or embellishment performed.

13) Requires the request from the nonprofit public benefit corporation to include a description and proof thereof, the total costs incurred, any other information required by the Bureau and further requires that all records be maintained for at least four from their creation and the Bureau may inspect those records upon request to the nonprofit benefit corporation and the Bureau must remain in control of the endowment care fund until a certificate of authority is issued for the cemetery or the county resumes management and requests the funds.

14) Requires a nonprofit public benefit corporation that manages an abandoned endowment care cemetery must keep a record of and honor all prior and outstanding contracts for burials entered into by the prior cemetery authority.

15) Relieves a nonprofit public benefit corporation that manages an abandoned endowment care cemetery from liability from any debts, obligations, taxes, fins, or judgements of the abandoned care cemetery's previous owner.

Background

Cemetery and Funeral Bureau. The Bureau licenses, regulates, and investigates complaints against California funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery salespersons, cremated remains disposers, crematories, crematory managers, cemetery managers, cemetery brokers and privately-owned cemeteries in the state. The Bureau does not have authority over cemeteries operated by religious organizations, cities, counties, or cemetery districts, and the military or Native American tribal governments.

The Bureau has oversight responsibility for both the fiduciary and operational activities of its licensing population. The Bureau has statutory authority to enforce the licensing and practice acts in the BPC along with jurisdiction over specified provisions of the HSC dealing specifically with human remains, cemetery and crematory provisions. With respect to the financial aspect of the industry, the Bureau is responsible for the oversight and regulation of preneed funeral trust funds, cemetery endowment care trust funds, and cemetery special care trust funds.

A Bureau-licensed cemetery is any private, non-religious cemetery established after 1939. Any cemetery established after September 7, 1955, is required to be an endowment care cemetery (Health and Safety Code (HSC) § 8739.1). An endowment care cemetery is one in which a portion of the purchase price is contributed to an endowment care fund. Income generated from the fund provides for the regular care of the cemetery, including routine maintenance such as cutting grass, grave upkeep, caring for trees, maintenance of water supply systems, roads, drainage, etc. The minimum amount to be contributed to the endowment care fund is provided in HSC § 8738. The endowment care funds are collected no later than at completion of the initial sale. The intent of endowment care is to ensure that the maintenance and care of cemetery grounds are continuous to help prevent cemeteries from falling into disrepair. The Bureau has the authority to inspect and audit endowment care funds and cemeteries are required to report annually the status and conditions of such funds (BPC § 7612.6).

The Bureau's 2024 sunset background paper noted growing concerns regarding abandoned cemeteries and posed the question as to what steps could be taken to ensure that older cemeteries are appropriately and respectfully maintained by another entity after they have been abandoned by a licensee. Currently, when a private cemetery that has not interred more than 10 human bodies in the preceding five years threatens or endangers the health, safety, comfort, or welfare of the public, statute allows (but does not require) a city or county to declare that cemetery abandoned.

Pursuant to BPC § 7613.11, 90 days following the cancellation, revocation, or suspension of a cemetery license, the Bureau is required to take title of the endowment care funds, and take possession of all the books, records, property, or assets, and act as the conservator over the management of the cemetery. The goal is to ensure the cemetery can be maintained for the time being while there is no licensee. The Bureau is to appoint a trustee to manage the funds. However, if the ownership is transferred to another licensee, then the Bureau does not need to intervene.

This bill would create a statutory definition of “abandoned cemetery” under the HSC. Upon a county’s determination that the cemetery meets the criteria to be considered “abandoned” this bill will permit the subsequent transfer of the cemetery real property to the county. A cemetery is considered abandoned if the license has been canceled, suspended, or revoked by the Bureau and within a year a new licensee has not assumed responsibility, the Bureau has conserved the endowment care fund as authorized under existing law and the cemetery is negatively impacting public safety and welfare.

As part of the transfer process, the county will be required to honor any outstanding contracts for burial that were sold or executed by the previous cemetery licensee. Under the ownership transfer of the abandoned cemetery this bill exempts the county that takes title of the property from any debts, obligations, taxes, fines, or judgements of the previous owner. Any outstanding endowment care funds must be transferred to the county and placed in a special county fund which the county may only be expended on the care, maintenance and embellishment of the abandoned endowment care cemetery. A county must give the property owner 90 days’ written notice to correct and health and welfare deficiencies of the property before the transfer of the property occurs. The owner of the property has 90 days to correct. If not, then the transfer to the county may proceed.

While a county may choose to take ownership of the property, it may not want to provide the care and maintenance of the cemetery. To that end, this bill would permit a county to transfer the responsibility for only the care and maintenance of that cemetery to a California nonprofit public benefit corporation in good standing to oversee the burials, care, maintenance, and embellishment of the cemetery.

Cemeteries licensed by the Bureau are required to abide by current regulations however, when a cemetery authority license is abandoned, there is no licensee to abide by those requirements and cemeteries may fall into disrepair. While this bill aims to help in those circumstances by creating a pathway for an entity to take over the care and maintenance, guardrails are necessary to ensure that any expenditures of endowment care funds are consistent with the care and maintenance of a cemetery that current licensees are required to abide by so there is assurance that funds remain to take care of the cemetery property in perpetuity.

This bill will allow a nonprofit benefit corporation to manage an abandoned endowment care cemetery and expend money from the endowment care fund but exempts the nonprofit from having to become licensed and from being subject to oversight by the Bureau. Although the bill requires the designated nonprofit to submit a reimbursement request to the Bureau, this bill does not provide the Bureau with any discretion to deny reimbursement requests for endowment care funds, including reimbursement for using the funds on projects or efforts that fall outside of what is considered care and maintenance under current Bureau regulations. In addition, this bill will allow either a county who manages a property or a nonprofit public benefit corporation to use endowment care funds for "embellishments" of the cemetery property. However, without being subject to Bureau oversight or regulations, "embellishment" can be broadly applicable, and those expenditures may go beyond what should be an appropriate expenditure for an embellishment. Future clarification as to the acceptable maintenance and care or embellishment expenditures from an endowment care fund may be necessary. Additionally, the Bureau should also be provided with authority to deny reimbursement for inappropriate expenditures.

It is further unclear whether the nonprofit responsible for maintenance and care of the cemetery will be subject to similar prohibitions as current cemetery license holders who are only permitted to expend the income from the endowment care fund. This bill may benefit from clarity in how a nonprofit is able to expend endowment care funds.

This bill does not specify a pathway for a county to transfer the cemetery title to a Bureau licensee in the event that another licensed cemetery or a new licensee is interested in taking over an abandoned cemetery. The law may benefit from additional updates to authorize a county to transfer the cemetery to a Bureau licensee, with language ensuring that a new Bureau licensee owner is not subject to the previous owner's liabilities.

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:No

According to the Assembly Committee on Appropriations, the Bureau estimates the ongoing costs of $1.193 million in fiscal year (FY) 2026-27 and $1.145 million in FY 2027-28 and annually ongoing to support an additional five associate management auditor positions and one supervising management auditor to oversee the audit staff; ongoing costs of $15,000 annually for the Attorney General (AG) to conserve endowment care funds, and $4,900 annually for additional Advisory Committee meetings and; ongoing minor and absorbable ongoing costs for processing additional citations, advisory committee meeting prep, and oversight of ongoing AG cases, and one-time costs to review and approve new procedures and write regulations. The bill will also result in potential court costs of an unknown amount for expanded mandatory judicial obligations upon a finding that a certificate of authority of a cemetery has lapsed or has been suspended, surrendered, abandoned, or revoked, including requiring the court to, among other things, name the Bureau conservator to conserve the endowment care fund, take actions as it deems appropriate to ensure the continued care, maintenance, and embellishment of the property, and pursue the transfer of the property ownership to one or more nonprofit, business, or governmental entities. Although the number of cases impacting the courts is unknown, the judicial obligations in this bill present a potentially significant court workload for each case. The bill will also result in ongoing costs of an unknown, but likely significant amount to public cemetery districts to the extent a city or county or court transfers to a district the care and management of an abandoned endowment care cemetery. The bill does not require a public cemetery district to be willing to accept responsibility for the transferred abandoned cemetery nor does the bill guarantee funding. Public cemetery districts are subject to the limits of Proposition 218, and their revenues closely match their operating expenses. To the extent an abandoned cemetery is transferred without the consent of the receiving district, the financial burden to the public cemetery district could be untenable. The district's costs are not reimbursable by the state.

SUPPORT: (Verified 8/26/26)

None received for the current version of the bill.

OPPOSITION: (Verified 8/26/26)

None received for the current version of the bill.

ASSEMBLY FLOOR: 61-9, 8/25/26
AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González,

Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas
NOES: Davies, DeMaio, Ellis, Flora, Jeff Gonzalez, Hadwick, Johnson, Macedo, Sanchez
NO VOTE RECORDED: Alanis, Castillo, Chen, Dixon, Lackey, McKinnor, Ta, Tangipa, Ward

Prepared by: Elissa Silva / B., P. & E.D. /916-651-4104
8/26/26 19:05:38

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