

AMENDED IN ASSEMBLY MAY 28, 1996
AMENDED IN ASSEMBLY MAY 13, 1996
AMENDED IN ASSEMBLY MAY 2, 1996
AMENDED IN ASSEMBLY APRIL 16, 1996
AMENDED IN ASSEMBLY MARCH 28, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2233

Introduced by Assembly Member Willard Murray

February 13, 1996

An act to amend Sections 8731 and 8733.5 of the Health and Safety Code, relating to cemeteries.

LEGISLATIVE COUNSEL'S DIGEST

AB 2233, as amended, W. Murray. Cemeteries: regulation: State Banking Department.

Existing law provides that the Department of Consumer Affairs succeeds to, and is vested with, all the duties, powers, purpose, responsibilities, and jurisdiction of the Cemetery Board as of January 1, 1996, in the absence of a consolidation of this board with the Funeral Directors and Embalmers Board or other restructuring of the boards.

The Cemetery Act provides for the regulation of certain private cemeteries and provides for examinations of endowment care funds established by those cemeteries.

Existing law requires a cemetery authority to appoint a board of trustees as trustees of its endowment care fund, or, in lieu thereof, to appoint a bank or trust company as trustee.

This bill would provide that if a cemetery authority fails to file the report concerning the condition of its endowment care fund, *as specified*, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with the law, the cemetery authority ~~shall~~ *may* be required to appoint a bank or trust company as trustee, provided that the cemetery authority has received written notice of the alleged violation and ~~has been provided the opportunity for a hearing~~ *has an opportunity to correct the violation, and there has been a finding of a material violation in an administrative hearing.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8731 of the Health and Safety
 2 Code is amended to read:
 3 8731. (a) The cemetery authority may appoint a
 4 board of trustees of not less than three in number as
 5 trustees of its endowment care fund. The members of the
 6 board of trustees shall hold office subject to the direction
 7 of the cemetery authority.
 8 (b) If *within 30 days after notice of nonreceipt by the*
 9 *Cemetery Board or other agency with regulatory*
 10 *authority over cemetery authorities,* the cemetery
 11 authority fails to file the report required by Section 9650
 12 of the Business and Professions Code, or if the report is
 13 materially not in compliance with law or the endowment
 14 care fund is materially not in compliance with law, the
 15 cemetery authority ~~shall~~ *may* be required to appoint as
 16 sole trustee of its endowment care fund under Section
 17 8733.5, any bank or trust company qualified under the
 18 provisions of the Banking Law (Division 1 (commencing
 19 with Section 99) of the Financial Code) to engage in the
 20 trust business. That requirement ~~shall~~ *may* be imposed by
 21 the Cemetery Board or other agency with regulatory



1 authority over cemetery authorities, provided that the
2 cemetery authority has received written notice of the
3 alleged violation and ~~has been provided the opportunity~~
4 ~~for a hearing.~~ *has been given the opportunity to correct*
5 *the alleged violation, and there has been a finding of a*
6 *material violation in an administrative hearing.*

7 SEC. 2. Section 8733.5 of the Health and Safety Code
8 is amended to read:

9 8733.5. In lieu of the appointment of a board of
10 trustees of its endowment care fund, any cemetery
11 authority may appoint as sole trustee of its endowment
12 care fund any bank or trust company qualified under the
13 provisions of the Banking Law (Division 1 (commencing
14 with Section 99) of the Financial Code) to engage in the
15 trust business.

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