

ASSEMBLY BILL

No. 2234

Introduced by Assembly Member Willard Murray

February 13, 1996

An act to amend Sections 9650, 9650.4, 9751, 9752, 9753, 9754, 9755, 9756, 9757, 9758, 9759, 9760, 9760.5, 9760.6, 9761, 9762, 9763, 9764, and 9765 of the Business and Professions Code, relating to cemeteries.

LEGISLATIVE COUNSEL'S DIGEST

AB 2234, as introduced, W. Murray. Cemeteries: fees.

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 reports and examinations of endowment care funds established by those cemeteries. Fees are established under the act for various cemetery licensees.

This bill would:

(1) Provide that a cemetery must file the required annual report relative to endowment care funds on or before June 1 of each year, or within 2, rather than 5, months of the close of the cemetery's fiscal year, as specified.

(2) Authorize the imposition of a fine of up to \$400, rather than \$200, for late endowment care reports.

(3) Double the existing level of fees for cemetery licensees.

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

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

1 SECTION 1. Section 9650 of the Business and
2 Professions Code is amended to read:

3 9650. Each cemetery authority shall file with the
4 board annually, on or before June 1, or within ~~five~~ *two*
5 months after close of ~~their~~ *its* fiscal year provided
6 approval has been granted by the board as provided for
7 in Section 9650.1, a written report in form prescribed by
8 the board setting forth:

9 (a) The number of square feet of grave space and the
10 number of crypts and niches sold or disposed of under
11 endowment care by specific periods as set forth in the
12 form prescribed.

13 (b) The amount collected and deposited in both the
14 general and special endowment care funds segregated as
15 to the amounts for crypts, niches and grave space by
16 specific periods as set forth either on the accrual or cash
17 basis at the option of the cemetery authority.

18 (c) A statement showing separately the total amount
19 of the general and special endowment care funds
20 invested in each of the investments authorized by law and
21 the amount of cash on hand not invested, which
22 statement shall actually show the financial condition of
23 the funds.

24 (d) A statement showing separately the location,
25 description, and character of the investments in which
26 the special endowment care funds are invested. The
27 statement shall show the valuations of any securities held
28 in the endowment care fund as valued pursuant to
29 Section 9659.

30 (e) A statement showing the transactions entered into
31 between the corporation or any officer, employee or
32 stockholder thereof and the trustees of the endowment
33 care funds with respect to those endowment care funds.
34 The statement shall show the dates, amounts of the



1 transactions, and shall contain a statement of the reasons
2 for those transactions.

3 The report shall be verified by the president or vice
4 president and one other officer of the cemetery
5 corporation and shall be certified by the accountant or
6 auditor preparing the report.

7 If a cemetery authority files a written request prior to
8 the date the report is due, the board may, in its discretion,
9 grant an additional 30 days within which to file the report.

10 SEC. 2. Section 9650.4 of the Business and Professions
11 Code is amended to read:

12 9650.4. (a) Any cemetery authority that does not file
13 its report within the time prescribed by Section 9650 may
14 be assessed a fine by the board in an amount not to exceed
15 ~~two~~ *four* hundred dollars ~~(\$200)~~ *(\$400)* per month for a
16 maximum of five months. The amount of the fine shall be
17 established by regulation in accordance with the
18 Administrative Procedure Act (Chapter 3.5
19 commencing with Section 11340) of Part 1 of Division 3
20 of Title 2 of the Government Code). Failure to pay the
21 fine within 15 days after receipt of written notification of
22 the assessment or, where a timely request for waiver or
23 reduction of the fine has been filed, within 15 days after
24 receipt of written notification of the board's decision in
25 the matter, shall be cause for disciplinary action.

26 (b) A cemetery authority may request waiver or
27 reduction of a fine by making a written request therefor.
28 The request shall be postmarked within the time
29 specified above for payment of the fine and shall be
30 accompanied by a statement showing good cause for the
31 request.

32 (c) The board may waive or reduce the fine where a
33 timely request is made and where it determines, in its
34 discretion, that the cemetery authority has made a
35 sufficient showing of good cause for the waiver or
36 reduction.

37 SEC. 3. Section 9751 of the Business and Professions
38 Code is amended to read:



1 9751. The original cemetery broker's license fee shall
2 be fixed by the board at not more than ~~four~~ *eight* hundred
3 dollars (~~\$400~~) (*\$800*).

4 SEC. 4. Section 9752 of the Business and Professions
5 Code is amended to read:

6 9752. The original cemetery broker's license fee is
7 payable at the time of the filing of an application for an
8 original cemetery broker's license.

9 If the applicant fails the required written examination,
10 he may be permitted to take another examination upon
11 the filing of an application for ~~re-examination~~
12 *reexamination* and the payment of a ~~re-examination~~
13 *reexamination* fee. This ~~re-examination~~ *reexamination*
14 fee shall be fixed by the board at not more than ~~one~~ *two*
15 hundred dollars (~~\$100~~) (*\$200*).

16 No part of any original cemetery broker's license fee or
17 re-examination fee is refundable. It is deemed earned
18 upon receipt by the board, whether the accompanying
19 application for license is complete or incomplete.

20 SEC. 5. Section 9753 of the Business and Professions
21 Code is amended to read:

22 9753. The annual renewal fee for a cemetery broker's
23 license shall be fixed by the board at not more than ~~three~~
24 *six* hundred dollars (~~\$300~~) (*\$600*).

25 SEC. 6. Section 9754 of the Business and Professions
26 Code is amended to read:

27 9754. If the licensee is a cemetery brokerage
28 corporation, the license issued to it entitles one officer
29 only, on behalf of ~~such~~ *the* corporation, to engage in the
30 business of a cemetery broker without the payment of
31 further fee, ~~such~~ *that* officer to be designated in the
32 application of the corporation for a license. For each
33 other officer of a licensed cemetery brokerage
34 corporation, through whom it engages in the business of
35 a cemetery broker, the annual renewal fee, in addition to
36 the fee paid by the corporation, shall be fixed by the board
37 at not more than ~~one~~ *two* hundred dollars (~~\$100~~) (*\$200*).

38 SEC. 7. Section 9755 of the Business and Professions
39 Code is amended to read:



1 9755. If the licensee is a cemetery brokerage
2 ~~copartnership~~ *partnership*, the license issued to it entitles
3 one member only of the ~~copartnership~~ *partnership* to
4 engage on behalf of the ~~copartnership~~ *partnership* in the
5 business of a cemetery broker, which member shall be
6 designated in the application of the ~~copartnership~~
7 *partnership* for a license. For each other member of the
8 ~~copartnership~~ *partnership* who on behalf of the
9 ~~copartnership~~ *partnership* engages in the business of a
10 cemetery broker, the annual renewal fee, in addition to
11 the fee paid by the ~~copartnership~~ *partnership*, shall be
12 fixed by the board at not more than ~~one~~ *two* hundred
13 dollars ~~(\$100)~~ *(\$200)*.

14 SEC. 8. Section 9756 of the Business and Professions
15 Code is amended to read:

16 9756. The cemetery ~~salesman's~~ *salesperson's* license
17 fee shall be fixed by the board at not more than ~~thirty~~ *sixty*
18 dollars ~~(\$30)~~ *(\$60)*.

19 SEC. 9. Section 9757 of the Business and Professions
20 Code is amended to read:

21 9757. A cemetery salesperson's license fee is payable
22 on each filing of an application for a cemetery
23 salesperson's license.

24 If the applicant fails the required written examination,
25 ~~he or she~~ may be permitted to take another examination
26 upon the filing of an application for reexamination and
27 the payment of a reexamination fee which shall be fixed
28 by the board at not more than ~~fifteen~~ *thirty* dollars ~~(\$15)~~
29 *(\$30)*.

30 SEC. 10. Section 9758 of the Business and Professions
31 Code is amended to read:

32 9758. No part of any original or temporary cemetery
33 ~~salesman's~~ *salesperson's* license fee is refundable. It is
34 deemed earned upon receipt by the board, whether the
35 accompanying application for license is complete or
36 incomplete.

37 SEC. 11. Section 9759 of the Business and Professions
38 Code is amended to read:



1 9759. The annual renewal fee for a cemetery
 2 ~~salesman's~~ *salesperson's* license shall be fixed by the board
 3 at not more than ~~twenty-five~~ *fifty* dollars ~~(\$25)~~ *(\$50)*.

4 SEC. 12. Section 9760 of the Business and Professions
 5 Code is amended to read:

6 9760. For a branch office broker's license, the fee shall
 7 be fixed by the board at not more than ~~one~~ *two* hundred
 8 dollars ~~(\$100)~~ *(\$200)*.

9 SEC. 13. Section 9760.5 of the Business and
 10 Professions Code is amended to read:

11 9760.5. The cremated remains disposer registration
 12 fee shall be ~~one~~ *two* hundred dollars ~~(\$100)~~ *(\$200)*.

13 SEC. 14. Section 9760.6 of the Business and
 14 Professions Code is amended to read:

15 9760.6. The renewal fee for a cremated remains
 16 disposer registration shall be ~~fifty~~ *one hundred* dollars
 17 ~~(\$50)~~ *(\$100)*.

18 SEC. 15. Section 9761 of the Business and Professions
 19 Code is amended to read:

20 9761. For change of name or of address of licensee on
 21 the records of the board, the fee shall be fixed by the
 22 board at not more than ~~twenty-five~~ *fifty* dollars ~~(\$25)~~
 23 *(\$50)*.

24 SEC. 16. Section 9762 of the Business and Professions
 25 Code is amended to read:

26 9762. For transfer of a ~~salesman's~~ *salesperson's* license
 27 on change of employer, the fee shall be fixed by the board
 28 at not more than ~~twenty-five~~ *fifty* dollars ~~(\$25)~~ *(\$50)*.

29 SEC. 17. Section 9763 of the Business and Professions
 30 Code is amended to read:

31 9763. For a duplicate license the fee shall be fixed by
 32 the board at not more than ~~twenty-five~~ *fifty* dollars ~~(\$25)~~
 33 *(\$50)*.

34 SEC. 18. Section 9764 of the Business and Professions
 35 Code is amended to read:

36 9764. For reinstatement of a license within the fiscal
 37 year, the fee shall be fixed by the board at not more than
 38 ~~twenty-five~~ *fifty* dollars ~~(\$25)~~ *(\$50)*.

39 As used in this section, "reinstatement of a license"
 40 means the reissuance of a canceled cemetery broker's



1 license, or a cemetery ~~salesman's~~ *salesperson's* license
2 which was canceled during the year for which it was
3 issued upon the ~~salesman's~~ *salesperson's* withdrawal from
4 the employ of a cemetery broker.

5 SEC. 19. Section 9765 of the Business and Professions
6 Code is amended to read:

7 9765. Every cemetery authority operating a
8 cemetery shall pay an annual regulatory charge for each
9 cemetery to be fixed by the board at not more than ~~four~~
10 *eight* hundred dollars (~~\$400~~) (*\$800*), plus an additional
11 charge of not more than ~~fifty cents~~ *one dollar* (~~\$.50~~) (*\$1*)
12 for each burial, entombment, or inurnment, and not
13 more than ~~one dollar~~ (~~\$1~~) *two dollars* (*\$2*) for each
14 cremation, made during the preceding full calendar year,
15 which charges shall be deposited in the Cemetery Fund.
16 If the cemetery authority performed the cremation and
17 either the burial, entombment, or inurnment, the total of
18 all additional charges shall be not more than ~~one dollar~~
19 (~~\$1~~) *two dollars* (*\$2*).

20 SEC. 20. All references in this act to the Cemetery
21 Board shall be deemed to refer to the Department of
22 Consumer Affairs, pursuant to Section 102.1 of the
23 Business and Professions Code.

