



Oversight of the State Cemetery Board

Presented To

**Assembly Budget
Subcommittee No. 4
on State Administration**

Assembly Member Willard Murray, Chair

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LEGISLATIVE ANALYST'S OFFICE



The State's Takeover of Regulated Cemeteries and Related Issues

Mr. Chairman and members, you have asked us to discuss the implications of the state's takeover of state-regulated cemeteries and the consolidation of the Boards of Cemetery and Funeral Directors and Embalmers.

State Takeover of Regulated Cemeteries

State Budget Implications. The Department of Consumer Affairs took over the Cemetery Board responsibilities earlier this month. The executive office of the board has been unavailable and all telephone calls to the Cemetery Board are automatically forwarded to the department. Consequently, we have attempted to obtain information from the department concerning the state's takeover of regulated cemeteries. Unfortunately, the department has been unable to provide any information on the current situation other than to indicate that they are attempting to determine the extent of the problems through an examination of the records of the Cemetery Board. For example, the department has been unable to provide basic information such as:

- The number of cemeteries/endowment funds under state conservatorship.
- The basis for placing each under state conservatorship.
- The amount of funds in endowment trusts that are under conservatorship.
- The terms and conditions of any conservatorship.
- The number of investigations or investigators currently involved in conserved cemeteries.
- The department's plan for administering any of the conserved cemeteries/endowment trust funds.



The State's Takeover of Regulated Cemeteries and Related Issues

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Lacking this basic information, we are unable to advise you at this time of the potential budget implications of the Cemetery Board or Department of Consumer Affairs actions to take over or place under state conservatorship state-regulated cemeteries.

In order for the Legislature to have the information it needs to properly assess the situation involving state-regulated cemeteries and to take whatever action it deems appropriate, the department must provide the above information along with the following:

- A plan and time frame for removing each cemetery and/or fund from state conservatorship.
- A proposed budget for administering each conserved cemetery and/or fund.
- Investigative costs to date and estimate costs to complete investigations.
- Plans for administering the Cemetery Board program such as, plans to: audit any or all endowment trust funds; inspect cemeteries and/or crematoria; increase license/registration fees.
- Anticipated revenue from each licensed/registered category and proposed fee increases, if necessary, to fund current and proposed ongoing administrative costs if carried out as envisioned by the department.

We recommend that the committee set a date certain for the department to provide this information.



The State's Takeover of Regulated Cemeteries and Related Issues

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Any costs associated with state conservatorship and other aspects of regulating cemeteries should remain the responsibility of the Cemetery Fund—a special fund set up for this purpose. We see no reason for any costs to be shifted to the General Fund. If additional funds are needed (beyond availability in the Cemetery Fund), a loan could be authorized from other special funds under the Department of Consumer Affairs and/or the Legislature could authorize an increase in fees for licensing/registration in the regulated areas. Prior to providing any additional funding, however, the department should detail to the Legislature the priority and cost of each activity proposed to be undertaken. This will allow the Legislature to determine what can be accomplished within existing resources and what would be accomplished with additional funds.

What Should the Legislature Do?

While the Legislature needs additional information in order to address the current situation concerning state conservatorship of regulated cemeteries, there are specific steps the Legislature can take concerning state regulation of cemeteries and related areas.

Specifically, we recommend that the Legislature (1) take immediate action with regard to regulation of trust funds and (2) review the need for other regulatory activities under the sunset review provisions of Ch 908/94 (SB 2036, McCorquodale).



The State's Takeover of Regulated Cemeteries and Related Issues

(continued)

Trust Funds. We recommend that the Legislature take immediate action to transfer the oversight and regulation of endowment trust funds to the State Banking Department. Neither the Department of Consumer Affairs nor the Cemetery Board has the expertise to properly regulate these financial matters. Furthermore, state regulation of activities such as trust funds is more properly located in a department—such as the State Banking Department—that is responsible for regulating financial entities. The State Banking Department has the necessary expertise and could immediately assume the responsibility of proper oversight and regulation of these funds.

Other Regulatory Activities. Chapter 908 created the Joint Legislative Sunset Review Committee to review and analyze the effectiveness and need for each of the boards under the Department of Consumer Affairs. Under these provisions, the Cemetery Board (along with eight other boards including the Board of Funeral Directors and Embalmers) is required to submit to the joint committee this month an analysis of its regulatory functions and the need to continue regulatory activities. Unless further action is taken by the Legislature, the Cemetery Board's (and the other boards) regulatory activities become inoperative July 1, 1997, and are repealed January 1, 1998.

The provisions of Chapter 908 give the Legislature a good opportunity to review the regulatory activities of the Cemetery Board and determine whether or not to continue or modify these activities. The Legislature should obtain assurance from the department that the necessary information will be submitted for the Chapter 908 review of the Cemetery Board activities as well as for the Board of Funeral Directors and Embalmers.



The State's Takeover of Regulated Cemeteries and Related Issues

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Under the review process called for under Chapter 908, the Legislature should obtain the information it needs to determine what regulatory activities should be continued, modified, or eliminated for cemeteries, funeral directors, and embalmers. We continue to believe that all consumer regulatory activities should be consolidated under the Director of Consumer Affairs rather than in separate independent boards. This is especially the case for the Cemetery Board and the Board of Funeral Directors and Embalmers. The Legislature has had long-standing concerns over the activities of these boards. Furthermore, most of the cemeteries regulated by the Cemetery Board also come under the jurisdiction of the Board of Funeral Directors and Embalmers because these cemeteries provide combined services.