

HOUSE BILL REPORT

ESHB 2126

As Passed House:

March 10, 2009

Title: An act relating to consolidating and modifying the duties of the cemetery board and the board of funeral directors and embalmers.

Brief Description: Consolidating the cemetery board and the board of funeral directors and embalmers.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Orwall, Darneille, Nelson, Jacks, Hasegawa, Van De Wege, Liias and Kenney; by request of Governor Gregoire).

Brief History:

Committee Activity:

Commerce & Labor: 2/17/09, 2/20/09 [DPS].

Floor Activity

Passed House: 3/10/09, 96-0.

Brief Summary of Engrossed Substitute Bill

- Creates a new Funeral and Cemetery Board by consolidating the Board of Funeral Directors and Embalmers and the Cemetery Board.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green and Moeller.

Minority Report: Do not pass. Signed by 1 member: Representative Williams.

Staff: Jill Reinmuth (786-7134)

Background:

Department of Licensing.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Licensing (Department) regulates certain professions and businesses under specific licensing laws. These professions and businesses include funeral directors, embalmers, funeral establishments, cemeteries, and crematories.

Board of Funeral Director and Embalmers.

The Board of Funeral Directors and Embalmers (Funeral Board):

- conducts examinations of applicants for funeral director and embalmer licenses;
- issues licenses to funeral directors, embalmers, and funeral establishments;
- takes disciplinary action against licensees;
- adopts rules for administering and enforcing the regulatory law;
- examines and audits prearrangement funeral service trust funds; and
- consults with the Cemetery Board on rules for cremation and crematories.

The Funeral Board consists of four professional members and one public member appointed by the Governor to five-year terms. The professional members must be licensed funeral directors and embalmers with five years of continuous practice.

The Funeral Directors and Embalmers Account (Funeral Account) is a dedicated account. Various license fees, fines, and civil penalties are paid into the Funeral Account, and expenses related to licensing and registration activities are paid from the Funeral Account as authorized by legislative appropriation.

Cemetery Board.

The Cemetery Board:

- enforces and administers laws governing private cemeteries, mausoleums, columbariums, endowment care funds, and prearrangement contracts;
- takes disciplinary action against licensees;
- adopts standards of professional conduct and other rules; and
- consults with the Funeral Board on rules for cremation and crematories.

The Cemetery Board does not regulate: church cemeteries; cemeteries operated by counties, cities, or other government entities; or abandoned or historic cemeteries.

The Cemetery Board consists of four professional members and one public member appointed by the Governor to five-year terms. The professional members are persons with experience managing a cemetery authority or serving on a cemetery's board of directors. The public member must not have a financial interest in the cemetery business.

The Cemetery Account is a dedicated account. License fees and other moneys related to the Cemetery Board's activities are deposited in the Cemetery Account, and expenditures related to its activities are paid from the Cemetery Account. The Cemetery Account is subject to allotment, but not appropriation.

Summary of Engrossed Substitute Bill:

A new Funeral and Cemetery Board is created by consolidating the existing Funeral Board and the existing Cemetery Board. The new Funeral and Cemetery Board assumes the powers and duties of the existing boards.

Initially, the new Funeral and Cemetery Board consists of the 10 members of the existing boards. The expiration dates of the members' terms remain the same. Subsequently, the new Funeral and Cemetery Board consists of seven members appointed by the Governor to four-year terms. Three members must be licensed funeral directors and embalmers with five years of continuous practice. Three members must be persons with experience managing a cemetery authority or serving on a cemetery's board of directors. One member must represent the general public and not have worked in or received financial benefit from the funeral or cemetery industry. All members must be Washington residents.

A majority of the new Funeral and Cemetery Board members constitutes a quorum. To consider charges under the law governing funeral directors and embalmers, a quorum must include two members who are funeral directors and embalmers. To consider charges under the law governing cemeteries, a quorum must include two members who are cemetery managers. If there is a conflict of interest, a majority of the members must preside over the hearing.

A dedicated account, the Funeral and Cemetery Account, is created. Receipts from fines and fees collected under the laws governing funeral directors and cemeteries are deposited into the new account. Expenditures may be used only for the operation and enforcement of these laws. The new Funeral and Cemetery Account is subject to allotment, but not appropriation. Any residual balances in the existing accounts are transferred to the new account.

The Department of Archaeology and Historic Preservation (instead of the Cemetery Board) is authorized to bring civil actions against persons who violate laws governing historical cemeteries. Technical corrections are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill consolidates two boards. It is part of the effort to streamline the state's boards and commissions. It makes sense because many in the industry perform functions regulated by both boards.

This bill touches on two of the Governor's goals. First, it helps reduce the number of boards and conditions. Second, it helps streamline government operations. The bill preserves the quality of oversight provided by the Department of Licensing and protects consumers.

(In support with concerns) Consolidation does not result in a huge cost savings but every nickel helps. The restriction on who may serve as the public member is a concern. As drafted, it prohibits anyone with a connection to the industry from being the public member of the board. Citizen activists should be allowed to serve as that member.

There should be equal representation on the board by funeral directors, cemeteries, and consumers. Having three consumers on the board, along with three funeral directors and three cemeteries, would allow for representation of diverse cultures.

There should be greater disclosure and transparency. All disciplinary actions should be public sessions, not closed sessions.

(Neutral) Industry associations are neutral. Any changes to the board would need to be reviewed.

(Information only) This bill is supported by both of the current boards and the Department of Licensing. It was prompted by the re-examination of boards and commissions by the Governor's office. The staff has been consolidated for the past 20 years. Past efforts to consolidate the boards failed.

In other states, the regulatory structure is mixed. As time goes on, there is more consolidation of "death care" under one board.

(Opposed) None.

Persons Testifying: (In support) Representative Orwall, prime sponsor; and Bruce Botka, Governor's Office.

(In support with concerns) Ruth Bennett and John Eric Rolfstad, People's Memorial Association.

(Neutral) T.K. Bentler, Washington State Funeral Directors Association.

(Information only) Joe Vincent and Dennis McPhee, Washington State Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.