



LAW OFFICES OF
QUINTANILLA & ASSOCIATES

CALIFORNIA
PUBLIC CEMETERY DISTRICTS
LAWS & REGULATIONS

Prepared

by

Steven B. Quintanilla
Law Offices of Quintanilla & Associates
P.O. Box 176
Rancho Mirage, CA 92270
Tel. 760.883.1848
www.QALawyers.com

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HEALTH AND SAFETY CODE SECTION 7000-7025

DEFINITIONS

Section 7000

The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Division 102 (commencing with Section 102100) of this code, Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code.

Section 7001

"Human remains" or "remains" means the body of a deceased person, regardless of its stage of decomposition, and cremated remains.

Section 7002

"Cremated remains" means the ashes and bone fragments of a human body that are left after cremation in a crematory, and includes ashes from the cremation container. "Cremation remains" does not include foreign materials, pacemakers, or prostheses.

Section 7003

"Cemetery" means either of the following:

(a) Any of the following that is used or intended to be used and dedicated for cemetery purposes:

- (1) A burial park, for earth interments.
- (2) A mausoleum, for crypt or vault interments.
- (3) A crematory and columbarium, for cinerary interments.

(b) A place where six or more human bodies are buried.

Section 7004

"Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.

Section 7005

Except in Part 5 (commencing with Section 9501) of Division 8, "mausoleum" means a structure or building for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated, for cemetery purposes.

Section 7006

"Crematory" means a building or structure containing one or more furnaces for the reduction of bodies of deceased persons to cremated remains.

Section 7006.3

"Cremation chamber" means the enclosed space within which the cremation of human remains is performed.

Section 7006.5

"Cremation container" means a combustible, closed container resistant to leakage of bodily fluids into which the body of a deceased person is placed prior to insertion in a cremation chamber for cremation.

Section 7006.7

"Cremated remains container" means a receptacle in which cremated remains are placed after cremation.

Section 7007

Except in Part 5 (commencing with Section 9501) of Division 8, "columbarium" means a structure, room, or other space in a building or structure containing niches for inurnment of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

Section 7008

"Crematory and columbarium" means a building or structure containing both a crematory and columbarium.

Section 7009

"Interment" means the disposition of human remains by entombment or burial in a cemetery or, in the case of cremated remains, by inurnment, placement or burial in a cemetery, or burial at sea as provided in Section 7117.

Section 7010

"Cremation" means the process by which the following three steps are taken:

(a) The reduction of the body of a deceased human to its essential elements by incineration.

(b) The repositioning or moving of the body or remains during incineration to facilitate the process.

(c) The processing of the remains after removal from the cremation chamber pursuant to Section 7010.3.

Section 7010.3

"Processing" means the removal of foreign objects, pursuant to Section 7051, and the reduction of the particle size of cremated remains by mechanical means including, but not limited to, grinding, crushing, and pulverizing to a consistency appropriate for disposition.

Section 7010.5

"Residue" means human ashes, bone fragments, prostheses, and disintegrated material from the chamber itself, imbedded in cracks and uneven spaces of a cremation chamber, that cannot be removed through reasonable manual contact with sweeping or scraping equipment. Material left in the cremation chamber, after the completion of a cremation, that can be reasonably removed shall not be considered "residue."

Section 7010.7

"Scattering" means the authorized dispersal of cremated remains at sea, in other areas of the state, or commingling in a defined area within a dedicated cemetery, in accordance with this part.

Section 7011

"Inurnment" means placing cremated remains in a cremated remains container suitable for placement, burial, or shipment.

Section 7011.2

"Placement" means the placing of a container holding cremated remains in a crypt, vault, or niche.

Section 7012

"Entombment" means the process of placing human remains in a crypt or vault.

Section 7013

"Burial" means the process of placing human remains in a grave.

Section 7014

"Grave" means a space of earth in a burial park, used, or intended to be used, for the disposition of human remains.

Section 7015

"Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb uncremated human remains.

Section 7016

"Niche" means a space in a columbarium used, or intended to be used, for the placement of cremated human remains.

Section 7018

"Cemetery authority" includes cemetery association, corporation sole, limited liability company, or other person owning or controlling cemetery lands or property.

Section 7019

"Cemetery corporation," "cemetery association," or "cemetery corporation or association," means any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more or all of the businesses of a cemetery, but do not mean or include a corporation sole.

Section 7020

"Cemetery business," "cemetery businesses," and "cemetery purposes" are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property, including, but not limited to, any activity or business designed for the benefit, service, convenience, education, or spiritual uplift of property owners or persons visiting the cemetery.

Section 7021

"Directors" or "governing body" means the board of directors, board of trustees, or other policymaking body of a cemetery association.

Section 7022

"Lot," "plot," or "interment plot" means space in a cemetery, used or intended to be used for the interment of human remains. Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches.

Section 7023

"Plot owner," "owner," or "lot proprietor," means any person in whose name an interment plot stands of record as owner, in the office of a cemetery authority.

Section 7024

"Permit for Disposition of Human Remains" includes "burial permit" and is a permit, issued pursuant to law, for the interment, disinterment, removal, reinterment or transportation of human remains.

Section 7025

"Disposition" means the interment of human remains within California, or the shipment outside of California, for lawful interment or scattering elsewhere, including release of remains pursuant to Section 103060.

HEALTH AND SAFETY CODE

SECTION 7100-7117.1

CUSTODY AND DUTY OF INTERMENT

Section 7100

(a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care who has the right and duty of disposition under Division 4.7 (commencing with Section 4600) of the Probate Code, except that the agent is liable for the costs of disposition only in either of the

following cases:

(A) Where the agent makes a specific agreement to pay the costs of disposition.

(B) Where, in the absence of a specific agreement, the agent makes decisions concerning disposition that incur costs, in which case the agent is liable only for the reasonable costs incurred as a result of the agent's decisions, to the extent that the decedent's estate or other appropriate fund is insufficient.

(2) The competent surviving spouse.

(3) The sole surviving competent adult child of the decedent or, if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than the majority of the surviving competent adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult children.

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The sole surviving competent adult sibling of the decedent or, if there is more than one surviving competent adult sibling of the decedent, the majority of the surviving competent adult siblings. However, less than the majority of the surviving competent adult siblings shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult siblings of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult siblings.

(6) The surviving competent adult person or persons respectively in the next degrees of kinship or, if there is more than one surviving competent adult person of the same degree of kinship, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kinship shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kinship of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult persons of the same degree of kinship.

(7) A conservator of the person appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(8) A conservator of the estate appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(9) The public administrator when the deceased has sufficient assets.

(b)

(1) If a person to whom the right of control has vested pursuant to subdivision (a) has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains and to proceed under this chapter to recover usual and customary charges for the disposition when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (8), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (8), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, United States mail, facsimile transmission, or telegraph.

(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kinship and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be

liable for the reasonable cost of final disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

(h)

(1) For the purpose of paragraph (1) of subdivision (a), the designation of a person authorized to direct disposition (PADD) on a United States Department of Defense Record of Emergency Data, DD Form 93, as that form exists on December 31, 2011, or its successor form, shall take first priority and be used to establish an agent who has the right and duty of disposition for a decedent who died while on duty in any branch or component of the Armed Forces of the United States, as defined by Section 1481 of Title 10 of the United States Code.

(2) This subdivision shall become operative only if the United States Department of Defense Record of Emergency Data, DD Form 93, and Section 1482(c) of Title 10 of the United States Code are amended to allow a service member to designate any person, regardless of the relationship of the designee to the decedent, as the agent who has the right of disposition of a service member's remains.

Section 7100.1

(a) A decedent, prior to death, may direct, in writing, the disposition of his or her remains and specify funeral goods and services to be provided. Unless there is a statement to the contrary that is signed and dated by the decedent, the directions may not be altered, changed, or otherwise amended in any material way, except as may be required by law, and shall be faithfully carried out upon his or her death, provided both of the following requirements are met:

(1) the directions set forth clearly and completely the final wishes of the decedent in sufficient detail so as to preclude any material ambiguity with regard to the instructions; and,

(2) arrangements for payment through trusts, insurance, commitments by

others, or any other effective and binding means, have been made, so as to preclude the payment of any funds by the survivor or survivors of the deceased that might otherwise retain the right to control the disposition.

(b) In the event arrangements for only one of either the cost of interment or the cost of the funeral goods and services are made pursuant to this section, the remaining wishes of the decedent shall be carried out only to the extent that the decedent has sufficient assets to do so, unless the person or persons that otherwise have the right to control the disposition and arrange for funeral goods and services agree to assume the cost. All other provisions of the directions shall be carried out.

(c) If the directions are contained in a will, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

Section 7101

When any decedent leaves an estate in this state, the reasonable cost of interment and an interment plot of sufficient size to constitute a family plot and memorial including reasonable sums for either, or both, general and special endowment care of the plot proportionate to the value of the estate and in keeping with the standard of living adopted by the decedent prior to his demise, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

Reasonable costs of funeral services, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

If a claim for mortuary and funeral services, an interment plot or memorial is rejected the burden of proving that the cost of the funeral service, interment plot or memorial is disproportionate to the value of the estate and the standard of living adopted by the decedent while living shall be upon the executor or administrator rejecting the claim. This chapter does not prohibit any relative or friend of a decedent from assuming the duty or paying the expense of interment or the funeral services.

Section 7102

When a person is charged by law with the duty of interment he is entitled to the custody of the remains for the purpose of interment or, with respect to cremated remains, for the purpose of burial at sea in accordance with the provisions of this division; except that in any case where a coroner is required by law to investigate the cause of death, the coroner is entitled to the custody of the remains of the person whose death is the subject of investigation until the conclusion of the autopsy or medical investigation by

the coroner. Any person in whose possession such remains are found, shall, upon demand by the coroner, surrender such remains to him.

Section 7103

(a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

Section 7104

(a) When no provision is made by the decedent, or where the estate is insufficient to provide for interment and the duty of interment does not devolve upon any other person residing in the state or if such person can not after reasonable diligence be found within the state the person who has custody of the remains may require the coroner of the county where the decedent resided at time of death to take possession of the remains and the coroner shall inter the remains in the manner provided for the interment of indigent dead.

(b) A county exercising jurisdiction over the death of an individual pursuant to Section 27491, or who assumes jurisdiction pursuant to Section 27491.55 of the Government Code, shall be responsible for the disposition of the remains of that decedent. If the decedent is an indigent, the costs associated with disposition of the remains shall be borne by the county exercising jurisdiction.

Section 7104.1

If, within 30 days after the coroner notifies or diligently attempts to notify the person responsible for the interment of a decedent's remains which are in the possession of the coroner, the person fails, refuses, or neglects to inter the remains, the coroner may inter the remains. The coroner may recover any expenses of the interment from the responsible person.

Section 7105

(a) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services fails to act, or fails to delegate his or her authority to act to some other person within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(b) If the person or persons listed in paragraphs (1), (3), (4), (5), (6), (7) and (8) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services cannot be found within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, after reasonable inquiry, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1), (3), (4), (5), (6), (7) and (8) of subdivision (a) of Section 7100 that would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority

specified in Section 7100.

Section 7106

A cemetery authority may seek an order providing for the interment of the remains of one or more decedents. Where a proceeding is commenced involving the remains of more than one decedent the allegations of the petition shall separately state the facts as to each, and the court may make a separate order as to each.

Section 7107

Notice of the time and place of the hearing on the petition shall be given as the court may direct. Upon the hearing the court shall make its order providing for the interment of the remains in such manner, at such time, and at such place as the court may determine to be just and proper, and for the best interests of the public health.

Section 7108

If the coroner is directed to make such interment he shall make it in the manner provided by law for the interment of the indigent dead.

Section 7109

The court shall allow costs and reasonable attorney's fees to a prevailing plaintiff against all defendants, other than the coroner.

Section 7110

Any person signing any authorization for the interment or cremation of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred or cremated, and his or her authority to order interment or cremation. He or she is personally liable for all damage occasioned by or resulting from breach of such warranty.

Section 7111

A cemetery authority or crematory may make an interment or cremation of any remains upon the receipt of a written authorization of a person representing himself or herself to be a person having the right to control the disposition of the remains pursuant to Section 7100.

A cemetery authority or crematory is not liable for cremating, making an interment, or for other disposition of remains permitted by law, pursuant to that authorization, unless it has actual notice that the representation is untrue.

Section 7112

No action shall lie against any cemetery authority relating to the cremated remains of any person which have been left in its possession for a period of one year, unless a written contract has been entered into with the cemetery authority for their care or unless permanent interment has been made.

No licensed funeral director shall be liable in damages for the lawful disposition of any cremated human remains.

Section 7113

A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist, and a physician may perform, an autopsy of any remains in its or his custody if the decedent, prior to his death, authorizes an autopsy in his will or other written instrument, or upon the receipt of a written authorization, telegram, or a verbal authorization obtained by telephone and recorded on tape or other recording device, from a person representing himself to be any of the following:

- (a) The surviving spouse;
- (b) a surviving child or parent;
- (c) a surviving brother or sister;
- (d) any other kin or person who has acquired the right to control the disposition of the remains;
- (e) a public administrator;
- (f) a coroner or any other duly authorized public officer. A cemetery authority or a licensed funeral director or a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to such authorization unless he or it has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall not authorize the obtaining of a verbal authorization by telephone and recorded on tape or other recording device for an autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased was, at the time of his death, a member of a religion, church, or denomination which relies solely upon prayer for the healing of disease.

Section 7114

Any person who performs, permits or assists at, an autopsy on a dead body without having first obtained (a) the authorization of the deceased in writing, including, but not limited to, the last will of the deceased; or (b) the authorization in writing of the person designated by Section 7100 of this code as having the right to control the disposition of the remains of the deceased; or (c) in the case of a cemetery authority or a licensed funeral director or a licensed hospital or its agents or a physician, the written or verbal authorization described in Section 7113 or 7151.6 of this code, is guilty of a misdemeanor, except that this section shall not be applicable to the performance of an autopsy by the coroner or other officer authorized by law to perform autopsies.

Section 7116

Cremated remains may be scattered in areas where no local prohibition exists, provided that the cremated remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains on lands under the agency's jurisdiction. The scattering of the cremated remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003 or any other provision of law.

Section 7117

(a) Cremated remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any human cremated remains shall, file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. Nothing in this section shall be construed to allow the scattering of cremated human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

Section 7117.1

(a) Notwithstanding subdivision (a) of Section 7117, cremated remains may be transferred from a durable container into a scattering urn no more than seven days before scattering the cremated remains at sea from a boat. For purposes of this section, "scattering urn" means a closed container containing cremated remains that will dissolve and release its contents within four hours of being placed at sea.

(b) This section shall not be construed to allow the use of a scattering urn when the cremated remains are to be scattered by a plane over land or at sea.

HEALTH AND SAFETY CODE

SECTION 7180

UNIFORM DETERMINATION OF DEATH ACT

Section 7180

(a) An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(c) This article may be cited as the Uniform Determination of Death Act.

HEALTH AND SAFETY CODE

SECTION 7181-7184.5

Section 7181

When an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be independent confirmation by another physician.

Section 7182

When a part of the donor is used for direct transplantation pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)) and the death of the donor is determined by determining that the individual has suffered an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be an independent confirmation of the death by another physician. Neither the physician making the determination of death under Section 7155.5 nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part.

Section 7183

Complete patient medical records required of a health facility pursuant to regulations adopted by the department in accordance with Section 1275 shall be kept, maintained, and preserved with respect to the requirements of this chapter when an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem.

Section 7184

(a) Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7.

With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

(b) A general acute care hospital shall comply with subdivision (a) or (c) as a condition of participation in the Medi-Cal program contained in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Notwithstanding subdivision (a), the protocol may alternately provide for the hospital to contact an organ and tissue procurement organization at the time a potential organ and tissue donor is identified, and for the trained personnel of the organ and

tissue procurement organization to make the inquiries described in subdivision (a) of the deceased individual's next of kin or other individual as set forth in Section 7151.

Section 7184.5

(a) In conjunction with entering into any agreement with any coroner or medical examiner for release and removal of organs from bodies within that official's custody and to further the purposes of Section 27491.45 of the Government Code, a procurement organization shall develop a protocol for organ recovery, as appropriate, that provides sufficient information on the medical and injury status of the deceased to permit release and removal of organs without undue prejudice to that official's investigation of, or inquiry into, the cause of death.

(b) The protocol described in subdivision (a) shall be subject to approval by the coroner or medical examiner before release or removal of organs and shall provide for the following:

(1) Relevant information on the deceased to be given to the coroner or deputy coroner at the time of the initial request for permission to recover internal organs, including, but not limited to:

- (A) Information identifying the deceased.
- (B) Date and time of pronouncement of brain death.
- (C) Name of procurement organizations and coordinator.
- (D) Organs requested.
- (E) Organ donor number and hospital.
- (F) Apparent cause and manner of death.

(G) A brief description of alleged circumstances surrounding the death to the extent they are known at the time.

(H) The law enforcement agency and the name of the investigating officer handling the case.

(2) The following information, to be recorded by the organ procurement coordinator at the time of requesting permission for organ removal:

- (A) The name of the deputy coroner contacted.
- (B) The name of the pathologist contacted by the deputy coroner.

(C) Whether permission for removal was obtained at the time, including the date and time if permission was obtained.

(D) The coroner's case number assigned by the deputy coroner.

(E) If the request for organ removal is refused, the reason given for the refusal.

(3) A checklist to be completed prior to recovery of any organ by the procurement organization coordinator with the assistance, if necessary, of a physician attending the deceased, that includes, at a minimum, all of the following:

(A) medical record review to insure documentation of external injuries, fractures, and internal injuries.

(B) In cases of suspected child abuse, whether:

(i) A child abuse consult was obtained.

(ii) A computerized axial tomographic scan or magnetic resonance image of the head was obtained.

(iii) A radiological skeletal survey was done.

(iv) The presence or absence of visible injury to the back of the scalp, ears, nose, and mouth, or retinal hemorrhage has been documented.

(v) A coagulation screen report was in the deceased's records.

(C) A photographic record of visible external injuries.

(D) Admitting blood sample, if available, and the date and time the sample was drawn.

(4) A checklist of items to be provided to the coroner's office when the deceased's body is released after completion of organ recovery, including, but not limited to, all of the following:

(A) A copy of the deceased's medical records.

(B) Film documenting abnormal findings, if used.

(C) The information recorded pursuant to the requirements of this subdivision.

(D) A sample of the deceased's blood, if taken on admission.

(5) A form, completed by the physician and surgeon, technician, or team performing the organ recovery procedure and signed by the physician and surgeon, that describes in sufficient detail all of the following:

(A) Tests used to determine the suitability for transplantation of all organs recovered.

(B) Documentation of injuries and other abnormalities, if any, noted or occurring during the organ recovery procedure.

(C) The date and time organ recovery was started.

(D) Any other information on the state of the deceased's body or organs that the physician and surgeon, technician, or team believes may assist the coroner in his or her investigation or inquiry.

(c) The requirements of subdivision (a) shall not apply in any county that does not have a Level II trauma facility, as defined in Section 1798.160 and the regulations adopted pursuant thereto.

(d) Notwithstanding any other provision of law, a health care provider may release the information described in this section to the procurement organization, the coroner, or the medical examiner.

(e) For purposes of this section, "organ" or "organs" means internal whole organs, including, but not limited to, the heart, kidneys, the liver, and lungs, but does not include eyes, skin, or other similar tissue.

**HEALTH AND SAFETY CODE
SECTION 7200-7208**

Section 7200

Every head of a public institution, city or county undertaker, or state, county, or city officer having charge or control of remains to be interred at public expense shall use due diligence to notify the relatives of the decedent. In the absence of any known relative of the decedent desiring to direct the disposition of the remains in a manner other than provided in this chapter, and upon written request of the state department that these notices are required for a definite period specified in the request, that officer shall notify the state department immediately after the lapse of twenty-four hours after death, stating, whenever possible, the name, age, sex, and cause of death of the decedent.

Section 7201

The person in charge of a public institution in which the decedent was an inmate shall transmit upon request, to the state department or to any person designated by it, a brief medical history of the unclaimed dead for purpose of identification and permanent record, which records shall be open to inspection by any State or county official or prosecuting attorney.

Section 7202

The unclaimed dead retained by the State department for scientific or educational purposes shall be embalmed and disposed of in accordance with the instructions of the State department. Such unclaimed dead shall be held for a period of thirty days by those to whom they may have been assigned for scientific or educational purposes, subject to claim and identification by any authenticated relative of the decedent for purpose of interment or other disposition in accordance with the directions of such relative.

Section 7203

The bodies of the unclaimed dead retained by the State department shall be used solely for the purpose of instruction and study in the promotion of medical, chiropractic, and embalming education and science within the State.

Section 7204

All persons receiving unclaimed dead for educational purposes shall bear all reasonable expense incurred in the preservation and transportation of the dead and shall keep a permanent record of bodies received, giving the identification number, the name, age, sex, nationality, and race, if possible, together with the place of last residence of the decedent and the source and disposition, with dates, of the body.

Section 7205

It is unlawful for any person, unless specifically authorized by law, to hold a post mortem examination of any unclaimed dead without the express permission of the State department.

Section 7206

Any person authorized by law to perform post mortem examinations shall permit, with the consent of relatives, or in the absence of such relatives, with the consent of the State department, any representative of the anatomical or pathological departments of an incorporated medical, chiropractic, or osteopathic school or college to obtain at the time of the necropsy, such material in a recent state as may be needed for scientific purposes, if the material is not required for the legal purposes of the State.

Section 7207

Whenever, through the failure of any person to notify the State department, or promptly to deliver the body of a deceased indigent as required by the State department, such body becomes unfit for scientific or educational purposes, the State department shall so certify and the remains shall be interred at the expense of those guilty of such noncompliance.

Section 7208

Every person who unlawfully disposes, uses, or sells the body of an unclaimed dead person, or who violates any provision of this chapter is guilty of a misdemeanor.

HEALTH AND SAFETY CODE SECTION 7300-7304

Section 7300

No person shall embalm the body of any person who has died from an unknown cause, except with the permission of the coroner.

Section 7301

No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the death until permission of the coroner has been obtained.

Section 7302

Every funeral director and embalmer shall immediately report to the local health officer every contagious case on which the funeral director or embalmer may be called.

Section 7303

No embalmer shall embalm a dead human body when he has information reasonably indicating the death has occurred while the deceased was driving or riding in a motor vehicle, or as a result of the deceased being struck by a motor vehicle, until permission of the coroner, his appointed deputy coroner, or a judge in the county, if there is no coroner, has been obtained.

Section 7304

No embalmer shall embalm a dead body without obtaining written or oral permission of a person who has the right to control the disposition of the remains pursuant to Section

7100, except that prior authorization is not required if embalming is necessary in order to comply with applicable laws or regulations, or is necessary to avoid irreparable deterioration of the dead body, in which case, a good faith effort shall be made to obtain permission.

HEALTH AND SAFETY CODE
SECTION 7355

Section 7355

(a) Except as provided in subdivision (b), the bodies of persons who have died from any cause shall not be received for transportation by a common carrier unless the body has been embalmed and prepared by a licensed embalmer and placed in a sound casket and enclosed in a transportation case.

(b) A dead body, which cannot be embalmed or is in a state of decomposition, shall be received for transportation by a common carrier if the body is placed in an airtight metal casket enclosed in a strong transportation case or in a sound casket enclosed in an airtight metal or metal-lined transportation case.

HEALTH AND SAFETY CODE
SECTION 7500-7502

Section 7500

No remains of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the superior court of the county in which such cemetery is situated. A duplicate copy of the order shall be maintained as a part of the records of the cemetery. Any person who removes any remains from any cemetery shall keep and maintain a true and correct record showing:

(a) The date such remains were removed.

(b) The name and age of the person removed, when these particulars can be conveniently obtained and the place to which the remains were removed.

(c) The cemetery and the plot therein in which such remains were buried.

If the remains are disposed of other than by interment, a record shall be made and kept of such disposition. The person making the removal shall deliver to the cemetery authority operating the cemetery from which the remains were removed, a true, full and complete copy of such record.

Section 7501

A cemetery authority shall not remove or permit the removal of any interred remains, unless a permit for the removal has been issued by the local registrar of the district in which the premises are located, and delivered to the cemetery authority. Any person entitled by law to remove any remains may apply to the local registrar for a permit to remove them. The local registrar shall issue a permit, which in all cases, shall specify the name of a cemetery where the remains shall be interred, and shall retain a copy, except that if cremated remains are to be buried at sea as provided in Section 7117 of this code, the permit shall so specify and indicate the county where the fact of burial at sea shall be reported.

Section 7502

In the disinterment, transportation and removal of human remains under Chapter 4 of this part a cemetery authority need not obtain a separate permit for the disinterment, transportation or removal of the remains of each person, but disinterment, transportation and removal of human remains shall be made subject to reasonable rules and regulations relative to the manner of disinterring, transporting or removing such remains as may be adopted by the board of health or health officer of the city or city and county in which the cemetery lands are situated.

HEALTH AND SAFETY CODE

SECTION 7525-7528

Section 7525

The remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (a) The surviving spouse.
- (b) The surviving children.
- (c) The surviving parents.
- (d) The surviving brothers or sisters.

Section 7526

If the required consent can not be obtained, permission by the superior court of the county where the cemetery is situated is sufficient.

Section 7527

Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person or association on whom service of notice may be required by the court.

Section 7528

This article does not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor does it apply to the disinterment of remains upon order of court or coroner.

HEALTH AND SAFETY CODE SECTION 8100

Section 8100

The definitions set forth in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 shall be applicable to this division.

HEALTH AND SAFETY CODE SECTION 8102-8103

Section 8102

Any person violating any provision of this chapter is liable, in a civil action by and in the name of the cemetery authority, to pay all damages occasioned by his unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed.

Section 8103

The provisions of this chapter do not apply to the removal or unavoidable breakage or injury, by a cemetery authority, of any thing placed in or upon any portion of its cemetery in violation of any of the rules or regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority which has become in a wrecked, unsightly, or dilapidated condition.

**HEALTH AND SAFETY CODE
SECTION 8110-8112**

Section 8110

The person in charge of any premises on which interments or cremations are made shall keep a record of all remains interred or cremated and of the interment of remains on the premises under his charge, in each case stating the name of each deceased person, place of death, date of interment, and name and address of the funeral director.

Section 8111

The records shall at all times be open to official inspection.

Section 8112

Records required to be kept under Division 7 (commencing with Section 7000) or this division may be kept in original form or by photocopy, microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record.

**HEALTH AND SAFETY CODE
SECTION 8113-8113.7**

Section 8113

(a) This chapter shall apply to all cemeteries, including, but not limited to, public cemeteries, private cemeteries, and cemeteries operated by religious organizations, or fraternal or beneficial associations or societies.

(b) This chapter shall supersede any conflicting rules or regulations established by any entity that manages or operates a cemetery in this state, including, but not limited to, a city, a county, a city and county, a public cemetery district, a cemetery authority, a private corporation, or any organization, association, or society managing or operating a cemetery.

Section 8113.1

(a) Except as provided in subdivisions (b) and (c), there shall be no less than 18 inches of dirt or turf on top of all vaults or caskets as measured at the time of burial.

(b) Cremated remains placed in an urn or urn vault and covered with at least three-quarters of an inch of concrete, brass, granite, marble, or metal plate, affixed to the urn or urn vault shall be exempt from the requirement of subdivision (a).

(c) In the case of consensual double burials, the casket or vault that is on top shall be covered with at least 12 inches of dirt or turf as measured at the time of burial.

(d) In a case of extreme hardship, upon request of the next of kin or other person responsible for making the burial arrangements for the deceased, a burial of less than 18, but not less than 12 inches may be provided.

Section 8113.3

(a) This chapter shall not apply to mausoleums, crypts, vaults, or other burial structures designed and constructed to be installed without an earthen cover.

(b) Preexisting and presold vaults and lawn crypts that were in place on January 1, 1993, or for which sales agreements have been executed prior to that date, shall not be subject to this chapter.

Section 8113.4

Cemeteries shall be liable for the costs of reburial of any remains improperly interred in already occupied graves or interred with less than the amount of turf, dirt, or other covering, as required by this chapter, for burials occurring after January 1, 1993.

Section 8113.5

(a) Except with the express written permission of the person entitled to control the disposition of the remains, or in the case of a double burial consented to by both parties, no person shall knowingly or willfully inter the remains of more than one body in a single plot, or place a casket or other human remains in an already occupied grave.

(b) Violation of subdivision (a) is a crime punishable as follows:

(1) A first offense, or a second offense not committed within a year of the first, is punishable as a misdemeanor by imprisonment in a county jail not exceeding one year.

(2) A second offense committed within a year of the first offense is punishable as a misdemeanor or a felony by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170 of the Penal Code.

(3) A third or subsequent offense shall be punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

Section 8113.6

Notwithstanding any other provision of law, any cemetery that violates any of the requirements of this chapter shall be subject to disciplinary action by the Cemetery and Funeral Bureau.

Section 8113.7

Notwithstanding any other provision of law, the statute of limitations for any individual's criminal violation of Section 8113.5 shall begin to run at the time the violation is discovered.

HEALTH AND SAFETY CODE SECTION 8115

Section 8115

The governing body of any city or county, in the exercise of its police power, may by ordinance prescribe such standards governing burial, inurnment, and entombment and such standards of maintenance for cemeteries, including mausoleums and columbariums, as it shall determine to be reasonably necessary to protect the public health or safety, assure decent and respectful treatment of human remains, or prevent offensive deterioration of cemetery grounds, structures, and places of interment. Such standards may be made applicable to every public and private cemetery within the city or county.

Nothing in this section supersedes any provision of this division or Division 7 (commencing with Section 7000) or authorizes the adoption of local standards in conflict with such provisions, except that city or county ordinances adopted pursuant to this section shall prevail over the rules and regulations of any private or public cemetery to the extent of any conflict.

HEALTH AND SAFETY CODE SECTION 8117-8118

Section 8117

Hose bibs are approved for use at cemeteries supplied with disinfected tertiary treated recycled water.

Section 8118

A cemetery supplied with disinfected tertiary treated recycled water that installs a hose bib in an area subject to access by the general public shall post signage and labeling

visible to the general public that the water is nonpotable. The signage and labeling shall be regularly inspected by the water purveyor, as defined in Section 512 of the Water Code, to ensure that the general public has proper notice of this fact.

HEALTH AND SAFETY CODE SECTION 8120

Section 8120

(a) On or after January 1, 1990, the cemetery authority shall provide written notice to each person who purchases or agrees to purchase interment rights in the cemetery of that person's ability to receive notice, pursuant to Section 65096 of the Government Code, of a proposed change in the use of the cemetery for other than cemetery purposes. Irrespective of any other provisions of the law, this section refers to all cemeteries in the State of California.

(b) The written notice shall be substantially as follows:

"State law gives you the right to know about future plans to use this cemetery for any other purpose. If you want to receive information about a future change, you must contact the local planning office and pay a small fee."

HEALTH AND SAFETY CODE SECTION 8600-8605¹

Section 8600

All plots conveyed to individuals are presumed to be the sole and separate property of the owner named in the instrument of conveyance.

Section 8601

The spouse of an owner of any plot containing more than one interment space has a vested right of interment of his remains in the plot and any person thereafter becoming the spouse of the owner has a vested right of interment of his remains in the plot if more than one interment space is unoccupied at the time the person becomes the spouse of the owner.

Section 8602

No conveyance or other action of the owner without the written consent or joinder of the spouse of the owner divests the spouse of a vested right of interment, except that a final

¹ Health & Safety Code Division 8, Part 3 (Sections 8250-8890) generally apply only to private cemeteries.

decree of divorce between them terminates the vested right of interment unless otherwise provided in the decree.

Section 8603

If no interment is made in an interment plot which has been transferred by deed or certificate of ownership to an individual owner, or if all remains previously interred are lawfully removed, upon the death of the owner, unless he has disposed of the plot either in his will by a specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the plot descends to the heirs at law of the owner subject to the rights of interment of the decedent and his surviving spouse.

Section 8604

Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes.

Section 8605

An affidavit by a person having knowledge of the facts setting forth the fact of the death of the owner and the name of the person or persons entitled to the use of the plot pursuant to this chapter, is complete authorization to the cemetery authority to permit the use of the unoccupied portions of the plot by the person entitled to the use of it.

HEALTH AND SAFETY CODE

SECTION 8625-8629

Section 8625

In a conveyance to two or more persons as joint tenants each joint tenant has a vested right of interment in the plot conveyed.

Section 8626

Upon the death of a joint tenant, the title to the plot held in joint tenancy immediately vests in the survivors, subject to the vested right of interment of the remains of the deceased joint tenant.

Section 8627

Cemetery property held in joint tenancy is exempt from the provisions of the Probate Code relating to proceedings for establishing the fact of death of a person whose death affects title to real property.

Section 8628

An affidavit by any person having knowledge of the facts setting forth the fact of the death of one joint tenant and establishing the identity of the surviving joint tenants named in the deed to any plot, when filed with the cemetery authority operating the cemetery in which the plot is located, is complete authorization to the cemetery authority to permit the use of the unoccupied portion of the plot in accordance with the directions of the surviving joint tenants or their successors in interest.

Section 8629

When there are several owners of a plot, or of rights of interment in it, they may designate one or more persons to represent the plot and file written notice of designation with the cemetery authority. In the absence of such notice or of written objection to its so doing, the cemetery authority is not liable to any owner for interring or permitting an interment in the plot upon the request or direction of any coowner of the plot.

HEALTH AND SAFETY CODE

SECTION 8675-8676

Section 8675

A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested.

Section 8676

No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space in violation of the rules and regulations of the cemetery in which the interment space is located.

**HEALTH AND SAFETY CODE
SECTION 8680**

Section 8680

A cemetery authority may take and hold any plot conveyed or devised to it by the plot owner so that it will be inalienable, and interments shall be restricted to the persons designated in the conveyance or devise.

**HEALTH AND SAFETY CODE
SECTION 8738**

Section 8738

An endowment care cemetery is one which has deposited in its endowment care fund the minimum amounts heretofore required by law and shall hereafter have deposited in its endowment care fund at the time of or not later than completion of the initial sale not less than the following amounts for plots sold or disposed of:

- (a) Four dollars and fifty cents (\$4.50) a square foot for each grave.
- (b) Seventy dollars (\$70) for each niche.
- (c) Two hundred twenty dollars (\$220) for each crypt; provided, however, that for companion crypts, there shall be deposited two hundred twenty dollars (\$220) for the first crypt and one hundred ten dollars (\$110) for each additional crypt.
- (d) Seventy dollars (\$70) for the cremated remains of each deceased person scattered in the cemetery at a garden or designated open area that is not an interment site subject to subdivision (a).

**HEALTH AND SAFETY CODE
SECTION 9000-9007**

Section 9000

This part shall be known and may be cited as the Public Cemetery District Law.

Section 9001

- (a) The Legislature finds and declares all of the following:
 - (1) There is a continuing need to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities.

(2) The Legislature authorized the creation of public cemetery districts in 1909 to assume responsibility for the ownership, improvement, expansion, and operation of cemeteries and the provision of interment services from fraternal, pioneer, religious, social, and other organizations that were unable to provide for those cemeteries.

(3) For nearly a century, public cemetery districts have provided communities with the means to publicly finance the ownership, improvement, expansion, and operation of public cemeteries and the provision of interment services, particularly in rural and formerly rural communities.

(4) Interment customs and practices have changed since the creation of the public cemetery districts but communities continue to need the means to own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(b) In enacting this part, it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts that can own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(c) It is also the intent of the Legislature that local officials adapt the powers and procedures provided by this part to meet the diversity of local conditions and circumstances.

Section 9002

The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 apply to this part. Further, as used in this part, the following terms have the following meanings:

(a) "Active militia" means the active militia as defined by Section 120 of the Military and Veterans Code.

(b) "Armed services" means the armed services as defined by Section 18540 of the Government Code.

(c) "Board of trustees" means the legislative body of a district.

(d) "District" means a public cemetery district created pursuant to this part or any of its statutory predecessors.

(e) "Domestic partner" means two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, and are qualified and registered with the Secretary of State as domestic partners in accordance with Division 2.5 of the Family Code.

(f) "Family member" means any spouse, by marriage or otherwise, domestic partner, child or stepchild, by natural birth or adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

(g) "Firefighter" means a firefighter as defined by Section 1797.182.

(h) (1) "Interment right" means the rights held by the owner to use or control the use of a plot authorized by this part, for the interment of human remains, including both of the following rights:

(A) To determine the number and identity of any person or persons to be interred in the plot within a cemetery in conformance with all applicable regulations adopted by the cemetery district.

(B) To control the placement, design, wording, and removal of memorial markers in compliance with all applicable regulations adopted by the cemetery district.

(2) An interment right is a transferable property interest, and is governed by Chapter 5.5

(commencing with Section 9069.10).

(i) "Nonresident" means a person who does not reside within a district or does not pay property taxes on property located in a district.

(j) "Peace officer" means a peace officer as defined by Section 830 of the Penal Code.

(k) "Principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district.

(l) "Voter" means a voter as defined by Section 359 of the Elections Code.

Section 9003

(a) This part provides the authority for the organization and powers of public cemetery districts. This part succeeds the former Part 4 (commencing with Section 8890), as added by Chapter 60 of the Statutes of 1939, as subsequently amended, and any of its statutory predecessors.

(b) Any public cemetery district formed pursuant to the former Part 4 or any of its statutory predecessors that was in existence on January 1, 2004, shall remain in existence as if it has been organized pursuant to this part.

(c) Any indebtedness, special tax, benefit assessment, fee, election, ordinance, resolution, regulation, rule, or any other action of a district taken pursuant to the former Part 4 or of any of its statutory predecessors which was taken before January 1, 2004, shall not be voided solely because of any error, omission, informality, misnomer, or failure to comply strictly with this part.

Section 9004

This part is necessary to protect the public health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

Section 9005

If any provision of this part or the application of any provision of this part in any circumstance or to any person, city, county, special district, school district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this part are severable.

Section 9006

(a) Any action brought to determine the validity of the organization or of any action of a district shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(b) Any judicial review of an action taken pursuant to this part shall be conducted pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

Section 9007

(a) Except as provided in this section, territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district. Territory that is already within a public cemetery district or another type of special district that provides cemetery facilities and services shall not be included within a public cemetery district.

(b) Except as provided in this part, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall govern any change of organization or reorganization of a district. In the case of any conflict between that division and this part, the provisions of this part shall prevail.

(c) A district shall be deemed an "independent special district," as defined by Section 56044 of the Government Code, except when a county board of supervisors has appointed itself as the board of trustees.

HEALTH AND SAFETY CODE

SECTION 9010-9014

Section 9010

A new district may be formed pursuant to this chapter.

Section 9011

(a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700 of the Government Code. In addition, the petition shall:

(1) Set forth the methods by which the district will be financed, including but not limited to special taxes, special benefit assessments, and fees.

(2) Propose a name for the district.

(3) Specify the size of the initial board of trustees and the method of their appointment.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 3 of Title 5 of the Government Code. In the case of any conflict between that chapter and this chapter, the provisions of this chapter shall prevail.

(c) The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission.

Section 9012

(a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district and the methods by which the district will be financed. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The following shall be signed by a representative of the proponent, and shall be in substantially the following form:

"Notice of Intent to Circulate Petition"

"Notice is hereby given of the intention to circulate a petition proposing to form the _____ [name of the district]. The reasons for forming the proposed district are: _____. The method(s) by which the proposed district will be financed are: _____."

(c) Within five days after the date of publication, the proponents shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of the publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

Section 9013

(a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city that contains the

territory proposed to be included in the district. Except for the provisions regarding the signers, signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 9011.

(b) Before adopting a resolution of application, the legislative body shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the county or city. At least 20 days before the hearing, the legislative body shall give mailed notice of its hearing to the executive officer of the local agency formation commission of the principal county.

The notice shall generally describe the proposed formation of the district and the territory proposed to be included in the district.

(c) At the hearing, the legislative body shall give any person an opportunity to present his or her views on the resolution.

(d) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

Section 9014

(a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code.

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines both of the following:

(1) That the public interest requires the formation of the proposed district.

(2) That the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding paragraph (2) of subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue, provided that the commission conditions the approval on the approval by the voters of special taxes or approval by the property owners of special benefit assessments that will generate those sufficient revenues. The commission shall provide that if the voters do not approve the special taxes or if the property owners do not approve the special benefit assessments, the proposed district shall not be formed.

(d) If the local agency formation commission approves the proposal for the formation of a district, then, notwithstanding Section 57007 of the Government Code, the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5 of the Government Code.

(e) Notwithstanding Section 57075 of the Government Code, the local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078 of the Government Code, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall either:

(A) Order the formation subject to the approval by the voters.

(B) Order the formation subject to the approval by the voters of a special tax or the approval by the property owners of a special benefit assessment, pursuant to subdivision (c).

(f) If the local agency formation commission orders the formation of a district pursuant to paragraph (2) of subdivision (e), the commission shall direct the board of supervisors to direct county officials to conduct the necessary elections on behalf of the proposed district.

HEALTH AND SAFETY CODE

SECTION 9020-9031

Section 9020

A legislative body of at least three members known as the board of trustees shall govern every district. The board of trustees shall establish policies for the operation of the district. The board of trustees shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.

Section 9021

Within 30 days after the effective date of the formation of a district, a board of trustees shall be appointed as follows:

(a) In the case of a district that contains territory in a single county, the board of supervisors shall appoint three or five persons to the board of trustees.

(b) In the case of a district that contains territory in more than one county, the board of supervisors of the principal county shall appoint three or five persons from any county in which the district is located to the board of trustees.

Section 9022

- (a) Each person appointed by a board of supervisors to be a member of a board of trustees shall be a voter in the district.
- (b) All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this part.

The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors that appointed them.

Section 9023

- (a) The initial board of trustees of a district formed on or after January 1, 2004, shall be determined pursuant to this section.
- (b) The persons appointed to the initial board of trustees shall meet on the first Monday after 45 days after the effective date of the formation of the district.
- (c) At the first meeting of the initial board of trustees, the trustees shall classify themselves by lot into two classes, as nearly equal as possible. The term of office of the class having the greater number shall expire at noon on the first Monday in January that is closest to the fourth year from the appointments made pursuant to Section 9021. The term of office of the class having the lesser number shall expire at noon on the first Monday in January that is closest to the second year from the appointments made pursuant to Section 9021.

Section 9024

- (a) Except as provided in subdivision (b) of this section, subdivision (c) of Section 9023, and subdivision (d) of Section 9026, the term of office for a member of the board of trustees shall be for a term of four years and until the appointment and qualification of the successor. Terms of office commence at noon on the first Monday in January.
- (b) For districts formed before January 1, 2004, where the members of the board of trustees are not serving staggered terms, the board of supervisors shall stagger the terms of the trustees and to accomplish this purpose shall appoint trustees, on or after January 1, 2004, for terms of less than four years. However, a board of supervisors shall not reduce the term of office of a trustee once the trustee has been appointed to that term, whether the appointment was made before, on, or after January 1, 2004.
- (c) Any vacancy in the office of a member appointed to a board of trustees shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

Section 9025

(a) A board of trustees may adopt a resolution requesting the board of supervisors of the principal county to increase or decrease the number of members of the board of trustees. The resolution shall specify the number of members for which the board of trustees requests the increase or decrease.

(b) Within 60 days of receiving a resolution adopted pursuant to subdivision (a), the board of supervisors shall consider the resolution at a public hearing. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(c) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the resolution. After receiving and considering those comments, the board of supervisors may adopt a resolution that orders the increase or decrease in the number of members of the board of trustees.

(d) If the board of supervisors adopts a resolution that orders an increase in the number of members of the board of trustees, the board of supervisors shall promptly appoint a person or persons to the board of trustees and specify their term of office, consistent with the requirements of this part. If the board of supervisors adopts a resolution that orders a decrease in the number of members of the board of trustees, the board of supervisors shall designate the trustee or trustees whose office shall be eliminated at the termination of the trustee's current term of office. Any trustee whose office is designated to be eliminated shall continue to serve until his or her term expires.

Section 9026

(a) The board of supervisors of the principal county may appoint itself to be the board of trustees of a district and the board of supervisors may divest itself of that authority, pursuant to this section.

(b) In the case of a district that has a board of trustees appointed by the board of supervisors, the board of supervisors may adopt a resolution declaring its intention to appoint itself to be the board of trustees of the district. In the case of a district where the board of supervisors has appointed itself to be the board of trustees, the board of supervisors may adopt a resolution declaring its intention to divest itself of that authority.

(c) Within 60 days of adopting a resolution adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the question whether the board of supervisors should govern the district. The board of supervisors shall give notice of its

hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(d) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding a resolution adopted pursuant to subdivision (b). At the conclusion of the hearing, the board of supervisors shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) In the case of a district that has a board of trustees appointed by the board of supervisors:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to protect the public health, safety, and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

(2) In the case of a district where the board of supervisors has appointed itself to be the board of trustees:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution divesting itself of that authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to protect the public health, safety,

and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution divesting itself of that authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

Section 9027

(a) A local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single district, may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, change the number of members on the board of trustees of the consolidated or reorganized district, provided that the resulting number of trustees shall be an odd number but not less than five.

(b) Upon the expiration of the terms of the members of the board of trustees of the consolidated or reorganized district whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of trustees shall be reduced until the number equals the number of members determined by the local agency formation commission.

(c) Notwithstanding subdivision (c) of Section 9024, in the event of a vacancy on the board of trustees of the consolidated or reorganized district at a time when the number of members of the board of trustees is greater than the number determined by the local agency formation commission, the vacancy shall not be filled and the membership of the board of trustees shall be reduced by one member.

Section 9028

(a) At the first meeting of the initial board of trustees of a newly formed district, and in the case of an existing district not later than the first meeting of every calendar year, the board of trustees shall elect its officers.

(b) The officers of a board of trustees are a chairperson, vice chairperson, and a secretary. The chairperson and vice chairperson shall be trustees. The secretary may be either a trustee or a district employee. A board of trustees may create additional officers and elect members to those positions. No trustee shall hold more than one office.

(c) Except as provided in Section 9077, the county treasurer of the principal county shall act as the district treasurer. The county treasurer shall receive no compensation for the receipt and disbursement of money of the district.

Section 9029

A board of trustees shall meet at least once every three months. Meetings of the board of trustees are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9030

- (a) A majority of the board of trustees shall constitute a quorum for the transaction of business.
- (b) Except as otherwise specifically provided to the contrary in this part, a recorded vote of a majority of the total membership of the board of trustees is required on each action.
- (c) The board of trustees shall act only by ordinance, resolution, or motion.
- (d) The board of trustees shall keep a record of all of its acts, including financial transactions.
- (e) The board of trustees shall adopt rules for its proceedings.

Section 9031

- (a) The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. A member of the board of trustees shall not receive compensation for more than four meetings of the board in a month.
- (b) The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.
- (c) In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.
- (d) A member of the board of trustees may waive any or all of the payments permitted by this section.
- (e) For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

(f) For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

HEALTH AND SAFETY CODE

SECTION 9040-9056

Section 9040

(a) A district may own, operate, improve, and maintain cemeteries and provide interment services within its boundaries.

(b) A district shall maintain the cemeteries owned by the district.

(c) The district that owns a cemetery shall have exclusive jurisdiction and control over its maintenance and management.

Section 9041

A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this part, including, but not limited to, all of the following powers:

(a) To sue and be sued.

(b) To acquire by purchase, eminent domain, grant, gift, lease, or other lawful means, any real property within the district or any personal property that may be necessary or proper to carry out the purposes and intent of this part.

(c) To sell, lease, or otherwise dispose of any real or personal property. A board of trustees may exchange equivalent properties if the board determines that the exchange is in the best interests of the district.

(d) To donate any surplus real or personal property to any public agency or nonprofit organizations.

(e) To engage necessary employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties.

(f) To engage counsel and other professional services.

- (g) To enter into and perform all necessary contracts.
- (h) To borrow money, give security therefore, and purchase on contract, as provided in this part.
- (i) To adopt a seal and alter it at pleasure.
- (j) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.
- (k) To adopt and enforce rules and regulations for the administration, maintenance, operation, and use of cemeteries.
- (l) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- (m) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.
- (n) To provide training to trustees that will assist in the governance of the district.
- (o) To appoint one or more advisory committees to make recommendations for the ownership, improvement, expansion, and the operation of cemeteries owned by the district and the provision of interment services.
- (p) To take any and all actions necessary for, or incidental to, the powers expressed or implied by this part.

Section 9042

- (a) When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7 of the Government Code.
- (b) When disposing of surplus land, a district shall comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9043

- (a) A district shall have perpetual succession.
- (b) A board of trustees may, by a two-thirds vote of its total membership, adopt a

resolution to change the name of the district.

The name shall contain the words "public cemetery district" or "cemetery district." The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 2 of the Government Code. Within 10 days of its adoption, the board of trustees shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.

(c) A district may destroy a record, paper, or document pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code, unless the board of trustees determines that there is a need for its retention. In determining whether there is a need for retaining a document, the board of trustees shall consider future public need, the effect on statutes of limitation, and historical significance. This subdivision does not apply to records of interments that are governed by Section 9064.

Section 9044

(a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchase of supplies and equipment. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5 of the Government Code.

(b) A district may request the Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Section 10298 of the Public Contract Code.

(c) A district may request the purchasing agent of the principal county to make purchases of materials, equipment, or supplies on its behalf pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

(d) A district may request the purchasing agent of the principal county to contract with persons to provide projects, services, and programs authorized by this part pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

Section 9045

(a) The Myers-Milias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.

(b) A board of trustees may adopt an ordinance establishing an employee relations system that may include, but is not limited to, a civil service system or a merit system.

Section 9046

A board of trustees may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

Section 9047

A board of trustees may provide for any programs for the benefit of its employees and members of the board of trustees pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9048

A district may authorize the members of its board of trustees and its employees to attend professional, educational, or vocational meetings, and pay their actual and necessary traveling and incidental expenses while on official business. The payment of expenses pursuant to this section may be in addition to the payments made pursuant to Section 9031.

Section 9049

A district may sell interment rights in its cemeteries, columbariums, and mausoleums, subject to the limitations of this part.

Section 9050

- (a) A district may acquire, construct, improve, maintain, or repair a columbarium for the placement of cremated remains.
- (b) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).
- (c) A district that sells interment rights in a columbarium shall require a deposit to be made in the endowment care fund pursuant to Section 9065.

Section 9051

- (a) A district may acquire, maintain, or repair a mausoleum for crypt entombment that was completed on or before May 1, 1937. A district may construct additions to the mausoleum.
- (b) Notwithstanding subdivision (a), the Visalia Public Cemetery District may acquire and manage the mausoleum originally constructed by the City of Visalia in 1965.
- (c) Notwithstanding subdivision (a), the Arroyo Grande Cemetery District may allow a private mausoleum, as defined by Section 9504.5.

The cost of construction and maintenance shall be completely borne by the person or persons for whom the private mausoleum is constructed. That person or persons shall contribute to a special care trust fund an amount of money that, when invested, will provide a return sufficient to assure adequate maintenance of the private mausoleum. The district shall not use public funds to construct, maintain, or repair a private mausoleum.

(d) Notwithstanding subdivision (a), a district may allow a private mausoleum, as defined by Section 9504.5, if the mausoleum was completed on or before January 1, 2003.

(e) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).

Section 9052

(a) A district may require that monuments or markers shall be placed at interment plots.

(b) A district may adopt minimum requirements for the permanency of monuments or markers.

(c) A district may cause to be purchased and placed suitable permanent monuments or markers at the interment plots of indigents, persons whose estates are insufficient to pay for the monuments or markers, or persons who have no responsible survivors to pay for the monuments or markers. A district may accept gifts or donations for the exclusive purpose of purchasing and placing these monuments or markers.

(d) A district, a member of the board of trustees, a district officer, or a district employee shall not engage in the business of selling monuments or markers.

Section 9053

A district may sell accessory and replacement objects that are necessary or convenient to interments, including but not limited to burial vaults, liners, and flower vases, but excluding monuments or markers.

Section 9054

(a) A district may use or lease land acquired for a future cemetery for an enterprise if all of the following conditions apply:

(1) The district has filed with the county recorder a declaration of intention to use the land for a cemetery.

(2) The amount of land is reasonably necessary for the district's future requirements.

(3) The enterprise is consistent with the applicable regulations of the city or county in which the land is located.

(4) The enterprise does not permit the conduct of funeral or cemetery functions not authorized by this part.

(5) The enterprise does not prevent the future use of the land as a cemetery.

(b) A district may lease land acquired for future cemetery use to a public agency for recreational use, provided that the district has filed with the county recorder a declaration of intention to use the land for a cemetery.

(c) Nothing in this part authorizes a district to acquire or retain real property that is not reasonably necessary for the district's future requirements.

Section 9055

(a) A district may convey a cemetery owned by the district to any cemetery authority, pursuant to this section.

(b) The board of trustees of a district that proposes to convey a cemetery owned by the district to a cemetery authority shall adopt a resolution of intention that contains:

(1) A description of the cemetery that the district proposes to convey.

(2) The name of the cemetery authority to which the district proposes to convey the cemetery.

(3) An appendix that reports the cemetery's current assets and current liabilities and contains a reasonable projection of the district's ability to finance the ownership, improvement, expansion, and operation of the cemetery in the future.

(4) The terms and conditions of the proposed conveyance. The terms and conditions shall require all of the following:

(A) The cemetery authority maintain the cemetery as a endowment care cemetery pursuant to Sections 8738 and 8738.1.

(B) Appropriate consideration, as determined by the board of trustees.

(C) A restriction in the deed that conveys the cemetery to the cemetery authority that will permit the district or another public agency as the district's successor in interest to enter the cemetery and perform any repairs, restoration, or maintenance

that the district or its successor deems necessary to protect the public interest, and will require the cemetery authority to reimburse the district or its successor for those costs.

(D) Any other terms and conditions that the board of trustees determines to be necessary to protect the public interest in the cemetery.

(5) A declaration that the proposed conveyance is in the public interest and in the best interests of the district.

(c) The board of trustees shall send its resolution of intention to the board of supervisors of the principal county.

(d) Within 60 days of receiving a resolution of intention adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the proposed conveyance. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6064 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district with the first day of publication at least 30 days before the hearing. The board of supervisors shall post the public notice in at least three public places within the jurisdiction of the district, at least 30 days before the hearing. One of the public places shall be at the cemetery that the district proposes to convey, and one of the public places shall be at the offices of the district. In addition, the board of supervisors shall mail the notice at least 30 days before the hearing to the district, the cemetery authority, and any other person who has filed written request for notice with the clerk of the board of supervisors.

(e) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the proposed conveyance of the cemetery. At the conclusion of the hearing, the board of supervisors shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) If the written protests filed and not withdrawn are at least 50 percent of the registered voters of the district or property owners owning at least 50 percent of the assessed value of the land within the district, the board of supervisors shall adopt a resolution that terminates the proceedings to convey the cemetery.

(2) If the written protests filed and not withdrawn are less than 50 percent of the registered voters of the district or property owners owning less than 50 percent of the assessed value of the land within the district, the board of supervisors may by a four-fifths vote adopt a resolution that concurs in the conveyance of the cemetery to the cemetery authority.

(f) The board of supervisors shall send copies of its resolution adopted pursuant to subdivision (e) to the district and the cemetery authority.

(g) If the board of supervisors adopts a resolution that concurs in the proposed conveyance of the cemetery, the board of trustees may order the conveyance of the

cemetery to the cemetery authority, subject to the terms and conditions set by the board of trustees and concurred in by the board of supervisors.

Section 9056

(a) A district may dedicate real property or an interest in real property owned by the district to another public agency for use as roads or utility rights-of-way, including but not limited to water, sewer, drainage, gas or electricity transmission, or communications purposes, pursuant to this section.

(b) The board of trustees of a district that proposes to dedicate real property or an interest in real property owned by the district to another public agency shall adopt a resolution of intention that contains:

- (1) A description of the real property or interest in real property.
- (2) The name of the public agency to which the district proposes to dedicate the property.
- (3) The terms and conditions, including any consideration, of the proposed dedication.
- (4) Findings, based on substantial evidence in the record:
 - (A) That the real property has never been used for interments.
 - (B) That no interment rights have been sold or leased for the real property.
 - (C) That the district does not need the property for cemetery purposes.
- (5) A statement of the reason or reasons for the proposed dedication.
- (6) A declaration that the proposed dedication is in the public interest and in the best interests of the district.

(c) Within 60 days of adopting a resolution of intention pursuant to subdivision (b), the board of trustees shall hold a public hearing on the proposed dedication. The board of trustees shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. The board of trustees shall post the public notice in at least three public places within the jurisdiction of the district, at least 10 days before the hearing. One of the public places shall be at the real property that the district proposes to dedicate, and one of the public places shall be at the offices of the district. In addition, the board of trustees shall mail the notice at least 10 days before the hearing to the other public agency and any other person who has

filed written request for notice with the board of trustees.

(d) If the board of trustees adopts a resolution that dedicates the real property to another public agency, the board of trustees shall promptly execute a deed of dedication and send the deed to the other public agency. The dedication is effective when the other public agency records the deed of dedication with the county recorder of the county in which the real property is located.

HEALTH AND SAFETY CODE

SECTION 9060-9069

Section 9060

(a) A district shall limit interment in a cemetery owned by the district to interment in the ground, in columbariums, and in mausoleums, as provided in this part.

(b) A district shall limit interments to:

(1) Persons who are residents of the district.

(2) Persons who are former residents of the district and who acquired interment rights while they were residents of the district.

(3) Persons who pay property taxes on property located in the district.

(4) Persons who formerly paid property taxes on property located in the district and who acquired interment rights while they paid those property taxes.

(5) Eligible nonresidents of the district, as provided in this chapter.

(6) Persons who are family members of any person described in this subdivision.

Section 9061

(a) A district may inter a person who is not a resident of the district or a person who does not pay property taxes on property located in the district in a cemetery owned by the district if all of the following apply:

(1) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(2) The district requires the payment of a nonresident fee set pursuant to Section 9068. A board of trustees may adopt a written policy that permits waiving the payment of the nonresident fee for a nonresident who had purchased an interment right

while a resident or a taxpayer.

(3) The person meets the conditions listed in one or more of subdivisions (b) through (e).

(b) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if the person is a family member of a person who is already interred in a cemetery owned by the district or is a family member of a person who has acquired interment rights in a cemetery owned by a district.

(c) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of the district or paid property taxes on property located in the district for continuous period of at least five years, a portion of which time period shall have occurred within the 10 years immediately before the person's death.

(2) The district receives a written request for the interment of the person from a person who is a resident of the district or who pays property taxes on property located within the district, and the person submitting the written request is not a trustee, officer, or employee of the district and is not a funeral director or an employee of a funeral director.

(3) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(d) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of this state at the time of death.

(2) There is no private cemetery within a straight-line radius of 15 miles of the person's residence.

(3) There is no private cemetery nearer to the person's residence than the nearest cemetery owned by the district.

(4) The distances shall be measured in a straight line from the person's residence to the nearest private cemetery and the nearest cemetery owned by the district.

(e) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person died while either:

- (A) Serving in the Armed Forces or the active militia, or
- (B) In the line of duty as a peace officer or firefighter.

(2) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

Section 9062

Notwithstanding Section 9060, the board of trustees may contract with any county in which the district is located to inter persons for whose interment the county is responsible pursuant to Chapter 10 (commencing with Section 27460) of Division 2 of Title 3 of the Government Code or Chapter 3 (commencing with Section 7100) of Part 1 of Division 7 of this code, if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The contract requires the county to pay the costs of the interment, including a payment to the district's endowment care fund.

Section 9063

Notwithstanding Section 9060, the Oroville Cemetery District may use its cemetery on Feather River Boulevard, north of Oro Dam Boulevard for up to a total of 100 interments, for interment in the ground of any person who is not a resident of the district if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

Section 9063.3

Notwithstanding Sections 9060 and 9061, the Happy Homestead Cemetery District located in the City of South Lake Tahoe in the County of El Dorado may inter residents of the Nevada communities of Glenbrook, Cave Rock, Skyland, Zephyr Cove, Round

Hill, Elk Point, Kingsbury, and Stateline in the cemeteries in the district if all of the following apply:

(a) The Happy Homestead Cemetery District Board of Trustees determines that the district's cemeteries have adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set pursuant to Sections 8738, 9065, and 9068.

(c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

Section 9063.5

Notwithstanding Section 9060, the Elsinore Valley Cemetery District may use the portion of its cemetery formerly known as Home of Peace for up to a total of 536 interments, for interment in the ground of any person who meets the criteria for burial in that area but is not a resident of the district if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

Section 9063.7

Notwithstanding Section 9060, the Davis Cemetery District may use its cemetery at 820 Pole Line Road, Davis, for up to a total of 500 interments, for interment in the ground of any person who is not a resident or a property taxpayer of the district if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

Section 9063.9

Notwithstanding Sections 9060 and 9061, the Cottonwood Cemetery District in Shasta County, the Anderson Cemetery District in Shasta County, the Halcumb Cemetery District in Shasta County, the Kern River Valley Cemetery District in Kern County, and the Silveyville Cemetery District in Solano County may use their cemeteries for up to a total of 400 interments each, not to exceed 40 interments each per calendar year, for interment in the ground or a columbarium of any person who is not a resident or a property taxpayer of any cemetery district, and who does not qualify for that interment pursuant to Section 9061, if all of the following apply:

- (a) The board of trustees determines that the district's cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set pursuant to Sections 8738 and 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

Section 9064

- (a) The board of trustees shall cause to be prepared and maintained accurate and current records of:
 - (1) The cemeteries owned by the district, showing the location of the sites where persons have acquired interment rights, including the names and addresses of the persons who have acquired these interment rights, and the location of plots where interment rights are available for acquisition.
 - (2) All remains interred in cemeteries owned by the district, including the name of each person, his or her age at the time of death, place of death, date of interment, the interment plot, and the name and address of the funeral director.

- (b) A district may keep the records required by this section in their original form or by any other method that can produce an accurate reproduction of the original record.

Section 9065

- (a) The board of trustees shall create an endowment care fund.
- (b) The board of trustees shall require a payment into the endowment care fund for each interment right sold. The amount of the payment shall be not less than the minimum amounts set by Section 8738.
- (c) The board of trustees may require a payment into the endowment care fund for each interment where no payment has previously been made. The amount of the

payment shall be not less than the minimum amounts set by Section 8738.

(d) The board of trustees may pay into the endowment care fund any money from the district's general fund and from any other sources which is necessary or expedient to provide for the endowment care of the cemeteries owned by the district.

(e) The board of trustees shall not spend the principal of the endowment care fund.

(f) The board of trustees shall cause the income from the endowment care fund to be deposited in an endowment income fund and spent solely for the care of the cemeteries owned by the district.

Section 9066

The board of trustees shall cause the principal of the endowment care fund to be invested and reinvested in any of the following:

(a) Securities and obligations designated by Section 53601 of the Government Code.

(b) Obligations of the United States or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest. These shall not be limited to maturity dates of one year or less.

(c) Obligations issued under authority of law by any county, municipality, or school district in this state for which are pledged the faith and credit of that county, municipality, or school district for the payment of principal and interest, if within 10 years immediately preceding the investment that county, municipality, or school district was not in default for more than 90 days in the payment of principal or interest upon any legally authorized obligations issued by it.

(d) Obligations of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest.

(e) Interest-bearing obligations issued by a corporation organized under the laws of any state, or of the United States, provided that they bear a Standard and Poor's financial rating of AAA at the time of the investment.

(f) Certificates of deposit or other interest-bearing accounts in any state or federally chartered bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation.

Section 9067

The board of trustees may cause the funds deposited in the endowment income fund pursuant to subdivision (f) of Section 9065 that are not required for the immediate care

of the cemeteries owned by the district to be invested in the securities and obligations designated by Section 53601 of the Government Code.

Section 9068

(a) The board of trustees shall adopt a schedule of fees for interments in cemeteries owned by the district and for other necessary and convenient services.

(b) The board of trustees shall also adopt a schedule of fees for nonresidents. The board of trustees shall set these fees at an amount that at least equals the amount of fees charged to residents or taxpayers and shall include a nonresident fee of at least 15 percent of that amount.

Section 9069

(a) A district may seek the abandonment of an interment plot in a cemetery owned by the district pursuant to this section.

(b) The board of trustees shall file a petition with the superior court of the principal county which contains all of the following:

(1) An identification of the interment plot that the district desires to be declared abandoned.

(2) A statement that the district has made a diligent search to locate the present owner of the interment plot.

(3) A statement that the present owner of the interment plot is unknown to the district.

(4) A statement that, to the best knowledge of the district, at least 50 years have passed since any portion of the interment plot has been used for interment purposes.

(5) A statement that, after a reasonable physical investigation of the interment plot, the interment plot has not been used for the interment of human remains.

(6) A request that the court declare the interment plot abandoned.

(c) Upon the filing of a petition pursuant to subdivision (b), the clerk of the superior court shall set a time for a hearing on the petition.

(d) After the clerk of the superior court has set the hearing, the district shall give notice of the court's hearing. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, state that the court will hold a hearing to determine whether to

declare the interment plot abandoned, and state the time and place of the court's hearing. The district shall give notice of the court's hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. The district shall post the public notice in at least three public places within the jurisdiction of the district, at least 10 days before the hearing. One of the public places shall be at the interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, at least 10 days before the hearing to the last known owner of the interment plot.

(e) At the time set for the hearing, the superior court shall hear and consider any evidence that is introduced in favor or, and any objections to, the abandonment of the interment plot. The court may continue its hearing from time to time. The court shall determine from the evidence presented whether the facts stated in the district's petition are true. The court shall dismiss any portion of the district's petition if the court determines that any of the facts stated in that portion of the petition are not true, or if the court determines the identity of the present owner of the interment plot.

If the court determines that the facts stated in the district's petition are true, the court may order that the interment plot shall be deemed abandoned and full title shall revert to the district. The superior court's order shall not become final until one year after the date on which the court made its order.

(f) Within 30 days after the date on which the superior court made its order, the district shall give notice of the court's order. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, and state the date on which the court's order will be final. The district shall give notice of the court's order by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district. The district shall post the public notice in at least three public places within the jurisdiction of the district. One of the public places shall be at the interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, to the last known owner of the interment site.

(g) At any time before the superior court's order becomes final, any person may petition the court to reopen the proceeding. Upon receiving a petition and after giving notice to the district, the court may reopen the proceeding. The court may hear and consider any additional evidence regarding the facts in the district's petition.

The court may amend its previous order. If the court determines that any of the facts stated in any portion of the district's petition are not true, or if the court determines the identity of the present owner of the interment plot, the court shall dismiss that portion of the district's petition.

(h) The interment plot shall be deemed abandoned on the date on which the superior court's order becomes final. The district shall record the court's order in the office of the county recorder of the county in which the interment plot is located. Upon recordation of the court's order, the district is the owner of the interment plot and the district may resell the interment rights.

(i) If, after the proceedings taken pursuant to this section, the district discovers the presence of human remains in the interment plot, the district shall make reasonable efforts to identify the remains. The district shall close and appropriately mark the interment plot. The district shall offer the new owner of the interment rights in that interment plot comparable interment rights in another interment plot. The district shall not be liable for any claims for damages if the district has proceeded pursuant to this section.

HEALTH AND SAFETY CODE
SECTION 9069.10 - 9069.40

Section 9069.10

An interment right does not include the right for disinterment of human remains except on consent of the cemetery district and the written consent of the surviving spouse, child, parent, or sibling, in that order of priority.

Section 9069.15

(a) This chapter does not apply to, or prohibit, the removal of remains from one plot to another in the same cemetery or the removal of remains by a cemetery district upon the written order of any of the following:

- (1) The superior court of the county in which the cemetery is located.
- (2) The coroner having jurisdiction of the location of the cemetery.
- (3) The health department having jurisdiction of the cemetery.

(b) The cemetery district shall maintain a duplicate copy of an order pursuant to subdivision (a).

(c) The cemetery district shall retain a true and correct record of a removal of remains pursuant to subdivision (a) that includes all of the following:

- (1) The date the remains were removed.
- (2) The name and the age at death of the person whose remains were

removed if available.

(3) The cemetery and plot from which the remains were removed.

(4) (A) If the removed remains are reinterred, the plot number, cemetery name, and location to which the remains were reinterred.

(B) If the removed remains are disposed of other than by being reinterred, a record of the alternate disposition.

(5) If the removed remains are reinterred at the cemetery, the date of reinterment.

(d) The person making the removal shall deliver to the cemetery district operating the cemetery from which the remains were removed a true, full, and complete copy of the record containing all of the information specified in subdivision (c).

Section 9069.20

(a) An interment right provides a transferable property interest to the person listed as the owner in the records of the cemetery district, subject to any written designation to the contrary signed by the owner and deposited with the cemetery district, or to the owner's successor pursuant to either this section or subdivision (a) of Section 9069.25. An interment right shall not be construed as conferring title to the property burdened by the transferable property interest.

(b) The owner of record of an interment right may designate in writing the person or persons, other than the owner of record, who may be interred in the plot to which the owner holds the interment right.

(c) The owner of an interment right shall, at the time of purchase, designate a successor owner or owners of the interment right in a signed written designation deposited with the district.

(d) Use of an interment right transferred from the owner to a successor pursuant to subdivision (c) shall be made in compliance with applicable provisions of state and local law, and of applicable requirements or policies established by the district board of trustees.

Section 9069.25

(a) If the owner of an interment right dies without making a valid and enforceable disposition of the interment right by a specific devise in a testamentary device, or by a written designation pursuant to subdivision (c) of Section 9069.20, the interment right shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code. In the event that the owner has no heirs at law,

the district shall follow the abandonment procedures established under Section 9069.

(b) A surviving spouse, registered domestic partner, child, parent, or heir who has an interment right pursuant to this section may waive that interment right in favor of any other relative of the deceased owner or spouse of a relative of the deceased owner.

Section 9069.30

When a public cemetery district acts to transfer ownership rights or make an interment on the basis of the affidavit, given under penalty of perjury pursuant to Section 9069.35, the district, and any employee or trustee of the district, shall not be liable for any claims, losses, or damages asserted in any action unless the district had actual knowledge that the facts stated in writing are false.

Section 9069.35

A person who purports to be the successor owner of an interment right shall execute a written affidavit declaring, under penalty of perjury, all of the following:

(a) He or she is the person entitled to succeed to the interment right pursuant to Section 9069.20.

(b) He or she has exerted all reasonable efforts to find other persons who may have an equal or higher claim to succeed to the interment right.

(c) He or she is unaware, to the best of his or her knowledge, of any opposition challenging his or her right to succeed to the interment right.

Section 9069.40

Upon the sale to a person of a plot in a cemetery within a district, the district shall notify the purchaser, in writing, of any interment rights, that this chapter governs the succession of ownership of the interment rights, and the district's duly adopted policies, rules, and regulations governing the use, sale, or other transfer of interment rights.

HEALTH AND SAFETY CODE

SECTION 9070-9079

Section 9070

(a) On or before August 30 of each year, the board of trustees shall adopt a final budget, which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of Division 2 of Title 2 of the California Code of Regulations.

(b) The board of trustees may divide the annual budget into categories, including, but not limited to:

- (1) Maintenance and operation.
- (2) Employee compensation.
- (3) Interest and redemption for indebtedness.
- (4) Restricted reserves for the following categories:
 - (A) Endowment income fund.
 - (B) Capital outlay.
 - (C) Pre-need.
 - (D) Contingencies.
- (5) Unallocated general reserve.

(c) The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located.

Section 9071

(a) In its annual budget, the board of trustees may establish one or more restricted reserves. When the board of trustees establishes a restricted reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the restricted reserve shall be spent only for the exclusive purposes for which the board of trustees established the restricted reserve. The reserves shall be maintained according to generally accepted principles.

(b) Any time after the establishment of a restricted reserve, the board of trustees may transfer any funds to that restricted reserve.

(c) If the board of trustees finds that the funds in a restricted reserve are no longer required for the purpose for which the restricted reserve was established, the board of trustees may, by a four-fifths vote of the total membership of the board of trustees, discontinue the restricted reserve or transfer the funds that are no longer required from the restricted reserve to the district's general fund.

Section 9072

(a) On or before July 1 of each year, the board of trustees shall adopt a resolution establishing its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of California Constitution and Division 9 (commencing with Section 7900) of the Government Code.

(b) Pursuant to subdivision (c) of Section 9 of Article XIII B of the California Constitution, this section shall not apply to a district that existed on January 1, 1978, and that did not, as of the 1977-78 fiscal year, levy an ad valorem tax on property in excess of twelve and one-half cents (\$0.125) per one hundred dollars (\$100) of assessed value.

Section 9073

The auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

Section 9074

(a) A district may accept any grants, goods, money, property, revenue, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

(b) Except as provided by Section 9077, all moneys received or collected by a district shall be paid into a separate fund in the county treasury on or before the 10th day of the month following the month in which the district received or collected the money.

(c) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9075

All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

Section 9076

(a) All claims against a district shall be audited, allowed, and paid by the board of trustees by warrants drawn on the county treasurer.

(b) As an alternative to subdivision (a), the board of trustees may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of trustees.

(c) The county treasurer shall pay the warrants in the order in which they are presented.

(d) If a warrant is presented for payment and the county treasurer cannot pay it for want of funds in the account on which it is drawn, the treasurer shall endorse the warrant, "NOT PAID BECAUSE OF INSUFFICIENT FUNDS" and sign his or her name and the date and time the warrant was presented. From that time until it is paid, the warrant bears interest at the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9077

(a) Notwithstanding Section 9076, a district that has total annual revenues greater than five hundred thousand dollars (\$500,000) may withdraw its funds from the control of the county treasurer pursuant to this section.

(b) The board of trustees shall adopt a resolution that does each of the following:

(1) States its intent to withdraw its funds from the county treasury.

(2) Adopts a procedure for the appointment of a district treasurer. The board of trustees may appoint the district treasurer.

The board of trustees may appoint the district treasurer, or the board of trustees may delegate the appointment of the district to the district's general manager. The district treasurer may be a member of the board of trustees, the secretary of the board of trustees, the general manager, or a district employee.

(3) Fixes the amount of the bond for the district treasurer and other district employees who will be responsible for handling the district's finances.

(4) Adopts a system of accounting and auditing that shall completely and at all times show the district's financial condition.

The system of accounting and auditing shall adhere to generally accepted accounting principles.

(5) Adopts a procedure for drawing and signing warrants, provided that the procedure adheres to generally accepted accounting principles. The procedures shall provide that bond principal and salaries shall be paid when due. The procedure may

provide that warrants to pay claims and demands need not be approved by the board of trustees before payment if the district treasurer determines that the claims and demands conform to the district's approved budget.

(6) Designates a bank or a savings and loan association as the depository of the district's funds. A bank or savings and loan association may act as a depository, paying agent, or fiscal agency for the holding or handling of the district's funds, notwithstanding the fact that a member of the board of trustees whose funds are on deposit in that bank or savings and loan association is an officer, employee, or stockholder of that bank or saving and loan association, or of a holding company that owns any of the stock of that bank or savings and loan association.

(c) The board of trustees and the board of supervisors of the principal county shall determine a mutually acceptable date for the withdrawal of the district's funds from the county treasury, not to exceed 15 months from the date on which the board of trustees adopts its resolution.

(d) In implementing this section, the district shall comply with Article 1 (commencing with Section 53600) and Article 2 (commencing with Section 5360) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Nothing in this section shall include the district treasurer from depositing the district's funds in the county treasury of the principal county or the State Treasury pursuant to Article 11 (commencing with Section 16429.1) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(e) The district treasurer shall make annual or more frequent written reports to the board of trustees, as the board of trustees shall determine, regarding the receipts and disbursements and balances in the accounts controlled by the district treasurer. The district treasurer shall sign the reports and file them with the secretary.

Section 9078

A district may, by resolution, establish a revolving fund pursuant to Article 15 (commencing with Section 53950) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. The maximum amount of the revolving fund shall not exceed either of the following:

(a) One thousand dollars (\$1,000) if the purpose of the revolving fund is to make change and pay small bills directly.

(b) One hundred ten percent of one-twelfth of the district's adopted budget for the current fiscal year if the purpose of the revolving fund is to pay any authorized expenditures of the district.

Section 9079

(a) The board of trustees shall provide for regular audits of the district's accounts

and records and the district's endowment care fund pursuant to Section 26909 of the Government Code.

(b) The board of trustees shall provide for the annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

HEALTH AND SAFETY CODE

SECTION 9080-9083

Section 9080

Whenever a board of trustees determines that the amount of revenues available to the district or any of its zones is inadequate to meet the costs of providing facilities, programs, projects, and services, the board of trustees may raise revenues pursuant to this chapter or any other provision of law.

Section 9081

A district may levy special taxes pursuant to either of the following:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

(b) The Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

Section 9082

(a) Whenever a board of trustees determines that it is necessary to incur a general obligation bond indebtedness for the acquisition or improvement of real property, the board of trustees may proceed pursuant to Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code. For the purposes of that article, the board of trustees shall be considered the board of directors of the district.

(b) Notwithstanding subdivision (a), a district shall not incur indebtedness that exceeds 2 percent of the assessed value of all taxable property in the district at the time the bonds are issued.

Section 9083

(a) In addition to the other fees authorized by this part, a board of trustees may charge a fee to cover the cost of any other service that a district provides or the cost of

enforcing any regulation for which the fee is charged. No fee charged pursuant to this section shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

(b) Notwithstanding Section 6103 of the Government Code, a board of trustees may charge a fee authorized by this section to other public agencies.

(c) A board of trustees may charge residents or persons who pay property taxes on property located in the district a fee authorized by this section that is less than the fee that it charges to nonresidents or nontaxpayers.

(d) A board of trustees may authorize district employees to waive the payment, in whole or part, of a fee authorized by this section when the board of trustees determines that payment would not be in the public interest. Before authorizing any waiver, the board of trustees shall adopt a resolution that specifies the policies and procedures governing waivers.

HEALTH AND SAFETY CODE

SECTION 9090-9093

Section 9090

(a) Whenever a board of trustees determines that it is in the public interest to provide different services, to provide different levels of services, or to raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this chapter.

(b) The board of trustees shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

- (1) States that the proposal is made pursuant to this chapter.
- (2) Sets forth a description of the boundaries of the territory to be included in the zone.
- (3) States the different services, the different levels of services, or the additional revenues that the district will provide.
- (4) Sets forth the methods by which those services or level of service will be financed.
- (5) States the reasons for forming the zone.
- (6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of trustees shall fix the date, time, and place for the public hearing on the formation of the zone. The district shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation in the district. The district shall mail the notice at least 45 days before the date of the hearing to all owners of property within the proposed zone. The district shall post the notice in at least three public places within the territory of the proposed zone.

Section 9091

(a) At the hearing, the board of trustees shall hear and consider any protests to the formation of a zone pursuant to this chapter. The board of trustees shall terminate the proceedings, if at the conclusion of the hearing, it determines either of the following:

(1) More than 50 percent of the total number of voters residing within the proposed zone have filed and not withdrawn written objections to the formation.

(2) Property owners who own more than 50 percent of the assessed value of all taxable property within the proposed zone have filed written and not withdrawn objections to the formation.

(b) If the board of trustees determines that the written objections have been filed and not withdrawn by 50 percent or less of those voters or property owners, then the board of trustees may proceed to form the zone.

(c) If the resolution or petition for formation of a zone proposes that the zone use special taxes, special benefit assessments, fees for property-related services, or general obligation bonds to finance its purposes, the board of trustees shall proceed according to law.

If the voters or property owners do not approve those funding methods, the zone shall not be formed.

Section 9092

(a) A board of trustees may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 9090 and 9091.

(b) Except as provided in Section 56886 of the Government Code, a local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal

to dissolve a zone.

Section 9093

(a) As determined by the board of trustees and pursuant to the requirements of this part, a zone may provide any service at any level or levels within its boundaries that the district may provide.

(b) As determined by the board of trustees and pursuant to the requirements of this part, a zone may exercise any fiscal powers within its boundaries that the district may exercise.

(c) Any special taxes, special benefit assessments, fees, or general obligation bonds which are intended solely for the support of projects, services, or programs within a zone shall be levied, assessed, and charged within the boundaries of that zone.

HEALTH AND SAFETY CODE

SECTION 9501-9513

Section 9501

This part shall be known and may be cited as the Mausoleum and Columbarium Law.

Section 9502

The purpose of this part is to insure the durability and permanence of mausoleums and columbariums by requiring that they be constructed of such material and workmanship as determined by modern mausoleum-columbarium engineering science, the minimum requirements for which are set forth in this part.

Section 9503

Unless the provision or the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

Section 9504

"Mausoleum" includes any building or structure, used or intended to be used, for the interment of human remains. A columbarium may be built within a mausoleum.

Section 9504.5

"Private mausoleum or columbarium" shall be a freestanding structure which:

(a) Is constructed for use by the members of any one group, and not for the sale of

space therein to any other person.

(b) Does not contain crypts for the interment of more than 12 uncremated human remains, and a columbarium, niches for the interment of not more than 20 cremated human remains.

(c) Is not constructed for occupancy by any person except in the course of making an interment.

Section 9505

"Companion crypts" or "nest of crypts" means two or more crypts entered through a single crypt opening.

Section 9506

"Columbarium" includes any building or structure, used or intended to be used, for the interment of cremated human remains.

Section 9507

"Uniform Building Code" means the 1991 Edition of the Uniform Building Code, with 1992 amendments, adopted and published by the International Conference of Building Officials.

Section 9508

"The Uniform Plumbing Code" means the 1991 Edition of the Plumbing Code, with 1992 amendments, adopted and published by the International Association of Plumbing and Mechanical Officials.

Section 9509

"National Electrical Code" means the 1990 Edition of the National Electrical Code, with 1992 amendments, adopted and published by the National Fire Protection Association.

Section 9510

"Incombustible Material" means and includes any material having an ignition temperature higher than 1,000 degrees Fahrenheit.

Section 9511

"Type I Construction" includes the type of construction designated and specified as Type I Building Construction in the Uniform Building Code.

Section 9512

The provisions of this part shall not apply to any structure or building used or intended to be used for the interment of human remains all portions of which are below the ground.

Section 9513

(a) The provisions of this part shall apply to any cemetery that acquires, constructs, improves, maintains, or repairs a mausoleum or columbarium.

(b) The provisions of this part shall apply to any public cemetery district that acquires, constructs, improves, maintains, or repairs a columbarium.

HEALTH AND SAFETY CODE

SECTION 9525-9528

Section 9525

The building department of every city or city and county shall enforce the provisions of this part within such city or city and county. "Building department" or "department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection, construction or alteration of buildings.

Section 9526

The department, officer or officers of a county who are charged with the enforcement of laws or ordinances regulating the erection, construction or alteration of buildings, shall enforce the provisions of this part within such county but outside the territorial limits of any city.

Section 9527

Any city or county may, by ordinance, designate any department or officer to enforce any portion of this part.

Section 9528

In any city where there is no department or officer charged with or designated for the enforcement of this part, the appropriate department, officer or officers of the county in which such city is located shall enforce this part.

In any county where there is no department or officer charged with or designated for the enforcement of this part, this part shall be enforced by the county engineer, if there is a county engineer, and if not, then by the county surveyor.

HEALTH AND SAFETY CODE
SECTION 9550**Section 9550**

It is unlawful for any person to construct, or cause or permit to be constructed upon any property belonging to or controlled by him, any mausoleum or columbarium, or to make any alterations or changes or do any reconstruction work upon, in or to any building or structure for use as a mausoleum or columbarium without first having applied for and procured a separate building permit for each such mausoleum, columbarium, building or structure, or alteration, from the department or official charged with the enforcement of this part.

HEALTH AND SAFETY CODE
SECTION 9560-9565**Section 9560**

A person desiring a permit shall file a written application with the department or official charged with the enforcement of this part on forms furnished by it. The application shall:

- (a) Show in detail the proposed erection, construction, reconstruction, or alteration.
- (b) State the name and address of the owner.
- (c) State the name and address of the architect, structural engineer, or contractor, if any.
- (d) State that the plans and specifications are true and contain a correct description of the proposed work.
- (e) Give any other data or information required by the department.

Section 9561

The application shall be accompanied by:

- (a) Two full, true and complete sets of plans showing in detail the work proposed and whether it is for new work, reconstruction, or alteration.
- (b) Two sets of specifications describing the proposed work.
- (c) The plans of the lot or land on which the building is proposed to be erected,

reconstructed, or altered.

(d) The written approval of the plans and specifications and consent to the proposed erection, construction, reconstruction, or alteration, executed by the cemetery authority owning or operating the cemetery in which the work is to be performed.

Section 9562

The department shall cause all plans, specifications, and statements to be examined, and, if they conform to the provisions of this part, shall issue a permit.

Section 9563

The department may, from time to time, approve changes in any plans, specifications, or statements, previously approved if the changes are in conformity with the provisions of this part.

Section 9564

The issuance or granting of a permit or approval is not a permit or approval of a violation of any provision of this part.

Section 9565

A true copy of the plans, specifications, and other information submitted or filed upon which a permit is issued, with the approval of the department with which they are filed, stamped or written on the copy, and signed by the officer or officers authorizing the permit, shall be kept upon the premises of the building for which the permit is issued from the commencement of the work until final completion and acceptance, and shall be subject to inspection at all times by proper authorities.

HEALTH AND SAFETY CODE

SECTION 9575

Section 9575

In the case of any refusal, or neglect of the person to whom a permit or approval has been issued to comply with all of the provisions of this part, or in case any false statement or misrepresentation is made in any of the plans, specifications or statements submitted or filed for the permit or approval, the department shall revoke or cancel any permit or approval it has previously issued.

**HEALTH AND SAFETY CODE
SECTION 9580**

Section 9580

Every permit or approval under which no work is done within one year from the date of issuance expires by limitation and a new permit shall be obtained before the work may proceed.

**HEALTH AND SAFETY CODE
SECTION 9590-9592**

Section 9590

When the work is completed in accordance with plans, specifications, and statements previously made and upon which the permit or approval was issued, the owner or contractor shall notify the department.

Section 9591

The department shall inspect or cause the work to be inspected, and shall issue a certificate of occupancy if the work has been performed in accordance with the approved plans, specifications, and statements, and in conformity with the provisions of this part; and if not, it shall refuse to issue the certificate.

Section 9592

When it is found that the building or structure is structurally complete, upon request, a temporary certificate of occupancy shall be issued by the department for the use of a portion or portions of a mausoleum or columbarium for interment of human remains prior to the completion of the entire building or structure.

**HEALTH AND SAFETY CODE
SECTION 9600-9603**

Section 9600

No mausoleum or columbarium shall be constructed and no existing building or structure shall be altered for use as a mausoleum or columbarium unless the entire building or structure, including any portion to be used for any other purpose, is in conformity with the minimum requirements set forth in this chapter.

Any addition to or alteration of any existing mausoleum or columbarium shall conform to the minimum requirements set forth in this chapter.

Section 9600.5

The Cemetery and Funeral Bureau may, in addition to the construction methods and standards allowed in this chapter, adopt regulations for the construction of private mausoleums or private columbariums, which at a minimum, include the following:

- (a) Standards for design and construction for seismic load protection.
- (b) Methods of construction, including solid granite construction.
- (c) Methods of sealing to prevent leakage from crypts.
- (d) Ventilation of crypts.
- (e) Types of incombustible materials which may be used in construction.

Section 9600.6

Private mausoleums or columbariums may be constructed in conformance with the methods and standards set forth in this chapter or in conformance with the construction methods and standards as adopted by the Cemetery and Funeral Bureau.

Section 9601

All mausoleums or columbariums shall be of Type I Construction as specified in the Uniform Building Code, except as otherwise provided in this chapter.

Section 9602

Plumbing in all mausoleums or columbariums shall conform to the provisions of the Uniform Plumbing Code.

Section 9603

Electrical work in all mausoleums or columbariums shall conform to the provisions of the National Electrical Code.

HEALTH AND SAFETY CODE

SECTION 9625-9647

Section 9625

Every mausoleum or columbarium shall be designed and constructed to conform to the earthquake provisions of the Uniform Building Code.

Section 9626

Except as otherwise provided in this chapter, all materials used in the construction, ornamentation, or embellishment of mausoleums or columbariums shall be incombustible. This section shall not apply to crypt vents, temporary openings or partitions, interior doors, fixtures, furniture, or furnishings.

Section 9627

All structural framework shall be of cast-in-place reinforced concrete, or of structural steel sections, or of concrete over metal decking; provided, however, all footings, bearing walls, floor slabs and roofs shall be of cast-in-place reinforced concrete or of concrete over metal decking only. All structural framework shall be designed and constructed in accordance with the Uniform Building Code.

Section 9628

All floors shall be designed and constructed for a live load of not less than 100 pounds per square foot.

Section 9629

Footings shall be designed and constructed to conform to the requirements of the Uniform Building Code or specifications of a licensed geotechnical engineer.

Section 9630

Floor slabs placed on earth shall be constructed of reinforced concrete designed by a licensed structural or civil engineer to include control joints at appropriate intervals to minimize cracks as well as appropriate vapor and moisture barriers as specified by a licensed geotechnical engineer.

Section 9631

Where any wall is constructed against a bank of earth, rock, or other porous material, or where crypts are adjacent to an outside building wall below grade, the wall shall be adequately waterproofed.

Before backfilling, a waterproofed wall shall have a protection board placed against it to prevent damage to the waterproofing during backfilling.

Section 9632

Except as provided in Section 9633, all crypt walls and crypt floor slabs shall be constructed of cast-in-place, reinforced concrete; crypt walls shall conform to structural

design but shall be not less than three and one-half inches in thickness, and crypt floor slabs shall be not less than three inches in thickness.

Section 9633

Horizontal and vertical partitions separating crypts comprising companion crypts or a nest of crypts entered through a single crypt opening may be constructed of precast reinforced concrete; provided, the horizontal partitions are not less than one and one-half inches in thickness and the vertical nonbearing partitions are not less than one inch in thickness, and vertical partitions bearing any load are not less than three inches in thickness, and provided the crypt walls enclosing the nest of crypts are constructed as required in Section 9632. Crypts shall be vented at roof level of the structure, and vents shall continue to a gravel filled trench below the floor of the bottom crypt to provide adequate circulation of air. Nonstructural horizontal and vertical partitions separating columbarium niches may be constructed of precast reinforced concrete or other incombustible material.

Section 9634

Each crypt, including each crypt in a companion crypt or in a nest of crypts referred to in Section 9633, shall be designed for a total live load of 600 pounds.

Section 9635

(a) All individual crypt openings shall be sealed with a solid panel of precast concrete, not less than 1 1/2 inches thick, fiber reinforced cement board not less than 7/16 inch thick, or other incombustible material that meets all of the following requirements:

- (1) A minimum density of 80 pounds per cubic foot.
- (2) A minimum modulus of rupture of 270 pounds per square inch.
- (3) A minimum compressive strength of 2500 pounds per square inch.
- (4) A rating that conforms to Underwriters Laboratories fire hazard class 1.

(b) All panels shall be securely set in with a high quality, nonflammable, resilient, and nonhardening urethane, silicone base, or other appropriate sealant for permanent sealing after interment is made in the crypt. Seal panels shall be set independent of crypt fronts.

Section 9636

All marble floors shall be constructed on a bed of mortar or mastic placed on the floor subslab, with an approved additive to retard efflorescence.

Section 9637

All interior or exterior veneers shall be of stone, cast stone, granite, travertine, or marble, or other material allowed in the Uniform Building Code for type I construction. Cast stone shall meet all requirements for cast stone set forth in the Uniform Building Code.

Section 9638

Material for exterior trim, including exterior crypt and niche fronts, shall be travertine, serpentine marble, or grade A exterior type marble or granite, only.

Section 9639

Joints shall be of uniform thickness and when mortar is used it shall be raked out as work progresses and on completion of installation joints shall be brushed, thoroughly cleaned, wet and carefully filled and pointed.

Section 9640

Grout used for joints and pointing shall conform with the requirements of the Uniform Building Code.

Section 9641

Masonry veneer shall be attached to the supporting wall in accordance with the requirements of the Uniform Building Code.

Section 9642

All base, architraves, wainscoting and all other vertical work other than crypt fronts shall be securely anchored in place with rods, clips, or other suitable anchoring devices of materials as specified in Section 9643. All clips shall be countersunk into the joint surface and set in nonstaining cement or epoxy.

Section 9643

All interior and exterior fastenings for hangers, clips, doors, and other objects shall be of copper base alloy, aluminum, copper or stainless steel of adequate gauges and shall be installed to meet or exceed the seismic requirements of the Uniform Building Code.

Section 9644

All exterior materials used for doors, window frames, skylights, gutters, downspouts, flashings or embellishment shall be of copper, copper base alloy, aluminum, stainless

steel, or other corrosion resistant material of gauges structurally determined.

Section 9645

In the event that during a national emergency, as proclaimed by the Governor for purposes of this section, none of the materials listed in Sections 9643 and 9644 are obtainable, the department may permit the use of galvanized iron or other durable materials.

Section 9646

Roofs shall be constructed of cast-in-place reinforced concrete, and any roof covering shall be "Fire Retardant" in conformity with the requirements of type I construction.

Section 9647

All skylight frames shall be fabricated in conformance with structural requirements, and shall contain wire glass, tempered glass, or plastic of comparable strength and durability.

HEALTH AND SAFETY CODE

SECTION 9675-9677

Section 9675

Every person who violates any provision of this part is guilty of a misdemeanor, punishable by fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment in a county jail not less than 10 days nor more than six months, or by both; and in addition is liable for all costs, expenses, and disbursements paid or incurred by the department or person prosecuting the case.

Section 9676

Every owner or operator of a mausoleum or columbarium erected in violation of this part is guilty of maintaining a public nuisance and upon conviction is punishable by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and in addition is liable for all costs, expenses and disbursements paid or incurred by the department or person prosecuting the case. Each calendar month during which such public nuisance exists constitutes a separate offense.

The costs, expenses, and disbursements shall be fixed by the court having jurisdiction of the case.

Section 9677

The penalties of this chapter shall not apply as to any building which, at the time of issuance of a permit for the construction thereof was in compliance with the laws then existing, if its use is not in violation of the laws for the protection of public health.