

SENATE AMENDMENTS

2nd Printing

By: Chisum

H.B. No. 1468

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of funeral homes, cemeteries, and
crematories; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 154, Finance Code, is
amended by adding Section 154.265 to read as follows:

Sec. 154.265. DEFAULT UNDER CERTAIN CONTRACTS. (a)
Notwithstanding any other law, the purchaser of a trust-funded
prepaid funeral benefits contract may not be considered in default
under the contract if:

(1) the purchaser has paid at least 85 percent of the
contract price; and

(2) the purchaser was unable to pay due to extenuating
financial circumstances.

(b) A funeral provider is not required to provide funeral
merchandise or services under a trust-funded prepaid funeral
benefits contract unless any remaining balance, including any
applicable finance charge, owed under the contract is paid before
the funeral service or the funeral provider agrees in writing to
another payment arrangement.

(c) This section does not affect a purchaser's right to
cancel a trust-funded prepaid funeral benefits contract.

SECTION 2. Section 711.008(b), Health and Safety Code, is
amended to read as follows:

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium:

(A) in a municipality with a population of at least 1.8 million; and

(B) by an organized religious society or sect, that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(i) is owned by the society or sect; and

(ii) is part of the campus on which an existing principal church building is located; ~~or~~

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; or

(5) the establishment and use of a mausoleum that is:

1 (A) constructed beneath the principal church
2 building owned by an organized religious society or sect that:

3 (i) is exempt from income taxation under
4 Section 501(a), Internal Revenue Code of 1986, by being listed
5 under Section 501(c)(3) of that code; and

6 (ii) has recognized religious traditions
7 and practices of interring the remains of ordained clergy in or
8 below the principal church building; and

9 (B) used only for the interment of the remains of
10 ordained clergy of that organized religious society or sect.

11 SECTION 3. Section 711.012(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) The Texas Funeral Service Commission may enforce
14 Section 711.052 and may adopt rules, establish procedures, and
15 prescribe forms to enforce and administer Sections 711.003,
16 711.008, 711.010, 711.011, 711.021-711.035, 711.038, 711.0395,
17 711.041, 711.042, 711.061, and 711.062 relating to cemeteries that
18 are not perpetual care cemeteries.

19 SECTION 4. Section 711.038, Health and Safety Code, is
20 amended by adding Subsection (f) to read as follows:

21 (f) A cemetery organization may not resell the exclusive
22 right of sepulture in a plot unless the exclusive right of sepulture
23 has been reacquired by the cemetery organization. A sanction or
24 other penalty may not be imposed on a cemetery organization that
25 violates this subsection unless:

26 (1) the state agency authorized to enforce this
27 section provides the cemetery organization written notice of the

1 violation; and

2 (2) the cemetery organization does not correct the
3 violation before the 91st day after the date on which the cemetery
4 organization received the notice.

5 SECTION 5. Subchapter C, Chapter 711, Health and Safety
6 Code, is amended by adding Section 711.0395 to read as follows:

7 Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A
8 cemetery organization may not make more than one interment in a plot
9 unless each owner of the plot consents to the interment.

10 SECTION 6. Section 711.041, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who
13 wishes to visit a cemetery or private burial grounds for which no
14 public ingress or egress is available shall have the right to
15 reasonable ingress and egress for the purpose of visiting the
16 cemetery or private burial grounds. This right of access extends
17 only to visitation during the [reasonable] hours determined by the
18 owner or owners of the lands under Subsection (b) or at a reasonable
19 time as provided by Subsection (c) and only for purposes usually
20 associated with cemetery visits.

21 (b) The owner or owners of the lands surrounding the
22 cemetery or private burial grounds may designate the routes of
23 reasonable ingress and egress and reasonable hours of availability.

24 (c) At a time other than the time provided by Subsection
25 (b), the owner or owners of the lands surrounding a cemetery or
26 private burial grounds must allow a person to enter and exit the
27 owner's land for the purpose of visiting the cemetery or private

burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and

(3) the time of the visit is reasonable.

SECTION 7. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0515 to read as follows:

Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing an action under Section 711.051, the attorney general at the request of the Texas Funeral Service Commission may bring an action for injunctive relief to enforce this chapter or a rule or order adopted by the commission under this chapter.

SECTION 8. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0521 to read as follows:

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES.

(a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

SECTION 9. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows:

Sec. 716.0035. ACCEPTANCE OF REMAINS. A crematory

1 establishment may accept deceased human remains for refrigeration
2 before it receives authorization to cremate the remains under
3 Subchapter B.

4 SECTION 10. Subchapter B, Chapter 716, Health and Safety
5 Code, is amended by adding Section 716.054 to read as follows:

6 Sec. 716.054. EXCEPTION; WRITTEN DIRECTIONS. (a) This
7 section applies and a cremation authorization form is not required
8 under this chapter if:

9 (1) the deceased person has left written directions
10 for the disposition by cremation of the deceased person's human
11 remains as provided by Section 711.002(g); and

12 (2) the authorizing agent refuses for any reason to
13 sign a cremation authorization form.

14 (b) The crematory establishment may cremate the deceased
15 person's human remains without receipt of a cremation authorization
16 form signed by the authorizing agent if:

17 (1) cremation costs are paid; and

18 (2) the authorizing agent provides positive written
19 identification that the human remains to be cremated are the human
20 remains of the deceased person.

21 SECTION 11. Section 716.103, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY.

24 (a) A crematory establishment shall place on the exterior of a
25 cremation container a label with the deceased person's name as
26 provided by the authorizing agent unless the crematory
27 establishment knows the name is incorrect.

1 (b) A crematory establishment shall place, with the
2 cremated remains, in the temporary container, urn, or other
3 permanent container, a permanent metal identification disc,
4 bracelet, or other item that can be used to identify the deceased
5 person.

6 SECTION 12. Section 716.104(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) Except as provided by Section 716.054, a [A] funeral
9 director or funeral establishment shall provide a signed written
10 statement to a crematory establishment that the human remains
11 delivered to the crematory establishment were positively
12 identified as the deceased person listed on the cremation
13 authorization form by the authorizing agent or a representative of
14 the authorizing agent delegated as provided by Section 716.053.

15 SECTION 13. Section 716.152(d), Health and Safety Code, is
16 amended to read as follows:

17 (d) To the extent practicable, the crematory establishment
18 shall remove all recoverable cremation residue from the cremation
19 chamber following cremation and pulverize any bone fragments to a
20 particle size of one-eighth inch or less as necessary. The
21 crematory establishment shall remove and dispose of any other
22 material included with the residue.

23 SECTION 14. Section 716.156(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) A crematory establishment shall:

26 (1) release the cremated remains to a representative
27 of the funeral establishment that delivered the deceased human

remains to the crematory establishment;

(2) release the cremated remains to the person authorized to receive the remains on the cremation authorization form; ~~or~~

(3) ship the remains to the shipping address provided by the authorizing agent on the cremation authorization form not later than the 30th day following the date of cremation; or

(4) release the cremated remains according to written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g).

SECTION 15. Subchapter E, Chapter 716, Health and Safety Code, is amended by adding Section 716.204 to read as follows:

Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY; WRITTEN DIRECTIONS. (a) In this section:

(1) "Cemetery organization" has the meaning assigned by Section 711.001.

(2) "Embalmer" has the meaning assigned by Section 651.001, Occupations Code.

(b) If Section 716.054(a) applies, a cemetery organization, a business operating a crematory or columbarium, a funeral director, an embalmer, or a funeral establishment is not criminally liable or liable in a civil action for:

(1) cremating the human remains of a deceased person;
or

(2) carrying out the written directions of the deceased person.

SECTION 16. Section 716.304, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 716.304. SCATTERING REMAINS. A person may scatter
3 cremated remains over uninhabited public land, over a public
4 waterway or sea, or on the private property of a consenting owner[~~7~~
5 ~~if the remains are reduced to a particle size of one-eighth inch or~~
6 ~~less~~]. Unless the container is biodegradable, the cremated remains
7 must be removed from the container before being scattered.

8 SECTION 17. Section 716.351(a), Health and Safety Code, is
9 amended to read as follows:

10 (a) A person commits an offense if the person:

11 (1) cremates human remains without receipt of:

12 (A) a cremation authorization form signed by an
13 authorizing agent; or

14 (B) written directions for the disposition by
15 cremation of the deceased person's human remains as provided in
16 Section 711.002(g);

17 (2) signs a cremation authorization form with actual
18 knowledge that the form contains false or incorrect information; or

19 (3) represents to the public that the person may
20 cremate human remains without being licensed as provided by
21 Subchapter N, Chapter 651, Occupations Code.

22 SECTION 18. Section 651.154(a), Occupations Code, is
23 amended to read as follows:

24 (a) The commission shall set the following fees in amounts
25 reasonable and necessary to administer this chapter:

26 (1) the funeral director's and embalmer's application
27 fee, license fee, duplicate license fee, and reciprocal license

1 fee; and

2 (2) the cemetery, crematory, or funeral establishment
3 license fee, renewal fee, and late renewal penalty.

4 SECTION 19. Section 651.156, Occupations Code, is amended
5 by adding Subsection (d) to read as follows:

6 (d) A subpoena or subpoena duces tecum issued under this
7 section is not effective unless it is issued in compliance with:

8 (1) state and federal law; and

9 (2) commission rules adopted under Subsection (c).

10 SECTION 20. Section 651.165(d), Occupations Code, is
11 amended to read as follows:

12 (d) A person whose license has been expired for one year or
13 more may ~~[not]~~ renew the license by:

14 (1) retaking and passing the applicable examination;

15 (2) paying any applicable fees, including a renewal
16 fee that is equal to two times the normally required renewal fee;
17 and

18 (3) completing any continuing education required
19 under Section 651.266. ~~[The person may obtain a new license by~~
20 ~~complying with the requirements and procedures, including the~~
21 ~~examination requirements, for obtaining an original license.]~~

22 SECTION 21. Subchapter D, Chapter 651, Occupations Code, is
23 amended by adding Section 651.1655 to read as follows:

24 Sec. 651.1655. REINSTATEMENT OF SUSPENDED LICENSE. A
25 person whose license has been suspended may renew the license by
26 paying to the commission a renewal fee that is equal to two times
27 the normally required renewal fee in addition to any penalty

1 assessed by the commission.

2 SECTION 22. The heading to Section 651.267, Occupations
3 Code, is amended to read as follows:

4 Sec. 651.267. REISSUANCE OF REVOKED LICENSE.

5 SECTION 23. Sections 651.267(a) and (d), Occupations Code,
6 are amended to read as follows:

7 (a) On application, the commission may reissue a license
8 issued under this subchapter to a person whose license has been
9 ~~[suspended or]~~ revoked. An application to reissue a license may not
10 be made before the third ~~[first]~~ anniversary of the date of the
11 ~~[suspension or]~~ revocation.

12 (d) A license that has been revoked ~~[or suspended for a~~
13 ~~period of five years or more]~~ may be reinstated only after the
14 applicant:

15 (1) retakes and passes the applicable examination;

16 (2) pays a fee that is equal to two times the normally
17 required renewal fee; and

18 (3) satisfies any other commission requirements,
19 including any continuing education requirements under Section
20 651.266.

21 SECTION 24. Section 651.304(e), Occupations Code, is
22 amended to read as follows:

23 (e) The commission by rule shall prescribe reporting
24 requirements for provisional license holders. The commission shall
25 furnish report forms to be used by a provisional license holder.

26 SECTION 25. Section 651.351, Occupations Code, is amended
27 by amending Subsections (d) and (f) and adding Subsection (i) to

1 read as follows:

2 (d) A funeral establishment must:

3 (1) meet the building, fire safety, and health
4 standards and health ordinances of this state and of the
5 municipality in which the establishment is located;

6 (2) except as provided by Subsection (i), be located
7 at a fixed place that is not tax-exempt property or a cemetery;

8 (3) include facilities in which funeral services may
9 be conducted;

10 (4) have access to rolling stock consisting of at
11 least one motor hearse;

12 (5) include a preparation room containing the
13 facilities, equipment, and supplies required by commission rule to
14 ensure the provision of adequate embalming services;

15 (6) include other facilities as necessary to comply
16 with the sanitary codes of this state and of the municipality in
17 which the room is located; and

18 (7) include a display containing sufficient
19 merchandise to permit reasonable selection, including at least five
20 adult caskets, two of which must be full-size and displayed in a
21 casket showroom.

22 (f) The least expensive casket displayed under Subsection
23 (d)(7) must be a full-size casket displayed in the same general
24 manner as the other full-size caskets are displayed. The three
25 adult caskets that are not required to be full-size under
26 Subsection (d)(7) may be displayed:

27 (1) in a partial panel display; or

1 (2) by video or brochure, online, or in any other
2 manner.

3 (i) Subsection (d)(2) does not apply to a funeral
4 establishment located on tax-exempt property of an accredited
5 postsecondary educational institution that is operated in
6 connection with an accredited educational program for funeral
7 services.

8 SECTION 26. Section 651.353(d), Occupations Code, is
9 amended to read as follows:

10 (d) This section does not apply to:

11 (1) a family, fraternal, or community cemetery that is
12 not larger than 10 acres;

13 (2) an unincorporated association of plot owners not
14 operated for profit;

15 (3) a church, a religious society or denomination, or
16 an entity solely administering the temporalities of a church or
17 religious society or denomination; ~~[or]~~

18 (4) a public cemetery owned by this state, a county, or
19 a municipality; or

20 (5) a perpetual care cemetery.

21 SECTION 27. Sections 651.354(a), (c), and (d), Occupations
22 Code, are amended to read as follows:

23 (a) The commission shall mail written notice to a cemetery
24 or funeral establishment of the impending expiration of the
25 establishment's license not later than the 30th day before the
26 expiration date of the license. The ~~[Except as provided by~~
27 ~~Subsection (d), the]~~ notice must state that:

1 (1) to renew the license, the cemetery or funeral
2 establishment must pay the renewal fee not later than the license
3 expiration date [~~September 30~~]; and

4 (2) the license is automatically renewed on receipt of
5 the renewal fee.

6 (c) If the license is expired for longer than 30 days, the
7 cemetery or funeral establishment [~~may not renew the license and~~]
8 may not operate as a cemetery or funeral establishment until the
9 renewal fee and the late payment penalty are paid [~~establishment is~~
10 ~~issued a new license in the manner provided for issuing an original~~
11 ~~license~~].

12 (d) This section does not apply to [~~To renew a license for~~] a
13 perpetual care cemetery [~~, the cemetery must submit a renewal on a~~
14 ~~form prescribed by the commission. The license is renewed on~~
15 ~~receipt of the form by the commission~~].

16 SECTION 28. Subchapter H, Chapter 651, Occupations Code, is
17 amended by adding Section 651.355 to read as follows:

18 Sec. 651.355. PERPETUAL CARE CEMETERY REGISTRATION. (a)
19 The Texas Department of Banking shall provide annually to the
20 commission a list of perpetual care cemeteries, including the
21 address and other contact information for each cemetery. The
22 commission shall annually register each perpetual care cemetery on
23 that list.

24 (b) A perpetual care cemetery is not required to pay a
25 registration fee or renewal fee under this chapter.

26 SECTION 29. Subchapter J, Chapter 651, Occupations Code, is
27 amended by adding Section 651.461 to read as follows:

1 Sec. 651.461. DEFENSE TO VIOLATION. A person licensed
2 under this chapter does not violate this chapter by engaging in
3 conduct regarding funeral arrangements under the direction of a
4 person who:

5 (1) represents to the license holder that the person
6 is authorized to make funeral arrangements for the deceased; and

7 (2) provides written directions to the license holder
8 in the manner provided by Section 711.002, Health and Safety Code.

9 SECTION 30. Section 651.507(a), Occupations Code, is
10 amended to read as follows:

11 (a) The commission or an administrative law judge employed
12 by the State Office of Administrative Hearings shall review each
13 disciplinary proceeding to determine whether the license holder has
14 previously violated ~~[committed]~~ the same provision of this chapter
15 or rule adopted under this chapter ~~[type of violation on one or more~~
16 ~~previous occasions]~~. If it is determined that the license holder
17 has previously violated ~~[committed]~~ the same provision of this
18 chapter or rule adopted under this chapter ~~[type of violation]~~, the
19 commission or administrative law judge shall impose a disciplinary
20 action that is more severe than that imposed on the previous
21 occasion.

22 SECTION 31. Section 651.658(d), Occupations Code, is
23 amended to read as follows:

24 (d) If the license is expired for longer than 30 days, the
25 crematory establishment may not operate a crematory until the
26 renewal fee and late payment penalty are paid ~~[A person may not~~
27 ~~renew a license that has been expired for more than 30 days. A~~

~~1 person holding a license that has been expired for more than 30 days
2 must apply for a new license as required by this subchapter to
3 conduct a crematory business].~~

SECTION 32. The following are repealed:

(1) Section 716.004(b), Health and Safety Code; and

(2) Sections 651.304(b) and (c), 651.651(3), and
651.656(d), Occupations Code.

SECTION 33. Section 154.265, Finance Code, as added by this Act, applies only to a contract that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 34. The change in law made by Section 711.0521, Health and Safety Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 35. Sections 651.165(d), 651.354, and 651.658(d), Occupations Code, as amended by this Act, apply only to a license that expires on or after the effective date of this Act. A license that expired before the effective date of this Act is governed by the law in effect at the time the license expired, and the former law is continued in effect for that purpose.

1 SECTION 36. Section 651.1655, Occupations Code, as added by
2 this Act, applies only to a license suspended on or after the
3 effective date of this Act. A license suspended before the
4 effective date of this Act is governed by the law in effect at the
5 time the license was suspended, and the former law is continued in
6 effect for that purpose.

7 SECTION 37. Section 651.267, Occupations Code, as amended
8 by this Act, applies only to a license revoked on or after the
9 effective date of this Act. A license revoked before the effective
10 date of this Act is governed by the law in effect at the time the
11 license was revoked, and the former law is continued in effect for
12 that purpose.

13 SECTION 38. Not later than January 1, 2010, the Texas
14 Department of Banking shall provide the initial list of perpetual
15 care cemeteries to the Texas Funeral Service Commission as required
16 by Section 651.355, Occupations Code, as added by this Act.

17 SECTION 39. This Act takes effect September 1, 2009.

ADOPTED

MAY 14 2009

Letty Spaw
Secretary of the Senate

By: *Devell*

H.B. No. 1468

Substitute the following for H.B. No. 1468:

By: *Devell*

C.S. H.B. No. 1468

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12 contract price; and

13 (2) the purchaser was unable to pay due to extenuating
14 financial circumstances.

15 (b) A funeral provider is not required to provide funeral
16 merchandise or services under a trust-funded prepaid funeral
17 benefits contract unless any remaining balance, including any
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19 the funeral service or the funeral provider agrees in writing to
20 another payment arrangement.

21 (c) This section does not affect a purchaser's right to
22 cancel a trust-funded prepaid funeral benefits contract.

23 SECTION 2. Section 711.008(b), Health and Safety Code, is
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(b) Subsection (a) does not apply to:

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(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium:

(A) in a municipality with a population of at least 1.8 million; and

(B) by an organized religious society or sect, that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(i) is owned by the society or sect; and

(ii) is part of the campus on which an existing principal church building is located; ~~[or]~~

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; or

(5) the establishment and use of a mausoleum that is:

1 (A) constructed beneath the principal church
2 building owned by an organized religious society or sect that:

3 (i) is exempt from income taxation under
4 Section 501(a), Internal Revenue Code of 1986, by being listed
5 under Section 501(c)(3) of that code; and

6 (ii) has recognized religious traditions
7 and practices of interring the remains of ordained clergy in or
8 below the principal church building; and

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21 right of sepulture in a plot unless the exclusive right of sepulture
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23 other penalty may not be imposed on a cemetery organization that
24 violates this subsection unless:

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26 section provides the cemetery organization written notice of the
27 violation; and

1 (2) the cemetery organization does not correct the
2 violation before the 91st day after the date on which the cemetery
3 organization received the notice.

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5 Code, is amended by adding Section 711.0395 to read as follows:

6 Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A
7 cemetery organization may not make more than one interment in a plot
8 unless each owner of the plot consents to the interment.

9 SECTION 6. Section 711.041, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who
12 wishes to visit a cemetery or private burial grounds for which no
13 public ingress or egress is available shall have the right to
14 reasonable ingress and egress for the purpose of visiting the
15 cemetery or private burial grounds. This right of access extends
16 only to visitation during the [reasonable] hours determined by the
17 owner or owners of the lands under Subsection (b) or at a reasonable
18 time as provided by Subsection (c) and only for purposes usually
19 associated with cemetery visits.

20 (b) The owner or owners of the lands surrounding the
21 cemetery or private burial grounds may designate the routes of
22 reasonable ingress and egress and reasonable hours of availability.

23 (c) At a time other than the time provided by Subsection
24 (b), the owner or owners of the lands surrounding a cemetery or
25 private burial grounds must allow a person to enter and exit the
26 owner's land for the purpose of visiting the cemetery or private
27 burial grounds if:

1 (1) the person provides written notice to the owner or
2 owners of the lands surrounding the cemetery or private burial
3 grounds of the person's visit;

4 (2) the person provides the notice required by
5 Subdivision (1) not later than the 14th day before the date the
6 person wishes to visit the cemetery; and

7 (3) the time of the visit is reasonable.

8 SECTION 7. Subchapter D, Chapter 711, Health and Safety
9 Code, is amended by adding Section 711.0515 to read as follows:

10 Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing
11 an action under Section 711.051, the attorney general at the
12 request of the Texas Funeral Service Commission may bring an action
13 for injunctive relief to enforce this chapter or a rule or order
14 adopted by the commission under this chapter.

15 SECTION 8. Subchapter D, Chapter 711, Health and Safety
16 Code, is amended by adding Section 711.0521 to read as follows:

17 Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES.

18 (a) A person who is an individual, firm, association, corporation,
19 or municipality, or an officer, agent, or employee of an
20 individual, firm, association, corporation, or municipality,
21 commits an offense if the person interferes with a person's
22 reasonable right to ingress and egress under Section 711.041.

23 (b) An offense under this section is a Class C misdemeanor.

24 SECTION 9. Subchapter A, Chapter 716, Health and Safety
25 Code, is amended by adding Section 716.0035 to read as follows:

26 Sec. 716.0035. ACCEPTANCE OF REMAINS. A crematory
27 establishment may accept deceased human remains for refrigeration

1 before it receives authorization to cremate the remains under
2 Subchapter B.

3 SECTION 10. Subchapter B, Chapter 716, Health and Safety
4 Code, is amended by adding Section 716.054 to read as follows:

5 Sec. 716.054. EXCEPTION; WRITTEN DIRECTIONS. (a) This
6 section applies and a cremation authorization form is not required
7 under this chapter if:

8 (1) the deceased person has left written directions
9 for the disposition by cremation of the deceased person's human
10 remains as provided by Section 711.002(g); and

11 (2) the authorizing agent refuses for any reason to
12 sign a cremation authorization form.

13 (b) The crematory establishment may cremate the deceased
14 person's human remains without receipt of a cremation authorization
15 form signed by the authorizing agent if:

16 (1) cremation costs are paid; and

17 (2) the authorizing agent provides positive written
18 identification that the human remains to be cremated are the human
19 remains of the deceased person.

20 SECTION 11. Section 716.103, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY.

23 (a) A crematory establishment shall place on the exterior of a
24 cremation container a label with the deceased person's name as
25 provided by the authorizing agent unless the crematory
26 establishment knows the name is incorrect.

27 (b) A crematory establishment shall place, with the

1 cremated remains, in the temporary container, urn, or other
2 permanent container, a permanent metal identification disc,
3 bracelet, or other item that can be used to identify the deceased
4 person.

5 SECTION 12. Section 716.104(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) Except as provided by Section 716.054, a [A] funeral
8 director or funeral establishment shall provide a signed written
9 statement to a crematory establishment that the human remains
10 delivered to the crematory establishment were positively
11 identified as the deceased person listed on the cremation
12 authorization form by the authorizing agent or a representative of
13 the authorizing agent delegated as provided by Section 716.053.

14 SECTION 13. Section 716.152(d), Health and Safety Code, is
15 amended to read as follows:

16 (d) To the extent practicable, the crematory establishment
17 shall remove all recoverable cremation residue from the cremation
18 chamber following cremation and pulverize any bone fragments to a
19 particle size of one-eighth inch or less as necessary. The
20 crematory establishment shall remove and dispose of any other
21 material included with the residue.

22 SECTION 14. Section 716.156(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) A crematory establishment shall:

25 (1) release the cremated remains to a representative
26 of the funeral establishment that delivered the deceased human
27 remains to the crematory establishment;

1 (2) release the cremated remains to the person
2 authorized to receive the remains on the cremation authorization
3 form; [~~or~~]

4 (3) ship the remains to the shipping address provided
5 by the authorizing agent on the cremation authorization form not
6 later than the 30th day following the date of cremation; or

7 (4) release the cremated remains according to written
8 directions for the disposition by cremation of the deceased
9 person's human remains as provided by Section 711.002(g).

10 SECTION 15. Subchapter E, Chapter 716, Health and Safety
11 Code, is amended by adding Section 716.204 to read as follows:

12 Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY;
13 WRITTEN DIRECTIONS. (a) In this section:

14 (1) "Cemetery organization" has the meaning assigned
15 by Section 711.001.

16 (2) "Embalmer" has the meaning assigned by Section
17 651.001, Occupations Code.

18 (b) If Section 716.054(a) applies, a cemetery organization,
19 a business operating a crematory or columbarium, a funeral
20 director, an embalmer, or a funeral establishment is not criminally
21 liable or liable in a civil action for:

22 (1) cremating the human remains of a deceased person;
23 or

24 (2) carrying out the written directions of the
25 deceased person.

26 SECTION 16. Section 716.304, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 716.304. SCATTERING REMAINS. A person may scatter
2 cremated remains over uninhabited public land, over a public
3 waterway or sea, or on the private property of a consenting owner[
4 ~~if the remains are reduced to a particle size of one-eighth inch or~~
5 ~~less~~]. Unless the container is biodegradable, the cremated remains
6 must be removed from the container before being scattered.

7 SECTION 17. Section 716.351(a), Health and Safety Code, is
8 amended to read as follows:

9 (a) A person commits an offense if the person:

10 (1) cremates human remains without receipt of:

11 (A) a cremation authorization form signed by an
12 authorizing agent; or

13 (B) written directions for the disposition by
14 cremation of the deceased person's human remains as provided in
15 Section 711.002(g);

16 (2) signs a cremation authorization form with actual
17 knowledge that the form contains false or incorrect information; or

18 (3) represents to the public that the person may
19 cremate human remains without being licensed as provided by
20 Subchapter N, Chapter 651, Occupations Code.

21 SECTION 18. Section 651.154(a), Occupations Code, is
22 amended to read as follows:

23 (a) The commission shall set the following fees in amounts
24 reasonable and necessary to administer this chapter:

25 (1) the funeral director's and embalmer's application
26 fee, license fee, duplicate license fee, and reciprocal license
27 fee; and

1 (2) the cemetery, crematory, or funeral establishment
2 license fee, renewal fee, and late renewal penalty.

3 SECTION 19. Section 651.156, Occupations Code, is amended
4 by adding Subsection (d) to read as follows:

5 (d) A subpoena or subpoena duces tecum issued under this
6 section is not effective unless it is issued in compliance with:

7 (1) state and federal law; and

8 (2) commission rules adopted under Subsection (c).

9 SECTION 20. Section 651.165(d), Occupations Code, is
10 amended to read as follows:

11 (d) A person whose license has been expired for one year or
12 more may ~~[not]~~ renew the license by:

13 (1) retaking and passing the applicable examination;

14 (2) paying any applicable fees, including a renewal
15 fee that is equal to two times the normally required renewal fee;
16 and

17 (3) completing any continuing education required
18 under Section 651.266. [The person may obtain a new license by
19 complying with the requirements and procedures, including the
20 examination requirements, for obtaining an original license.]

21 SECTION 21. Subchapter D, Chapter 651, Occupations Code, is
22 amended by adding Section 651.1655 to read as follows:

23 Sec. 651.1655. REINSTATEMENT OF SUSPENDED LICENSE. A
24 person whose license has been suspended may renew the license by
25 paying to the commission a renewal fee that is equal to two times
26 the normally required renewal fee in addition to any penalty
27 assessed by the commission.

1 SECTION 22. The heading to Section 651.267, Occupations
2 Code, is amended to read as follows:

3 Sec. 651.267. REISSUANCE OF REVOKED LICENSE.

4 SECTION 23. Sections 651.267(a) and (d), Occupations Code,
5 are amended to read as follows:

6 (a) On application, the commission may reissue a license
7 issued under this subchapter to a person whose license has been
8 ~~[suspended or]~~ revoked. An application to reissue a license may not
9 be made before the third ~~[first]~~ anniversary of the date of the
10 ~~[suspension or]~~ revocation.

11 (d) A license that has been revoked ~~[or suspended for a~~
12 ~~period of five years or more]~~ may be reinstated only after the
13 applicant:

- 14 (1) retakes and passes the applicable examination;
15 (2) pays a fee that is equal to two times the normally
16 required renewal fee; and
17 (3) satisfies any other commission requirements,
18 including any continuing education requirements under Section
19 651.266.

20 SECTION 24. Section 651.304(e), Occupations Code, is
21 amended to read as follows:

22 (e) The commission by rule shall prescribe reporting
23 requirements for provisional license holders. The commission shall
24 furnish report forms to be used by a provisional license holder.

25 SECTION 25. Section 651.351, Occupations Code, is amended
26 by amending Subsections (d) and (f) and adding Subsection (i) to
27 read as follows:

1 (d) A funeral establishment must:

2 (1) meet the building, fire safety, and health
3 standards and health ordinances of this state and of the
4 municipality in which the establishment is located;

5 (2) except as provided by Subsection (i), be located
6 at a fixed place that is not tax-exempt property or a cemetery;

7 (3) include facilities in which funeral services may
8 be conducted;

9 (4) have access to rolling stock consisting of at
10 least one motor hearse;

11 (5) include a preparation room containing the
12 facilities, equipment, and supplies required by commission rule to
13 ensure the provision of adequate embalming services;

14 (6) include other facilities as necessary to comply
15 with the sanitary codes of this state and of the municipality in
16 which the room is located; and

17 (7) include a display containing sufficient
18 merchandise to permit reasonable selection, including at least five
19 adult caskets, two of which must be full-size and displayed in a
20 casket showroom.

21 (f) The least expensive casket displayed under Subsection
22 (d)(7) must be a full-size casket displayed in the same general
23 manner as the other full-size caskets are displayed. The three
24 adult caskets that are not required to be full-size under
25 Subsection (d)(7) may be displayed:

26 (1) in a partial panel display; or

27 (2) by video or brochure, online, or in any other

1 manner.

2 (i) Subsection (d)(2) does not apply to a funeral
3 establishment that is:

4 (1) located on the real property of a public junior
5 college; and

6 (2) operated in connection with an accredited
7 educational program in funeral services offered by the public
8 junior college.

9 SECTION 26. Section 651.353(d), Occupations Code, is
10 amended to read as follows:

11 (d) This section does not apply to:

12 (1) a family, fraternal, or community cemetery that is
13 not larger than 10 acres;

14 (2) an unincorporated association of plot owners not
15 operated for profit;

16 (3) a church, a religious society or denomination, or
17 an entity solely administering the temporalities of a church or
18 religious society or denomination; ~~[or]~~

19 (4) a public cemetery owned by this state, a county, or
20 a municipality; or

21 (5) a perpetual care cemetery.

22 SECTION 27. Sections 651.354(a), (c), and (d), Occupations
23 Code, are amended to read as follows:

24 (a) The commission shall mail written notice to a cemetery
25 or funeral establishment of the impending expiration of the
26 establishment's license not later than the 30th day before the
27 expiration date of the license. The ~~[Except as provided by~~

1 ~~Subsection (d), the~~ notice must state that:

2 (1) to renew the license, the cemetery or funeral
3 establishment must pay the renewal fee not later than the license
4 expiration date ~~[September 30]~~; and

5 (2) the license is automatically renewed on receipt of
6 the renewal fee.

7 (c) If the license is expired for longer than 30 days, the
8 cemetery or funeral establishment ~~[may not renew the license and]~~
9 may not operate as a cemetery or funeral establishment until the
10 renewal fee and the late payment penalty are paid ~~[establishment is~~
11 ~~issued a new license in the manner provided for issuing an original~~
12 ~~license]~~.

13 (d) This section does not apply to ~~[To renew a license for]~~ a
14 perpetual care cemetery ~~[, the cemetery must submit a renewal on a~~
15 ~~form prescribed by the commission. The license is renewed on~~
16 ~~receipt of the form by the commission]~~.

17 SECTION 28. Subchapter H, Chapter 651, Occupations Code, is
18 amended by adding Section 651.355 to read as follows:

19 Sec. 651.355. PERPETUAL CARE CEMETERY REGISTRATION. (a)
20 The Texas Department of Banking shall provide annually to the
21 commission a list of perpetual care cemeteries, including the
22 address and other contact information for each cemetery. The
23 commission shall annually register each perpetual care cemetery on
24 that list.

25 (b) A perpetual care cemetery is not required to pay a
26 registration fee or renewal fee under this chapter.

27 SECTION 29. Subchapter J, Chapter 651, Occupations Code, is

1 amended by adding Section 651.461 to read as follows:

2 Sec. 651.461. DEFENSE TO VIOLATION. A person licensed
3 under this chapter does not violate this chapter by engaging in
4 conduct regarding funeral arrangements under the direction of a
5 person who:

6 (1) represents to the license holder that the person
7 is authorized to make funeral arrangements for the deceased; and

8 (2) provides written directions to the license holder
9 in the manner provided by Section 711.002, Health and Safety Code.

10 SECTION 30. Section 651.507(a), Occupations Code, is
11 amended to read as follows:

12 (a) The commission or an administrative law judge employed
13 by the State Office of Administrative Hearings shall review each
14 disciplinary proceeding to determine whether the license holder has
15 previously violated ~~[committed]~~ the same provision of this chapter
16 or rule adopted under this chapter ~~[type of violation on one or more~~
17 ~~previous occasions]~~. If it is determined that the license holder
18 has previously violated ~~[committed]~~ the same provision of this
19 chapter or rule adopted under this chapter ~~[type of violation]~~, the
20 commission or administrative law judge shall impose a disciplinary
21 action that is more severe than that imposed on the previous
22 occasion.

23 SECTION 31. Section 651.658(d), Occupations Code, is
24 amended to read as follows:

25 (d) If the license is expired for longer than 30 days, the
26 crematory establishment may not operate a crematory until the
27 renewal fee and late payment penalty are paid ~~[A person may not~~

1 ~~renew a license that has been expired for more than 30 days. A~~
2 ~~person holding a license that has been expired for more than 30 days~~
3 ~~must apply for a new license as required by this subchapter to~~
4 ~~conduct a crematory business].~~

5 SECTION 32. The following are repealed:

- 6 (1) Section 716.004(b), Health and Safety Code; and
7 (2) Sections 651.304(b) and (c), 651.651(3), and
8 651.656(d), Occupations Code.

9 SECTION 33. Section 154.265, Finance Code, as added by this
10 Act, applies only to a contract that is entered into on or after the
11 effective date of this Act. A contract entered into before the
12 effective date of this Act is governed by the law in effect on the
13 date the contract was entered into, and the former law is continued
14 in effect for that purpose.

15 SECTION 34. The change in law made by Section 711.0521,
16 Health and Safety Code, as added by this Act, applies only to an
17 offense committed on or after the effective date of this Act. An
18 offense committed before the effective date of this Act is covered
19 by the law in effect when the offense was committed, and the former
20 law is continued in effect for that purpose. For purposes of this
21 section, an offense was committed before the effective date of this
22 Act if any element of the offense was committed before that date.

23 SECTION 35. Sections 651.165(d), 651.354, and 651.658(d),
24 Occupations Code, as amended by this Act, apply only to a license
25 that expires on or after the effective date of this Act. A license
26 that expired before the effective date of this Act is governed by
27 the law in effect at the time the license expired, and the former

1 law is continued in effect for that purpose.

2 SECTION 36. Section 651.1655, Occupations Code, as added by
3 this Act, applies only to a license suspended on or after the
4 effective date of this Act. A license suspended before the
5 effective date of this Act is governed by the law in effect at the
6 time the license was suspended, and the former law is continued in
7 effect for that purpose.

8 SECTION 37. Section 651.267, Occupations Code, as amended
9 by this Act, applies only to a license revoked on or after the
10 effective date of this Act. A license revoked before the effective
11 date of this Act is governed by the law in effect at the time the
12 license was revoked, and the former law is continued in effect for
13 that purpose.

14 SECTION 38. Not later than January 1, 2010, the Texas
15 Department of Banking shall provide the initial list of perpetual
16 care cemeteries to the Texas Funeral Service Commission as required
17 by Section 651.355, Occupations Code, as added by this Act.

18 SECTION 39. This Act takes effect September 1, 2009.

ADOPTED

MAY 14 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Carmu*

1 Amend C.S.H.B. No. 1468 (senate committee printing) by adding
2 the following appropriately numbered section and renumbering the
3 sections of the bill accordingly:

4 SECTION ____ Subtitle B, Title 8, Health and Safety Code, is
5 amended by adding Chapter 695 to read as follows:

6 CHAPTER 695. IN-CASKET IDENTIFICATION

7 Sec. 695.001. DEFINITIONS. In this chapter:

8 (1) "Casket" means a container used to hold the
9 remains of a deceased person.

10 (2) "Commission" means the Texas Funeral Service
11 Commission.

12 Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The
13 commission shall ensure a casket contains identification of the
14 deceased person, including the person's name, date of birth, and
15 date of death.

16 Sec. 695.003. RULES. The commission may adopt rules to
17 enforce this chapter.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1468 by Chisum (Relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1468, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	\$65,142	(\$65,142)	1.0
2011	\$59,142	(\$59,142)	1.0
2012	\$62,099	(\$62,099)	1.0
2013	\$62,099	(\$62,099)	1.0
2014	\$65,204	(\$65,204)	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code and the Occupations Code to clarify the regulation and license requirements of funeral homes, cemeteries, and crematories. The bill would authorize the Funeral Service Commission (FSC) to enforce criminal penalties against persons or entities that commit specific offenses concerning laws and rules regarding cemeteries. Additionally, the bill would clarify that a person or entity commits an offense if they interfere with a person's right to reasonable ingress and egress to cemeteries.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis provided by FSC, the bill would require 1 new FTE, legal assistant, to review additional complaints regarding the validity of agreements between landowners and the public regarding ingress and egress from cemeteries. The FTE would cost \$46,000 for salary and wages with associated benefits cost of \$13,142 in each fiscal year of 2010-11. Additional one time costs in fiscal year 2010 would be \$6,000. This analysis assumes that any increased costs resulting from the implementation of the provisions of the bill would be offset with fee-generated general revenue.

Based on the analysis provided by the Department of Banking, this bill would have no fiscal impact on the agency.

Technology

The bill would have a technology impact of \$3,500 in fiscal year 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 513 Funeral Service Commission, 451 Department of Banking

LBB Staff: JOB, CH, CL, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 10, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1468 by Chisum (Relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1468, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	\$65,142	(\$65,142)	1.0
2011	\$59,142	(\$59,142)	1.0
2012	\$62,099	(\$62,099)	1.0
2013	\$62,099	(\$62,099)	1.0
2014	\$65,204	(\$65,204)	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code and the Occupations Code to clarify the regulation and license requirements of funeral homes, cemeteries, and crematories. The bill would authorize the Funeral Service Commission (FSC) to enforce criminal penalties against persons or entities that commit specific offenses concerning laws and rules regarding cemeteries. Additionally, the bill would clarify that a person or entity commits an offense if they interfere with a person's right to reasonable ingress and egress to cemeteries.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis provided by FSC, the bill would require 1 new FTE, legal assistant, to review additional complaints regarding the validity of agreements between landowners and the public regarding ingress and egress from cemeteries. The FTE would cost \$46,000 for salary and wages with associated benefits cost of \$13,142 in each fiscal year of 2010-11. Additional one time costs in fiscal year 2010 would be \$6,000. This analysis assumes that any increased costs resulting from the implementation of the provisions of the bill would be offset with fee-generated general revenue.

Based on the analysis provided by the Department of Banking, this bill would have no fiscal impact on the agency.

Technology

The bill would have a technology impact of \$3,500 in fiscal year 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 513 Funeral Service Commission, 451 Department of Banking

LBB Staff: JOB, CH, CL, MW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 6, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1468 by Chisum (Relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1468, As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	\$65,142	(\$65,142)	1.0
2011	\$59,142	(\$59,142)	1.0
2012	\$62,099	(\$62,099)	1.0
2013	\$62,099	(\$62,099)	1.0
2014	\$65,204	(\$65,204)	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code and the Occupations Code to clarify the regulation and license requirements of funeral homes, cemeteries, and crematories. The bill would authorize the Funeral Service Commission (FSC) to enforce criminal penalties against persons or entities that commit specific offenses concerning laws and rules regarding cemeteries. Additionally, the bill would clarify that a person or entity commits an offense if they interfere with a person's right to reasonable ingress and egress to cemeteries.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis provided by FSC, the bill would require 1 new FTE, legal assistant, to review additional complaints regarding the validity of agreements between landowners and the public regarding ingress and egress from cemeteries. The FTE would cost \$46,000 for salary and wages with associated benefits cost of \$13,142 in each fiscal year of 2010-11. Additional one time costs in fiscal year 2010 would be \$6,000. This analysis assumes that any increased costs resulting from the implementation of the provisions of this bill would be offset with fee-generated general revenue.

Based on the analysis provided by the Department of Banking, this bill would have no fiscal impact on the agency.

Technology

The bill would have a technology impact of \$3,500 in fiscal year 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 451 Department of Banking, 513 Funeral Service Commission

LBB Staff: JOB, CL, MW, CH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 23, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1468 by Chisum (Relating to the regulation of funeral homes, cemeteries, and crematories; providing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code and the Occupations Code to clarify the regulation and license requirements of funeral homes, cemeteries, and crematories. The bill would require the Texas Department of Banking to provide a list of perpetual care cemeteries to the Funeral Service Commission no later than January 1, 2010. The bill would allow the Funeral Service Commission to adopt rules, establish procedures, and create forms to enforce and administer the provisions of the bill. The Funeral Service Commission and the Texas Department of Banking indicate that any costs associated with the bill could be absorbed within each agency's existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 451 Department of Banking, 513 Funeral Service Commission

LBB Staff: JOB, CL, CH

