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Brief Explanation of Senate Bill No. 323

S.B. 323 revises various provisions of 3 chapters of NRS:

Chapter 642 (Funeral Directors, Embalmers and Operators of Cemeteries and
Crematories)

Chapter 451 (Dead Bodies)

Chapter 452 (Cemeteries)

1. The main changes proposed by this bill are:

(a) The actions and remedies authorized by chapter 642 of NRS are specifically declared to be cumulative and not exclusive, thereby making it clear that, for example, an administrative action of the Board to suspend or revoke a license, certificate or permit based upon a specific act would not preclude criminal prosecution for the same act.

(Section 4)

(b) The Board is authorized to enter an order requiring a person to desist or refrain from engaging in a violation if the Board has reasonable cause to believe that any person is violating or threatens or intends to violate a provision of chapters 451, 452 or 642 of NRS.

(Section 5)

(c) The Board is authorized, upon 5 days' notice and a preliminary hearing, to enter an order immediately suspending a license, certificate or permit for not more than 60 days pending a hearing. (Section 6)

(d) The name of the regulatory board responsible for enforcing the provisions of these 3 chapters is changed from the "State Board of Funeral Directors, Embalmers and Operators of Cemeteries and Crematories" to the "Nevada State Funeral Board." (Section 10)

(e) The Board is authorized to adopt any regulations it deems necessary. This grant of authority replaces various specific grants of authority to adopt regulations relating to various areas regulated by the Board, thereby making it less likely that a particular regulation that the Board deems necessary to perform its statutory duties could fall outside the Board's authority to adopt. Additionally, the Board is specifically authorized to adopt by regulation additional fees relating to any license, permit or certificate issued by the Board or any service provided by the Board. This is the only section in the bill that requires a 2/3s majority vote. The Board has no immediate plans to adopt and charge new or additional fees. However, because the Board is solely self-sustaining financially, if the Board does not have the authority to charge a fee when necessary, there can be a 2 year or more lag between the time a new service to be rendered by the board or new testing procedure or other thing desired by the persons regulated by the Board could be made available and the time that the Board it is actually made available once the Legislature has acted to approve the new or increased fee to pay for it. (Section 13)

(f) A person regulated by the Board under chapter 451, 452 or 642 of NRS is authorized to seek judicial review of any decision of the Board (rather than petition for a trial de novo as is currently the case) pursuant to chapter 233B of NRS related to contested cases except that a person may not seek judicial review of the immediate suspension of a license, permit or certificate as is authorized in section 6. (Section 50)

2. The remaining sections of the bill either: (1) revise references to reflect the main changes previously described; or (2) make small changes to further conform the regulatory authority of the Board to be more consistent with other regulatory boards and better serve the needs of the Board and the persons regulated by the Board.

3. The bill, if enacted, would become effective on July 1, 2003.