

ASSEMBLY BILL NO. 203—ASSEMBLYWOMAN JOINER

PREFILED FEBRUARY 13, 2017

JOINT SPONSOR: SENATOR RATTI

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing cemeteries.
(BDR 40-723)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 7)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to cemeteries; clarifying that a cemetery authority is not authorized to order the disinterment and removal of human remains from certain burial plots; requiring a governmental authority to make certain determinations before a cemetery authority may order the disinterment and removal of human remains; requiring a cemetery authority to prescribe a time for the removal and reinterment of human remains under certain circumstances; providing when a receptacle for reinterment will be deemed suitable; authorizing certain persons to maintain an action to require a cemetery owner to keep the cemetery in an orderly condition; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes the cemetery authority to order the disinterment and
- 2 removal of all human remains interred in all or any part of a cemetery if either the
- 3 cemetery authority or a governmental authority determines that the further
- 4 maintenance of all or any part of the cemetery as a burial place is not in accordance
- 5 with the health, safety, comfort or welfare of the public. (NRS 451.070) **Section 1**
- 6 of this bill clarifies that a cemetery authority may not: (1) order the disinterment
- 7 and removal of remains from a burial plot that is owned in fee simple by a person
- 8 other than the cemetery authority; or (2) sell, mortgage or encumber or order the



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9 sale, mortgage or encumbrance of such a burial plot. **Section 4** of this bill removes
10 the authority of a cemetery authority to determine unilaterally that the further
11 maintenance of all or any part of the cemetery as a burial place is not in accordance
12 with the health, safety, comfort or welfare of the public. Before the cemetery
13 authority may order the disinterment and removal of human remains, **section 4**
14 requires the governmental authority to determine, in addition, that: (1) the cemetery
15 authority cannot restore the cemetery to a proper operating condition; and (2) the
16 cemetery authority cannot sell or lease the cemetery to or enter into a contract with
17 another cemetery authority that will properly maintain the cemetery.

18 Existing law requires a cemetery authority that orders the disinterment and
19 removal of remains under the circumstances described above to: (1) prescribe a
20 reasonable time of not less than 1 year after which the cemetery authority may
21 proceed to remove the remains and reinter them in another cemetery or deposit
22 them in a memorial mausoleum or columbarium; and (2) reinter the remains of each
23 person in a separate and suitable receptacle. (NRS 451.080, 451.270) **Section 5** of
24 this bill clarifies that the statutory period begins when the cemetery authority orders
25 disinterment and that, after the expiration of that period, the cemetery authority
26 may proceed to remove and reinter or deposit the remains. **Section 5** also clarifies
27 that these provisions apply if the cemetery authority plans to reinter the remains in
28 another portion of the existing cemetery. **Section 6** of this bill requires remains to
29 be reinterred within 1 year after the date on which they are disinterred. **Section 6**
30 also deems a receptacle to be suitable if it meets certain conditions.

31 Existing law requires the owner of a cemetery to keep the cemetery in an
32 orderly condition. (NRS 452.030) **Section 7** of this bill authorizes the district
33 attorney of the county in which the cemetery is located or a relative of any person
34 interred in the cemetery to maintain an action in a court of competent jurisdiction to
35 enforce that requirement. **Section 7** authorizes a court, upon finding that the owner
36 of a cemetery has not complied with that requirement, to: (1) order the owner to
37 take any action necessary to bring the cemetery into an orderly condition; or (2) if
38 the court also determines that continued ownership of the cemetery by the owner is
39 not in accordance with the health, safety, comfort or welfare of the public, transfer
40 title to the cemetery to the city or county in which the cemetery is located. **Section**
41 **7** also requires a city or county to which title to a cemetery is transferred to operate
42 or provide for the operation of the cemetery.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 451 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Notwithstanding any other provision of law, including, without*
4 *limitation, any provision of NRS 451.069 to 451.330, inclusive, a*
5 *cemetery authority shall not:*

6 *1. Order the disinterment and removal of human remains*
7 *interred in a burial plot that is owned in fee simple by a person*
8 *other than the cemetery authority; or*

9 *2. Sell, mortgage or encumber or require the sale, mortgage*
10 *or encumbrance of such a burial plot.*



1 **Sec. 2.** NRS 451.005 is hereby amended to read as follows:

2 451.005 As used in NRS 451.010 to 451.470, inclusive, *and*
3 *section 1 of this act*, unless the context otherwise requires, “human
4 remains” or “remains” means the body of a deceased person, and
5 includes the body in any stage of decomposition and the cremated
6 remains of a body.

7 **Sec. 3.** NRS 451.069 is hereby amended to read as follows:

8 451.069 As used in NRS 451.069 to 451.330, inclusive, *and*
9 *section 1 of this act*, “cemetery authority” means any natural
10 person, partnership, association, corporation or public entity,
11 including the Nevada System of Higher Education or any cemetery
12 district, owning or leasing the land or other property of a cemetery
13 or operating a cemetery as a business in this State.

14 **Sec. 4.** NRS 451.070 is hereby amended to read as follows:

15 451.070 ~~1A~~ *Except as otherwise provided in section 1 of this*
16 *act, a* cemetery authority may order the disinterment and removal of
17 all human remains interred in all or any part of any cemetery if ~~the~~
18 ~~cemetery authority or a~~ :

19 1. A governmental authority *other than the cemetery authority*
20 determines that ~~the further~~ :

21 (a) *The* maintenance of all or any part of the cemetery as a
22 burial place for the human dead is not in accordance with the health,
23 safety, comfort or welfare of the public ;

24 (b) *The cemetery authority is unable to restore the cemetery or*
25 *part of the cemetery to a condition where the maintenance*
26 *of the cemetery as a burial place for the human dead is in*
27 *accordance with the health, safety, comfort and welfare of the*
28 *public; and*

29 (c) *The cemetery authority is unable, at current market rates,*
30 *to sell or lease the cemetery to or enter into a contract with*
31 *another cemetery authority that will maintain the cemetery as a*
32 *burial place for the human dead in accordance with the health,*
33 *safety, comfort and welfare of the public; or if the*

34 2. *The* cemetery authority determines that financial provision
35 must be made for future care of gravesites within a specified area.

36 **Sec. 5.** NRS 451.080 is hereby amended to read as follows:

37 451.080 1. The cemetery authority may prescribe reasonable
38 regulations governing the manner of making disinterments and
39 removals and providing for reinterment in a portion of the existing
40 cemetery or in any other cemetery or for deposit of the remains in
41 any memorial mausoleum or columbarium or for providing
42 appropriate future care.

43 2. The cemetery authority must prescribe a reasonable time of
44 not less than 1 year after *the date on which it orders the*
45 *disinterment and removal of remains pursuant to NRS 451.070,*



1 *after* which the cemetery authority may proceed to *disinter and*
2 remove the remains and reinter them in *a portion of the existing*
3 *cemetery or* another cemetery or deposit them in a memorial
4 mausoleum or columbarium.

5 **Sec. 6.** NRS 451.270 is hereby amended to read as follows:

6 451.270 **1.** The remains of each person reinterred shall be
7 placed in a separate and suitable receptacle and decently and
8 respectfully interred *not later than 1 year after the date on which*
9 *the remains are disinterred* under rules and regulations adopted by
10 the cemetery authority making the removal.

11 **2.** *A receptacle shall be deemed suitable for the purposes of*
12 *subsection 1 if the receptacle:*

13 *(a) Is capable of withstanding weather and movement of the*
14 *earth that may affect the receptacle for at least 100 years; or*

15 *(b) Has been approved by the closest living relative of the*
16 *decendent.*

17 **Sec. 7.** NRS 452.030 is hereby amended to read as follows:

18 452.030 **1.** Every owner of a cemetery shall keep the same in
19 an orderly condition, and authority is conferred on the board of
20 county commissioners of each county to make such rules as will
21 carry out the intent of this section.

22 **2.** *In addition to any action that may be taken pursuant to the*
23 *rules described in subsection 1, the district attorney of the county*
24 *in which a cemetery is located or a relative of any person interred*
25 *in a cemetery may bring an action in a court of competent*
26 *jurisdiction to enforce the provisions of subsection 1. If the court*
27 *finds that the owner of the cemetery has failed to keep the*
28 *cemetery in an orderly condition, the court may:*

29 *(a) Order the owner of the cemetery to take any action*
30 *necessary to bring the cemetery into such a condition; or*

31 *(b) If the court also determines that continued ownership of*
32 *the cemetery by the owner is not in accordance with the health,*
33 *safety, comfort or welfare of the public, transfer title to the*
34 *cemetery to the city or, if the cemetery is located in an*
35 *unincorporated area of a county, the county in which the cemetery*
36 *is located.*

37 **3.** *A city or county to which title of a cemetery is transferred*
38 *pursuant to this section shall:*

39 *(a) Operate the cemetery;*

40 *(b) Lease the cemetery to a cemetery authority to operate the*
41 *cemetery; or*

42 *(c) Enter into a contract with a cemetery authority to operate*
43 *the cemetery.*



- 1 **Sec. 8.** The provisions of NRS 354.599 do not apply to any
2 additional expenses of a local government that are related to the
3 provisions of this act.
4 **Sec. 9.** This act becomes effective upon passage and approval.

