

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.

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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 certain cemetery owners 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
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



with the health, safety, comfort or welfare of the public. Before the cemetery authority may order the disinterment and removal of human remains, **section 4** requires the governmental authority to determine, in addition, that: (1) the cemetery authority cannot restore the cemetery to a proper operating condition; and (2) the cemetery authority cannot sell or lease the cemetery to or enter into a contract with another cemetery authority that will properly maintain the cemetery.

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

Existing law requires the owner of a cemetery to keep the cemetery in an orderly condition. (NRS 452.030) **Section 7** of this bill authorizes the district attorney of the county in which the cemetery is located or a relative of any person interred in the cemetery to maintain an action in a court of competent jurisdiction to enforce that requirement. Under **section 7**, such an action may not be brought against a cemetery owned by a city or county. **Section 7** authorizes a court, upon finding that the owner of a cemetery that is not owned by a city or county has not complied with that requirement, to: (1) order the owner to take any action necessary to bring the cemetery into an orderly condition; or (2) if the court also determines that continued ownership of the cemetery by the owner is not in accordance with the health, safety, comfort or welfare of the public, transfer title to the cemetery to the city or county in which the cemetery is located if the city or county accepts such transfer of title. **Section 7** also requires a city or county to which title to a cemetery is transferred to operate or provide for the operation of the cemetery.

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

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

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

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

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

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

451.005 As used in NRS 451.010 to 451.470, inclusive, *and section 1 of this act*, unless the context otherwise requires, "human



remains” or “remains” means the body of a deceased person, and includes the body in any stage of decomposition and the cremated remains of a body.

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

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

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

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

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

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

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

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

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

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

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

2. The cemetery authority must prescribe a reasonable time of not less than 1 year after *the date on which it orders the disinterment and removal of remains pursuant to NRS 451.070, after* which the cemetery authority may proceed to *disinter and* remove the remains and reinter them in *a portion of the existing*



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1 *cemetery or* another cemetery or deposit them in a memorial
2 mausoleum or columbarium.

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

4 451.270 **1.** The remains of each person reinterred shall be
5 placed in a separate and suitable receptacle and decently and
6 respectfully interred *not later than 1 year after the date on which*
7 *the remains are disinterred* under rules and regulations adopted by
8 the cemetery authority making the removal.

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

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

13 *(b) Has been approved by the closest living relative of the*
14 *decedent.*

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

16 452.030 **1.** Every owner of a cemetery shall keep the same in
17 an orderly condition, and authority is conferred on the board of
18 county commissioners of each county to make such rules as will
19 carry out the intent of this section.

20 **2.** *Except as otherwise provided in subsection 4, in addition to*
21 *any action that may be taken pursuant to the rules described in*
22 *subsection 1, the district attorney of the county in which a*
23 *cemetery is located or a relative of any person interred in a*
24 *cemetery may bring an action in a court of competent jurisdiction*
25 *to enforce the provisions of subsection 1. If the court finds that the*
26 *owner of the cemetery has failed to keep the cemetery in an*
27 *orderly condition, the court may:*

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

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

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

38 *(a) Operate the cemetery;*

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

41 *(c) Enter into a contract with a cemetery authority to operate*
42 *the cemetery; or*

43 *(d) Transfer title of the cemetery to a nonprofit organization*
44 *acting as the cemetery authority of the cemetery.*



- 1 **4. *The provisions of subsection 2 do not apply to a cemetery***
- 2 ***owned by a city or county.***
- 3 **Sec. 8.** (Deleted by amendment.)
- 4 **Sec. 9.** This act becomes effective upon passage and approval.

