

BACKGROUND PAPER FOR The Cemetery and Funeral Bureau

**Joint Sunset Review Oversight Hearing, March 11, 2024
Assembly Committee on Business and Professions and the
Senate Committee on Business, Professions, and Economic Development**

IDENTIFIED ISSUES, BACKGROUND, AND RECOMMENDATIONS

BRIEF OVERVIEW OF THE CEMETERY AND FUNERAL BUREAU

The Cemetery and Funeral Bureau (CFB or Bureau) was established in 1995 when the previously distinct Cemetery Board and Board of Funeral Directors and Embalmers were merged into a consolidated program under the Department of Consumer Affairs (DCA). As a bureau under the DCA, the CFB is charged with administering and enforcing the Cemetery and Funeral Act (Act). A voluntarily established Advisory Committee, comprised of representatives of both the industry and the public, assists the Bureau in engaging consumers and licensees in its regulatory activities.

The CFB oversees 14 different professional categories within the so-called “death care” industry, with approximately 11,315 licensees currently active with the Bureau. The Bureau’s licensing program includes funeral establishments and directors; embalmers and apprentice embalmers; cremated remains disposers, crematories, crematory managers, and hydrolysis facilities; cemetery managers, brokers, branches, and salespersons; and certain private, nonreligious cemeteries. Beginning in 2027, the Bureau will also license reduction facilities. The Bureau is additionally tasked with the fiduciary responsibility of overseeing more than three billion dollars in funds held and invested by funeral establishments and cemeteries, including endowment care funds and preneed trust funds.

The Bureau plays a vital role in protecting consumers from fraud, negligence, and other misconduct in the course of obtaining cemetery and funeral services, a time when consumers are frequently grieving and vulnerable to dishonest dealings. In its enforcement of the Act, the CFB is authorized to inspect any premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted; where embalming is practiced; or where human remains are stored. The Bureau is then empowered to take disciplinary action against a licensee for violations of the law. The Act declares that protection of the public shall be the Bureau’s highest priority.

Not every aspect of the cemetery industry is overseen by the CFB. For example, the Bureau does not have jurisdiction over cemeteries operated by religious institutions, nor does the Act apply to public cemeteries. Private cemeteries under ten acres that were established prior to 1939 also do not need to comply with the Act unless they collect an endowment care fund. For all other cemeteries, the CFB is entrusted with ensuring that the remains of loved ones are treated with dignity and respect in perpetuity.

History of Cemetery and Funeral Regulation in California

For as long as there has been death, there have been forms of cemetery and funeral services, ranging from Egyptian mummification and entombment practices to Norse ship burials to the elaborate burial customs of Ancient Chinese civilizations.¹ In 1915, California established the State Board of Embalmers as the first entity responsible for licensing those engaged in “the care and disposition of the dead.”² The Legislature repealed that law in 1929 and established a State Board of Embalmers and Funeral Directors, comprised of five members with experience “in the preparation and disposition of dead human bodies.”³ In addition to licensing embalmers, the Funeral Directors and Embalmers Law established early licensing requirements for funeral directors—also known as morticians or undertakers. This act was subsequently codified within a recently unified Business and Professions Code in 1939, at which point the board’s name was rearranged to be the State Board of Funeral Directors and Embalmers (BFDE).⁴

The General Cemetery Act was enacted in 1931 to provide for a comprehensive series of laws governing the regulation of cemeteries in California, including private, for-profit cemeteries.⁵ The Legislature then enacted the Cemetery Brokerage Act in 1937, which provided for the licensure of cemetery professionals by the State Real Estate Division under the Real Estate Commissioner. The act recognized two categories of cemetery licensees: cemetery brokers, or individuals engaged in buying and selling cemetery properties; and cemetery “salesmen” employed by cemetery brokers.⁶ In 1949, the Legislature enacted the Cemetery Act, which transferred responsibility for licensing those cemetery licensees to a newly established Cemetery Board.⁷

When the General Cemetery Act was codified within a newly unified Health and Safety Code in 1939, its provisions governing private cemeteries and their regulation by cemetery authorities expressly exempted religious cemeteries, public cemeteries, and small private or fraternal burial parks not exceeding ten acres in area that were already established at the time of enactment.⁸ The Cemetery Act of 1949 preserved those three exemptions. In addition to regulating cemetery licensees, the Cemetery Act also required the Cemetery Board to examine the endowment care funds of cemetery corporations to ensure that funds were maintained and invested in compliance with the law.

For decades, the Cemetery Board and the BFDE remained in existence, each separately overseeing its distinct share of the death services industry, with various changes made over the years to expand their respective acts. However, as the end of the twentieth century neared, the Legislature began to question whether the public was best served by the two boards, particularly as conflict between the two entities grew. The Cemetery Board publicly alleged that a number of BFDE licensees were unlawfully advertising services within the scope of cemetery brokerage. The Attorney General had opined that the respective licenses issued by each board “are intended to regulate separate conduct,”⁹ but the two boards disagreed on how the law should be interpreted. In 1987, Senator Daniel Boatwright unsuccessfully proposed Senate Bill 89, which would have repealed the Cemetery Board and transferred its authority to the BFDE.

¹ Toynbee, J.M.C. *Death and Burial in the Ancient World*, London: Thames & Hudson, 1971.

² Chapter 71, Statutes of 1915.

³ Chapter 140, Statutes of 1929.

⁴ Chapter 39, Statutes of 1939.

⁵ Chapter 1148, Statutes of 1931.

⁶ Chapter 588, Statutes of 1937.

⁷ Chapter 1487, Statutes of 1949.

⁸ Chapter 60, Statutes of 1939.

⁹ Attorney General’s Opinion No. CV 75-291 (December 24, 1975).

By the early 1990s, public criticism and legislative scrutiny of the state's oversight of the cemetery and funeral industry reached a boiling point as numerous high profile instances of misconduct were widely reported in the news. In 1991, the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development, chaired by Assemblymember Jackie Speier, held an oversight hearing on alleged mishandling of human remains by crematories. In 1991, Assemblymember Speier introduced Assembly Bill 1540 to repeal both boards and establish a unified Cemeteries, Funeral Directors, and Embalmers Act under the DCA; this bill did not pass out of committee. In 1992, Assemblymember Speier authored Assembly Bill 3745 to consolidate the two boards into a new After Death Goods and Services Board, which also did not pass. In the fall of 1992, Assemblymember Speier's committee held an additional interim hearing on the failure of both boards to take action following consumer complaints of egregious wrongdoing by licensees. Assemblymember Speier subsequently led calls for the executive officers of both boards to resign; they each did so in 1993.

On September 22, 1993, the Director of the DCA, Jim Conran, convened a stakeholder meeting on cemetery and funeral services that would be referred to as "the Death Summit." The DCA had recently released the damning results of its internal audit of the BFDE, and during the summit, the DCA Director informed both boards that they were at risk of abolition if they did not significantly improve in their oversight activities. Consumer advocates at the summit argued that California's regulatory system "includes two costly and fragmented licensing boards to regulate different (and competing) segments of the same industry. And both boards have utterly failed to address the reasons for their existence."¹⁰

Shortly after the Death Summit in 1993, the Senate Committee on Business and Professions, Subcommittee on Efficiency and Effectiveness in State Boards and Commissions (Subcommittee) convened hearings that included reviews of the Cemetery Board and the BFDE. The subcommittee's final report, published in 1994, recommended that both boards be eliminated and that a single bureau be created with greater oversight authority over the cemetery and funeral industry. Senator Dan McCorquodale, the subcommittee chair, subsequently introduced Senate Bill 2037, which proposed to reorganize a number of entities under the DCA, including the elimination of the two boards and the creation of a new Bureau of Funeral and Cemetery Services. The bill was later amended to create a new unified board instead of a bureau; however, the bill's consolidation language was ultimately removed in the Assembly, where Assemblymember Speier's committee suggested that the merger was premature given promising new leadership at the boards. At Senator McCorquodale's urging, the Senate then voted not to concur in the Assembly amendments, and the bill died on the floor.

In expectation of legislation to merge the two boards into a single entity, the Legislature had only appropriated a half-year of funding to the Cemetery Board and the BFDE in the Budget Act, and the remaining appropriation was included in Senate Bill 2037. Because that bill failed to be enacted, the two boards became unfunded at the end of the year. At the beginning of 1995, the BFDE operated on a skeleton crew and the DCA briefly took over the Cemetery Board's functions. The boards then received urgency funds to resume operations until July 1, when a new Budget Act was passed—and once again, each board only received a half-year of funding, in anticipation of a renewed effort to merge the two entities. Assembly Bill 910 (Speier) was then amended and enacted to provide: "If the Cemetery Board and the Funeral Directors and Embalmers Board are not consolidated or otherwise restructured on January 1, 1996, the Department of Consumer Affairs shall succeed to, and is vested with, all the duties, powers, purpose, responsibilities, and jurisdiction of the boards."¹¹

¹⁰ D'Angelo, Julianne B. "The Funeral and Cemetery Boards in Well-Deserved Limbo." California Regulatory Law Reporter, Vol. 14, No. 4 (Fall 1994).

¹¹ Chapter 381, Statutes of 1995.

Assembly Bill 597 (Speier) was introduced in 1995 to merge the Cemetery Board and the BFDE into a single Board of Funeral and Cemetery Services. This bill was sponsored by the DCA. In the final weeks of the session year, however, Assemblymember Speier withdrew the bill from the third reading file on the Senate Floor. The author cited concerns that a combined board would not be adequately resourced to engage in the scale of enforcement action needed to address a perceived crisis in the cemetery industry, particularly after shocking news reports of misconduct by cemeteries in Southern California.¹² As a result, the Legislature defunded both the Cemetery Board and the BFDE, and the language in Assembly Bill 910 was activated, transferring responsibility for carrying out their functions to the DCA. The Cemetery Board transferred its duties and responsibilities to the DCA early on October 2, 1995, pursuant to a memorandum of understanding.

That fall, the Legislative Analyst's Office (LAO) presented a report to the Assembly Budget Subcommittee on State Administration regarding "implications of the state's takeover of state-regulated cemeteries and the consolidation of the Boards of Cemetery and Funeral Directors and Embalmers." The LAO reported that it had been unable to obtain basic information about the Cemetery Board program for purposes of determining if further budget action was needed. The LAO encouraged the Legislature to review the DCA's administration of the cemetery and funeral programs through the recently established sunset review process.

The following year in 1996, Assemblymember Speier amended Assembly Bill 597 to appropriate \$2,559,000 to the DCA to take over the work of the Cemetery Board and the BFDE.¹³ In 1998, the DCA sponsored Assembly Bill 2802, authored by the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development, which codified the Cemetery Program and the Funeral Directors and Embalmers Program within the DCA by replacing statutory references to the respective prior boards.¹⁴ In 1999, Senate Bill 1306 was authored by the Senate Committee on Business and Professions to provide that regulatory programs taken over from boards by the DCA shall be designated as bureaus, and the Cemetery and Funeral programs were transitioned from the DCA's Division of Licensing to a newly established CFB in January of 2000.¹⁵ Later that year, the DCA sponsored Assembly Bill 2888, which replaced statutory references to the programs with references to the CFB, formally recognizing that the death care industry was now overseen by a single bureau.¹⁶

The CFB underwent its first oversight process under the Joint Legislative Sunset Review Committee in 2002, and Senate Bill 1952 (Figueroa) was subsequently enacted to formally subject the Bureau to that process.¹⁷ The Bureau has since undergone several sunset reviews, now conducted jointly between the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development. Over the years, legislation has been enacted to create new license categories under the CFB to recognize emerging after death options, and the Bureau has been further empowered to take action on behalf of consumers. As the CFB undergoes another sunset review, the Legislature has an opportunity to confirm whether it is continuing to fulfill the public protection responsibilities with which it was entrusted.

¹² Mydans, Seth. "California Investigates Abuses at Cemeteries." *New York Times*, October 10, 1995.

¹³ Chapter 38, Statutes of 1996.

¹⁴ Chapter 970, Statutes of 1998.

¹⁵ Chapter 656, Statutes of 1999.

¹⁶ Chapter 568, Statutes of 2000.

¹⁷ Chapter 825, Statutes of 2002.

Mission Statement

The Bureau's current mission statement is:

“The Cemetery and Funeral Bureau advocates consumer protection and licensee compliance through proactive education and consistent interpretation and application of the laws governing the death care industry.”

Staff

The CFB is led by a Bureau Chief appointed by the Director of Consumer Affairs. As a bureau within the DCA, the chief is responsible to the DCA and serves at the pleasure of the director.¹⁸ The Bureau's current chief is Gina Sanchez, who has served in that position since February of 2019. Statute further authorizes the Director of Consumer Affairs to employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service regulations. This includes the employment of investigators and attorneys to assist the bureau in prosecuting violations of the Act.¹⁹

As of Fiscal Year (FY) 2022-23, the Bureau has 27.5 authorized positions, including a management team of four, eight field staff, and six auditors, with the remaining positions classified at the analytical level. The CFB reports that it has not historically experienced high rates of staff turnover, but that recent retirements and promotions have resulted in some vacancies, which while not a large percentage of overall staff can impact the Bureau's workload given its relatively small size. The Bureau utilizes continuous online testing to recruit new employees, though it states that recruitment challenges have increased since the inception of the COVID-19 pandemic.

Advisory Committee Membership

While statute does not provide for an Advisory Committee, the CFB has voluntarily established one with the goal of increasing transparency and communication with consumers and licensees. The Bureau believes that Advisory Committee meetings are a forum for both consumers and licensees to provide input on funeral- and cemetery-related issues, and to assist the Bureau in carrying out its regulatory responsibilities in an open and transparent environment. According to the CFB, the focus of the Advisory Committee is to advise the Bureau based on each member's diverse experience and education, and Advisory Committee members provide professional and technical assistance to the Bureau concerning the Bureau's licensing, enforcement, and regulatory functions. Meetings are typically held two times per year.

Currently, the Advisory Committee consists of seven members appointed to two-year terms, with the potential to extend each appointment for an additional two-year term. Four members represent the licensed industry and three members represent the public. The Bureau Chief selects and appoints each member with approval from the Director of Consumer Affairs. The Advisory Committee members do not receive any compensation and serve in an advisory capacity only, making nonbinding recommendations directly to the Bureau Chief.

The current membership composition of the Advisory Committee is as follows, with no vacancies:

¹⁸ Bus. & Prof. Code, § 7602

¹⁹ Bus. & Prof. Code, § 7608

Name, Appointment Type, and Organization	Appointment	Expiration of Current Term
<p align="center">Jasmine L. Berrios Industry Member</p> <p>Hollywood Funeral Home, Funeral Director/Embalmer Hollywood Forever Cemetery, Family Service Counselor</p>	04/10/2023	04/01/2025
<p align="center">Jolena M. Grande Industry Member</p> <p>Cypress College, Mortuary Science Profession</p>	04/10/2023	04/01/2025
<p align="center">Margaret “Maggie” McMillan Industry Member</p> <p>Joshua Tree Memorial Park, Vice President of Operations; All Caring, Funeral Director and Crematory Manager</p>	04/10/2023	04/01/2025
<p align="center">Chanell O’Farrill Industry Member</p> <p>Hollywood Forever Crematory, Crematory Manager; Hollywood Funeral Home, Funeral Director</p>	04/07/2023	04/01/2025
<p align="center">Rev. Jason E. Bense Public Member</p> <p>Lutheran Church of Our Redeemer, Pastor; United States Air Force (Reserves), Chaplain</p>	04/07/2023	04/01/2025
<p align="center">Jacob Jett Public Member</p> <p>Hospice by the Bay (a UCSF Health Affiliate), Chaplain</p>	04/07/2023	04/01/2025
<p align="center">Jean Okuye Public Member</p> <p>Funeral Consumers Alliance of Los Angeles California, President</p>	04/07/2023	04/01/2025

Advisory Committee members do not decide or vote on any Bureau business functions or policies. Because the Advisory Committee’s meetings are voluntary, and the Advisory Committee itself is not required by statute, those meetings are not subject to the Bagley-Keene Open Meeting Act. However, a notice and agenda of each meeting is distributed to individuals on the Bureau’s listserv and posted on the Bureau’s website at least 10 days prior to each meeting. Minutes for each meeting are then subsequently prepared and posted on the Bureau’s website.

Fiscal and Fund Analysis

The Bureau is entirely special funded and derives the majority of its funding through the collection of fees charged to licensees. Since the Bureau's special funds were consolidated in 2016, all revenue received by the Bureau is deposited into a single Cemetery and Funeral Fund. These funds are available for expenditures necessary for the proper administration of the Act.²⁰

The Act prescribes the various fees that may be charged by the Bureau.²¹ In 2021, the Bureau estimated that its fund would become insolvent by the end of FY 2022-23, with \$4 million in expected revenue but \$6 million in ongoing costs, partly due to costs to support the Bureau's Business Modernization project. In anticipation of needing a proposal to increase its fees, the Bureau contracted with a vendor to perform a fee study, which considered the cost of each program and identified the revenue necessary to continue operations for an additional three to five years.

After reviewing the significant increases recommended in the third party fee study, the Bureau then worked with the DCA's Budget Office to conduct an alternative fee analysis. This analysis developed new proposed fee levels based on a methodology that reflected the growth in the Consumer Price Index (CPI) over time. This proposal was presented at the Bureau's Advisory Committee meeting on October 29, 2021 and discussed at a public stakeholder meeting on December 8, 2021.

Subsequently, language was included in Senate Bill 1443 (Roth) in 2022 to increase the Bureau's fees and to establish a new fee for filing an endowment care fund annual report. For example, the application and renewal fees for a funeral director's license were raised from a statutory maximum of \$200 to a set fee amount of \$380, and the renewal fee for a cemetery manager license was increased from a statutory maximum of \$100 to a set fee amount of \$150. Senate Bill 1443 also raised the regulatory charge that licensees pay per interment, hydrolysis, burial, entombment, inurnment, or cremation.²²

Fee Schedule	
Cemetery – Certificate of Authority	
Initial Filing Fee	\$ 750.00
Annual Regulatory Fee	\$ 750.00
Delinquent Renewal	\$ 75.00
Quarterly Fee per Burial, Entombment, or Interment	\$ 11.50
Additional Quarterly Fee per Burial, Entombment, Interment, and Cremation	\$ 11.50
Cemetery Notification of Change of Corporate Officers	\$ 25.00
Report of Change of Designated Cemetery Manager	\$ 50.00
Request to Share Cemetery Manager	\$ 50.00
Annual ECF/SCF Audit Report	\$ 500.00
Late Filing of ECF/SCF Audit Report	\$ 250.00
Change Ofcr/Member/Trustee	\$ 25.00
Report Fee Endow/Spc Care Fund	\$ 500.00
Del Rpt End/Spc Care Fund	\$ 250.00

²⁰ Bus. & Prof. Code, § 7727

²¹ Bus. & Prof. Code, § 7729

²² Chapter 625, Statutes of 2022.

Crematory	
Initial Filing Fee	\$ 750.00
Annual Regulatory Fee	\$ 750.00
Delinquent Renewal	\$ 375.00
Report of Change of Designated Crematory Manager	\$ 50.00
Quarterly Fee per Cremation	\$ 11.50
Hydrolysis Facility	
Initial Filing Fee	\$ 900.00
Annual Regulatory Fee	\$ 900.00
Delinquent Renewal	\$ 450.00
Report of Change of Designated Crematory Manager	\$ 50.00
Quarterly Fee per Hydrolysis	\$ 11.50
Cemetery Manager	
Examination/Reexamination	\$ 800.00
Original License	\$ 130.00
Annual Renewal Fee	\$ 150.00
Delinquent Renewal	\$ 75.00
Crematory Manager	
Examination/Reexamination	\$ 680.00
Original License	\$ 130.00
Annual Renewal Fee	\$ 150.00
Delinquent Renewal	\$ 75.00
Cemetery Broker	
Original License	\$ 750.00
Reexamination	\$ 190.00
Annual Renewal Fee	\$ 560.00
Delinquent Renewal	\$ 840.00
Reinstatement	\$ 50.00
Cemetery Broker Additional	
Original License Fee	\$ 190.00
Annual Renewal Fee	\$ 190.00
Delinquent Renewal	\$ 95.00
Cemetery Broker Branch	
License Fee	\$ 190.00
Annual Renewal Fee	\$ 190.00
Delinquent Renewal	\$ 50.00
Cemetery Salesperson	
Original License	\$ 60.00
Transfer Fee	\$ 50.00
Reinstatement	\$ 50.00
Annual Renewal	\$ 50.00
Delinquent Renewal	\$ 25.00

Cremated Remains Disposer	
Registration	\$ 190.00
Annual Renewal Fee	\$ 100.00
Delinquent Renewal	\$ 50.00
Miscellaneous Fees	
Duplicate License	\$ 50.00
Change of Name on Individual/Personal License or Certificate	\$ 25.00
Funeral Establishment	
Original Funeral Establishment	\$ 750.00
Assignment License Application	\$ 560.00
Annual Renewal Fee	\$ 750.00
Delinquent Renewal	\$ 375.00
Change of Name on Funeral Establishment License	\$ 300.00
Change of Location	\$ 470.00
Change of Officer(s), Trustee(s), or Managing Funeral Director	\$ 50.00
Approval to Train Apprentice Embalmers	\$ 190.00
Annual Preneed Trust Fund Report	\$ 500.00
Late Preneed Trust Fund Report	\$ 250.00
Funeral Director	
Application and Examination	\$ 190.00
License Fee	\$ 380.00
Annual Renewal Fee	\$ 380.00
Delinquent Renewal	\$ 190.00
Embalmer	
Application and Examination	\$ 280.00
Annual Renewal Fee	\$ 190.00
Delinquent Renewal	\$ 95.00
Apprentice Embalmer	
Application Fee	\$ 190.00
Apprentice Embalmer Certificate of Registration	\$ 120.00
Miscellaneous Fees	
Duplicate License	\$ 50.00
Change of Name on Individual/Personal License or Certificate	\$ 25.00

Expenditures by Program Component										
<i>(Dollars in thousands)</i>	FY 2018-19		FY 2019-20		FY 2020-21		FY 2021-22		FY 2022-23	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$ 1,475	\$ 327	\$ 1,259	\$ 353	\$ 1,374	\$ 51	\$ 1,716	\$ 801	\$ 1,705	\$ 872
Auditing	\$ 422	\$ 57	\$ 533	\$ 40	\$ 581	\$ 154	\$ 735	\$ 136	\$ 974	\$ 298
Licensing	\$ 168	\$ 101	\$ 155	\$ 31	\$ 169	\$ 18	\$ 196	\$ 25	\$ 195	\$ 155
Administration	\$ 411	\$ 56	\$ 474	\$ 67	\$ 518	\$ 55	\$ 478	\$ 60	\$ 475	\$ 145
DCA Pro Rata	-	\$ 691	-	\$ 712	-	\$ 697	-	\$ 1,057	-	\$ 933
TOTALS	\$ 2,476	\$ 1,232	\$ 2,421	\$ 1,303	\$ 2,642	\$ 1,575	\$ 3,125	\$ 2,079	\$ 3,349	\$ 2,403

Statute generally prohibits entities within the DCA from having more than 24 months in reserve.²³ Currently, the CFB is projected to have a three-month reserve in FY 2023-24, and this reserve is projected to continue to decrease significantly over the next several years. Despite its recent fee increases, the Bureau believes that its current ongoing workload revenue projections will lead to its fund becoming insolvent in FY 2028-29. The Bureau states that it will continue to work with the DCA's Budget Office to monitor the Bureau's fund condition for any future needs or expectations, which may ultimately require additional fee increases.

Fund Condition							
<i>(Dollar in Thousands)</i>	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24 (Projected)	2024-25 (Projected)
Beginning Balance	\$3,951	\$5,244	\$5,021	\$4,878	\$3,571	\$2,375	\$1,817
Total Revenue	\$3,904	\$4,015	\$4,375	\$4,493	\$5,154	\$6,566	\$6,558
Expenditures	\$3,708	\$3,723	\$4,216	\$5,198	\$5,752	\$6,608	\$6,806
Supplemental Pension Payments	\$45	\$93	\$93	\$93	\$93	\$93	\$93
Statewide General Administrative Expenditures	\$312	\$375	\$251	\$298	\$318	\$423	\$423
Fund Balance	\$5,303	\$5,068	\$4,836	\$3,571	\$2,410	\$1,817	\$1,053
Months in Reserve	15.2	13.3	10.4	6.5	4.0	3.0	1.7

Licensing

The CFB oversees 14 different license categories, with 11,315 currently active licensees. Both individuals and businesses are licensed by the Bureau. Its largest licensee populations consist of cemetery salespeople (4,563 licensees), funeral directors (2,211 licensees), embalmers (1,422 licensees), and funeral establishments (1,089 licensees). These numbers have remained relatively consistent over the past five years. The Bureau only recently began licensing hydrolysis facilities following the enactment of Assembly Bill 967 (Gloria) in 2017, and it has not yet begun to license reduction facilities pending its implementation of Assembly Bill 351 (Garcia/Rivas) from 2022.

Licensee Population						
		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Apprentice Embalmer	Active	273	265	274	323	332
	Delinquent/Expired	27	46	36	30	44
Cemetery Broker / Cemetery Broker Additional	Active	213	207	206	202	204
	Delinquent/Expired	15	15	20	26	30
Cemetery Broker Branch	Active	60	69	69	63	59
	Delinquent/Expired	10	9	6	3	2
Cemetery Manager	Active	302	308	303	302	301
	Out of State	21	19	19	18	18
	Delinquent/Expired	62	59	61	73	74

²³ Bus. & Prof. Code, § 28.5

Cemetery Salesperson	Active	4,776	4,552	4,469	4,509	4,563
	Delinquent/Expired	702	618	636	584	344
Certificate of Authority (Cemetery)	Active	193	193	194	193	192
	Delinquent/Expired	2	1	0	1	2
Cremated Remains Disposer	Active	157	165	163	171	176
	Delinquent/Expired	13	13	33	53	56
Crematory	Active	227	227	229	227	230
	Delinquent/Expired	2	1	1	3	2
Crematory Manager	Active	490	491	511	505	535
	Out of State	31	28	27	27	26
	Delinquent/Expired	100	112	99	124	126
Embalmer	Active	1,543	1,540	1,519	1,462	1,422
	Out of State	307	301	282	271	261
	Out of Country	6	4	4	3	3
	Delinquent/Expired	351	323	330	356	364
Funeral Director	Active	2,281	2,268	2,278	2,264	2,211
	Out of State	279	275	266	256	243
	Out of Country	5	5	4	4	4
	Delinquent/Expired	536	519	538	581	604
Funeral Establishment	Active	1,059	1,071	1,087	1,084	1,089
	Delinquent/Expired	24	21	17	17	20
Hydrolysis Facility	Active	N/A	N/A	0	1	1
	Delinquent/Expired	N/A	N/A	N/A	0	0

The Act lays out the varying requirements for applicants to qualify for each of the dozen or so categories of licensure administered by the CFB. The Bureau requires primary source information from applicants applying for licensure with an educational requirement, and a background clearance is required for all applicants. The Bureau's target timeframes for complete applications are 90 days for business license types and 20 days for personal license types. The Bureau has consistently met these targets in most instances. Deficient applications can extend processing times, but the Bureau does not currently have a backlog of applications. The Bureau reports that it recently implemented an online application to streamline the submission and processing of applications for cemetery salespersons and funeral directors, the Bureau's two largest licensing categories, and has initiated a comprehensive Business Modernization project to further improve processing times by releasing all applications online.

Applicants must submit a certified copy of their transcripts to the Bureau in a sealed envelope mailed directly from the educational institution. The Bureau identifies and tracks application requests submitted by members of the military and their families. Statute requires each entity within the DCA to inquire if the applicant is serving in, or has served in, the military as part of the application process. In the past five fiscal years, the Bureau received five requests from licensees that qualify for expedited review.

All applicants are fingerprinted, and the Bureau receives Criminal Offender Record Information from the Department of Justice and the Federal Bureau of Investigations. The Bureau's Enforcement Unit reviews prior disciplinary action and criminal history to determine if the initial or renewal license should be granted based upon the Bureau's criteria. Only a handful of license applications have been denied by the CFB over the past five years; nine applications total were denied based on prior criminal history. Pursuant to AB 2138 (Chiu/Low), in consultation with the Office of the Attorney General, the Bureau considers criteria to determine rehabilitation of the applicant and whether the crime is substantially related to the qualifications, functions, or duties of a licensee.

Education

Two of the CFB's license types require some form of education. Applicants for licensure as a funeral director must possess an associate of arts or science degree or the equivalent, or higher education as recognized by the Western Association of Colleges and Universities. Applicants for licensure as an embalmer must be graduate from a mortuary science program approved by the Bureau and accredited by the American Bureau of Funeral Service Education, and applicants must complete a two-year apprenticeship unless they have held a license outside California.

Statute requires that a mortuary science program must be approved by the Bureau and accredited by the American Bureau of Funeral Service Education (ABFSE) or its equivalent.²⁴ There are currently two degree-granting public colleges in California that offer a curriculum in mortuary science: American River College and Cypress College. The ABFSE serves as the national academic accreditation agency for college and university programs in funeral service and mortuary science education. The Bureau for Private Postsecondary Education does not have any role in approving mortuary science programs, as both degree-granting mortuary science programs are offered through community colleges. The Bureau has no role in approving international schools.

Continuing Education

The Bureau is not responsible for administering or enforcing continuing education requirements for any of its licensees. However, the Act requires that any unlicensed person within a funeral establishment who consults with the family or representatives of a deceased person for the purpose of arranging for services receive documented training and instruction, at least once every three years, that results in a demonstrated knowledge of all laws including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws pertaining to the duties of a funeral director. A written outline of this training program, including documented evidence of the training time, place, and participants, must be maintained in the funeral establishment and must be available for inspection and comment by the Bureau.²⁵

Examination

Five of the CFB's license types require passage of an examination. Applicants for licensure as a funeral director, embalmer, cemetery broker, cemetery manager, or crematory manager must pass multiple-choice, California-specific examinations developed by the Bureau using industry subject matter experts in cooperation with the DCA's Office of Professional Examination Services (OPES). These examinations are described by the Bureau as follows:

- The funeral director examination consists of 100 multiple-choice questions in major content areas such as the laws governing the preparation and burial of human remains, local health sanitary ordinances regarding embalming, funeral arrangements, contracts, and administration.
- The embalmer examination consists of 50 multiple-choice questions on the state's laws, rules, and regulations.

²⁴ Bus. & Prof. Code, § 7643

²⁵ Bus. & Prof. Code, § 7635

- The cemetery broker examination consists of 100 multiple-choice questions in major content areas such as sales, interment, and broker management.
- The cemetery manager examination consists of 100 multiple-choice questions in major content areas such as contracts, interment rights, endowment care funds, disposition and interment, disinterment, cemetery operations, and recordkeeping and reporting.
- The crematory manager examination consists of 75 multiple-choice questions in major content areas such as identification and preparation, cremation process, administration and training, and release and disposal procedures.

Applicants for licensure as an embalmer must additionally pass the sciences section of the National Embalmer Examination developed by the International Conference of Funeral Service Examining Boards (ICFSEB). This examination consists of 170 multiple-choice questions (20 questions are pretest questions and not scored). Applicants must be verified graduates of an American Board of Funeral Service Education mortuary science program to take the examination.

Over the past five years, passage rates have varied for each of the five examinations administered by the Bureau. An overwhelming majority of candidates successfully passed the Embalmer California Law Examination and the Crematory Manager Written Examination. Approximately half of all candidates successfully passed the Funeral Director Written Examination, Cemetery Manager Written Examination, and Cemetery Broker Written Examination. The Bureau does not distinguish between first-time examination candidates and repeat takers in its statistics.

Examination Data						
License Type		Funeral Director	Embalmer	Crematory Manager	Cemetery Manager	Cemetery Broker
Exam Title		Funeral Director Written Examination	Embalmer California Law Examination	Crematory Manager Written Examination	Cemetery Manager Written Examination	Cemetery Broker Written Examination
FY 2018-19	Number of Candidates	226	55	28	33	10
	Overall Pass %	53%	100%	73%	79%	80%
	Overall Fail %	47%	0%	27%	21%	20%
FY 2019-20	Number of Candidates	176	45	26	18	10
	Overall Pass %	51%	100%	96%	89%	50%
	Overall Fail %	49%	0%	4%	11%	50%
FY 2020-21	Number of Candidates	219	43	39	21	17
	Overall Pass %	47%	91%	90%	57%	53%
	Overall Fail %	53%	9%	10%	43%	47%
FY 2021-22	Number of Candidates	228	45	37	25	14
	Overall Pass %	51%	96%	89%	56%	64%
	Overall Fail %	49%	4%	11%	44%	36%
FY 2022-23	Number of Candidates	221	60	61	31	23
	Overall Pass %	43%	93%	92%	48%	52%
	Overall Fail %	57%	7%	8%	52%	48%

Enforcement

The Act authorizes the CFB to inspect the premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted, where embalming is practiced, or where human remains are stored.²⁶ The Bureau is also authorized to investigate complaints.²⁷ The Bureau may suspend or revoke a license if the licensee has been found guilty by the Bureau of any of the acts or omissions constituting grounds for disciplinary action in the Act.²⁸ The Bureau can also take other disciplinary action against a license for misconduct, including probation, issuance of a reproof, or other penalties as the Bureau deems fit, including citations and fines.²⁹ Various grounds for disciplinary action are specified in the Act, ranging from fraud to using obscene language during a funeral service.

The CFB aims to meet the performance targets contained in the DCA's Consumer Protection Enforcement Initiative (CPEI). Over the past five years, the Bureau consistently met the 10-day target timeframe for complaint intake, with the exception of one month. It also generally met its target timeframe of 120 days for investigations, with only a handful of exceptions. The CPEI target timeframe for completing formal disciplinary actions is 540 days from the date an investigation is opened to the date of the final disciplinary order or other action; the Bureau's timeframes approximated that target most years, though its average rose to 762 days in FY 2022-23. The CFB notes that timelines can be delayed due to factors outside its control such as workload and action pending with the Attorney General.

The Bureau has met its Probation Intake Cycle Time target timeframe of 15 days in each reporting period. An enforcement analyst is assigned to monitor all probation cases and does so at specified times to monitor the terms and conditions of probation identified in the decision, including cost recovery, quarterly reporting, and any other specific requirements placed on the licensee. Failure to comply with probation can result in additional action against the licensee, up to and including license revocation.

Enforcement Aging							
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	Cases Closed	Average %
Investigations (Average %)							
Closed Within:							
90 Days	459	592	369	574	558	2,552	61%
91 – 180 Days	138	177	267	255	233	1,070	26%
181 – 1 Year	39	43	92	176	198	548	13%
1 – 2 Years	0	1	4	6	11	22	<1%
2 - 3 Years	0	0	0	0	0	0	
Over 3 Years	0	0	0	0	1	1	<1%
Total Investigation Cases Closed	636	813	732	1,011	1,001	4,193	
Attorney General Cases (Average %)							
Closed Within:							
0 - 1 Year	9	2	5	1	1	18	37%
1 - 2 Years	4	4	6	2	3	19	39%
2 - 3 Years	3	2	2	2	2	11	22%
3 - 4 Years	0	0	0	0	1	1	2%
Total Attorney General Cases Closed	16	8	13	5	7	49	

²⁶ Bus. & Prof. Code, § 7607

²⁷ Bus. & Prof. Code, § 7687

²⁸ Bus. & Prof. Code, § 7686

²⁹ Bus. & Prof. Code, § 7690

Over the past five years, the CFB has seen a marked increase in the number of complaints it has received, most of which came from the public. There was a corresponding increase in the number of investigations, with the combination of desk investigations, non-sworn investigations, and sworn investigations rising from 684 in FY 2018-19 to 1,003 in FY 2022-23. This represents nearly a 50 percent increase in the total number of opened investigations over four years, which has impacted its enforcement timeframes. The Bureau has worked to continue to meet its CPEI goals despite this increase by implementing electronic processes within the field unit to expedite reviews of investigation.

Enforcement Statistics					
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
COMPLAINTS					
Intake					
Received	681	831	863	1,005	999
Closed without Referral for Investigation	0	0	2	0	0
Referred to INV	677	821	861	1,000	999
Pending (close of FY)	4	13	3	8	9
Conviction / Arrest					
CONV Received	66	35	2	4	4
CONV Closed Without Referral for Investigation	56	33	0	0	0
CONV Referred to INV	7	1	2	4	4
CONV Pending (close of FY)	3	1	0	0	0
Source of Complaint					
Public	399	366	563	587	530
Licensee/Professional Groups	12	30	28	26	12
Governmental Agencies	12	23	28	27	12
Internal	321	431	228	355	438
Anonymous	3	15	18	14	11
Average Time to Refer for Investigation (from receipt of complaint / conviction to referral for investigation)	3	2	4	2	6
Average Time to Closure (from receipt of complaint / conviction to closure at intake)	2	1	2	0	0
Average Time at Intake (from receipt of complaint / conviction to closure for referral for investigation)	3	2	5	4	6
INVESTIGATION					
Desk Investigations					
Opened	403	425	324	562	600
Closed	381	413	307	548	557
Average days to close (from assignment to investigation closure)	35	19	27	27	23
Pending (close of FY)	28	29	40	52	71
Non-Sworn Investigation					
Opened	302	414	544	448	414
Closed	255	397	423	463	443
Average days to close	113	106	141	165	190
Pending (close of FY)	99	113	234	219	188
Sworn Investigation					
Opened	0	5	0	0	1
Closed	0	3	2	0	1
Average days to close	0	234	475	0	1143
Pending (close of FY)	1	3	1	1	1

All investigations					
Opened	684	822	863	1,004	1,003
Closed	636	813	732	1,011	1,001
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	66	62	94	86	98
Average days for investigation closures (from start investigation to investigation closure)	63	60	92	63	92
Average days for investigation when referring for prosecution (from start investigation to referral prosecution)	129	143	126	184	189
Average days from receipt of complaint to investigation closure	66	60	95	90	95
Pending (close of FY)	128	137	275	270	260
CITATION AND FINE					
Citations Issued	183	308	118	192	228
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	55	57	91	53	86
Amount of Fines Assessed	\$61,752	\$128,406	\$74,003	\$138,302	\$98,851
Amount of Fines Reduced, Withdrawn, Dismissed	\$1,400	\$0	\$500	\$3,701	\$4,050
Amount Collected	\$51,751	\$85,153	\$56,201	\$94,752	\$96,551
ACCUSATION					
Accusations Filed	13	4	10	9	6
Accusations Declined	0	0	0	0	0
Accusations Withdrawn	1	1	0	1	0
Average Days from Referral to Accusations Filed	150	246	164	220	227
DISCIPLINE					
AG Cases Initiated (cases referred to the AG in that year)	11	11	11	13	10
AG Cases Pending Pre-Accusation (close of FY)	2	4	3	5	3
AG Cases Pending Post-Accusation (close of FY)	8	6	4	8	10
DISCIPLINARY OUTCOMES					
Revocation	6	8	11	6	4
Surrender	2	2	2	0	2
Suspension only	0	0	0	0	0
Probation with Suspension	0	2	0	0	0
Probation only	5	2	6	3	10
Public Reprimand / Public Reproval	0	0	1	0	0
DISCIPLINARY ACTIONS					
Proposed Decision	2	4	2	1	1
Default Decision	2	1	4	3	1
Stipulations	6	1	7	1	5
Average Days to Complete After Accusation (from Accusation filed to closure of the case)	230	329	228	257	342
Average Days from Closure of Investigation to Imposing Formal Discipline	379	579	387	477	424
Average Days to Impose Discipline (from complaint receipt to final outcome)	390	612	499	587	760
PROBATION					
Probations Completed	3	3	5	1	2
Probationers Pending (close of FY)	18	17	13	13	14
Petitions to Revoke Probation / Accusation	1	1	2	0	1

Public Information Policies

The CFB uses its website, email blasts, and social media accounts to provide program-specific and general information to its stakeholders. The Bureau's website provides comprehensive information to consumers and licensees and allows stakeholders to subscribe to emails regarding Bureau activities. The revised *Consumer Guide to Cemetery and Funeral Purchases* can be downloaded from the Bureau's website and is available in both English and Spanish. The Bureau also has two informational pamphlets, *For Peace of Mind* and *Preneed Q&A*, along with an educational video regarding options about selecting cemetery and funeral goods and services.

Using the Bureau's website, consumers can access Bureau records, including public meeting agendas and materials, forms and publications, reports, rulemaking, laws, and regulations. Online services allow consumers to verify a license status, review disciplinary documents, and file complaints. The Bureau released an online platform for the renewal of all Bureau license types and online applications for the Cemetery Salesperson and Funeral Director license types.

Workforce Development and Job Creation

The Bureau has released online renewals and two online initial licensure applications to improve the licensing experience for those wanting to enter the profession. The Bureau has also presented on multiple occasions to the two California-accredited mortuary science schools, engaging with students who are working towards entering the profession and informing them of opportunities, not only in the industry, but also at the Bureau. The CFB states that it believes one significant benefit it provides to the workforce is that several individual license types do not have education requirements, allowing individuals to obtain licensure quickly and begin working in the industry. Additionally, the industry is allowed to employ unlicensed individuals who can perform duties that do not require licensure.

The Bureau's eight field representatives, who hold at least one Bureau license, have daily communication with consumers and licensees, keeping them well-informed and up-to-date on changes and trends in the industry. The Bureau works closely with industry associations to keep abreast of changes in the industry that may impact the profession and attends several annual meetings. Further, the Bureau's Advisory Committee consists of four licensee members who can provide information and guidance about the current workforce and industry trends.

COVID-19 Pandemic Response

On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency as a result of the impacts of the COVID-19 public health crisis. The Bureau transitioned to telework and flexible work arrangements while continuing to assist consumers and licensees. As death care was declared an essential industry, the Bureau provided information on its website and via email blasts to provide consumers and licensees with the latest guidance. The Bureau worked closely with the California Department of Public Health (CDPH) to develop industry guidelines and participated in county discussions on newly released health orders.

Additionally, in collaboration with the Office of Emergency Services, the Bureau approved out-of-state embalmers to work in California temporarily with a current out-of-state license from a state with similar educational and entrance requirements. The Bureau also participated in several interdepartmental task forces, such as the Imperial Valley and Enforcement task force. The Bureau believes this played a vital role in assisting with the decedent storage issues in overwhelmed and underserved communities.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Bureau last underwent sunset review in 2019. During the prior sunset review, committee staff raised a number of issues and provided recommendations. Below is a summary of actions which have been taken since that time to address these issues. Previous issues that were not completely addressed or may otherwise still be of concern they are further discussed under “Current Sunset Review Issues.”

Prior Issue #1: Pro Rata. The previous sunset background paper noted that pro rata costs had fluctuated each year from a high of \$798,000 in FY 2013-14, to a low of \$589,000 in FY 2016-17. The Committees asked that the Bureau provide more information about the basis upon which pro rata is calculated, and the methodology for determining how the pro rata charged will be paid from among the Cemetery and Funeral Fund under the Bureau's jurisdiction. The Bureau explained that the variances in the Bureau's pro rata are due to multiple factors including the structure of the Bureau and the DCA (e.g., temporary or permanent staff increases), the Bureau's enforcement or legal needs, and various changes in the cost of doing business. The DCA and the Bureau are also subject to various budget letters, which can cause a program's pro rata allocation to fluctuate.

Prior Issue #2: Endowment Care Funds. The background paper questioned whether deposit rates should be increased and whether the Bureau should conduct a follow-up study. Since the prior review, the Bureau has implemented new legislation related to cemetery endowment care funds. AB 651 increased the minimum dollar amount that must be deposited into a cemetery endowment care trust fund. The two-step increase had a delayed implementation and as a result, the suggested rates from the 2017 Endowment Care Sufficiency Study were not fully implemented prior to January 1, 2024. AB 651 also identified the next sufficiency study to be reported to the Legislature by January 1, 2029. The future study may be better informed if the statute is amended to mandate each licensed cemetery provide the Bureau with specific data and information. The Bureau proposed this requirement as a current issue.

Prior Issue #3: Cost Analysis of Licensing Fees. The background paper recommended that the Bureau and Capital Accounting Partners give a brief description of the cost analysis licensing fee study which it had completed on November 2016, and the recommendations that it is making to ensure there are sufficient moneys available to cover the expenses of operating the Bureau's program. After further analysis and another fee study in 2021, in conjunction with utilizing the CPI growth, the Bureau sought a fee increase to ensure its fund solvency through fiscal year 2027-28. SB 1443 increased the Bureau's licensing and regulatory fees so the Bureau's fund is stable at this time. However, the Bureau states that it will continue to monitor its expenditures and revenue over the next few years to determine if any future changes are needed.

Prior Issue #4: BreEZe. The prior sunset background paper asked for the status of BreEZe implementation by the Bureau, which was a Release 3 entity. The Bureau is no longer contributing to any costs associated with BreEZe and does not anticipate any future costs unless the Bureau is integrated into BreEZe as part of the Bureau's Business Modernization Plan. Since the Bureau's last review, the DCA led the Bureau in completing the process to select an appropriate information technology solution. The process included documenting and updating business processes; identifying and developing the Bureau's business requirements and specifications; and completing the California Department of Technology's Project Approval Lifecycle process and the requisite cost-benefit analysis to evaluate the potential alternatives and the costs and benefits of those different possible solutions. As of May 2023, the Bureau went live with CFB Connect and released its first online application for Funeral Director.

Prior Issue #5: Pet Cemetery Cremations. The prior sunset background paper discussed the possibility of the Bureau regulating the cremation of pets. It was discovered that pet crematories are not currently regulated in California when a constituent issued a complaint to the Legislature that they did not get the proper pet remains returned. Currently, pet cremations are not regulated in California and the Bureau indicated that it had not received any complaints nor was it aware of any other concerns. In 2023, AB 528 (Irwin) was introduced to allow private cemeteries to designate a separate, clearly marked section of the cemetery where deceased pets could be buried with or alongside their deceased owners. This bill was held in suspense and may be acted upon in the 2024 legislative session. The Bureau states that it is willing to work with the Legislature and the Veterinary Medical Board to determine the best route for legislation.

Prior Issue #6: Delinquent Licenses. During the prior sunset review, the Committees asked the Bureau why there was such a large number of delinquent licenses. The Bureau explained that it cannot be certain why each delinquent licensee has not renewed their license. The licensee may have left the industry; however, to ensure they are not still working as an unlicensed individual, each license status is verified during the establishment's annual field inspections. To address this issue and to aid licensees with continuity of their licenses, the Bureau implemented online renewals in June 2019. As renewals are transitioned from SimpliGov into the CFB Connect platform, it is expected the online renewal rate will increase.

Prior Issue #7: Maintenance of Cemeteries. The background paper suggested that some cemeteries are failing to meet minimum maintenance standards such as assuring that markers of graves are always visible. Specifically, news outlets reported on a specific cemetery and its failure to perform adequate maintenance. Over the past five years, the Bureau averaged eight citations annually, which included a maintenance standards violation and only three cemeteries in total included a violation of maintenance standards in formal discipline. The Bureau believes that this issue is prevalent with older cemeteries that have become abandoned or unlicensed, and has raised this as a current issue.

Prior Issue #8: Continued Regulation by the Bureau. Consistent with tradition and practice, the prior sunset background paper questioned whether the licensing and regulation of the CFB should be continued and be regulated under the DCA. The Committees recommended that the licensing and regulation of the cemetery industry continue to be regulated by the current Bureau in order to protect the interests of the public and be reviewed once again in four years. The Bureau's sunset bill was subsequently amended to include a four-year extension, which was later extended by one additional year.

CURRENT SUNSET REVIEW ISSUES FOR THE CEMETERY AND FUNERAL BUREAU

ADMINISTRATIVE ISSUES

ISSUE #1: *Advisory Committee. Should the Bureau's voluntarily established Advisory Committee be codified within the Act?*

Background: The CFB regularly convenes a seven-member Advisory Committee, which consists of four representatives of the death care industry and three members of the public, all of whom are appointed for two-year terms by the Bureau Chief. According to the Bureau, the purpose of having an Advisory Committee is so that timely issues, such as barriers to licensure or changes in the profession, can be brought to the Bureau's attention. The Advisory Committee is also consulted when the Bureau is exploring potential changes in law, regulation, or policy, such as its recent increase in license fees.

While the value of the Advisory Committee is cogently stated, its existence is currently not recognized in statute. The Bureau established the Advisory Committee voluntarily on its own initiative and there is no legal requirement that the Advisory Committee be continued in the future. While there is no indication that the Bureau's current leadership would ever consider disbanding the Advisory Committee, there are other potential benefits to codifying it within the Act.

First, members of the Advisory Committee currently do not receive any remuneration and serve at their own expense. Meanwhile, members of similar bodies receive customary per diem compensation for the time they devote to those activities. Because currently only individuals who can afford to volunteer without any financial reimbursement are able to easily commit to the time required to be an active member of the Advisory Committee, recognizing the Advisory Committee in statute and providing its membership with per diem may be a reasonable goal.

Another distinction between statutorily required advisory or deliberative bodies and the Bureau's Advisory Council is that as a voluntarily established entity, the Bureau has determined that it is not subject to the Bagley-Keene Open Meeting Act. This differentiation has arguably spared the Bureau from having to contend with obstructive legal hurdles when seeking to convene a meeting. The inapplicability of open meeting laws was certainly helpful when the Bureau had to pivot to virtual meetings during the COVID-19 pandemic.

However, the Bagley-Keene Open Meeting Act purposefully provides for greater transparency in deliberations by state entities. Although Advisory Committee members do not decide or vote on any Bureau business functions or policies, the intent of the Bagley-Keene Open Meeting Act reasonably extends to an Advisory Committee's influence on state regulation. The Bureau already distributes a notice and agenda of each meeting to individuals on its listserv and posts that information on the Bureau's website at least 10 days prior to each meeting. Meetings are typically webcast and minutes for each meeting are subsequently prepared and posted on the Bureau's website. This means that the Bureau is already effectively complying with many of the requirements of the Bagley-Keene Open Meeting Act and being legally required to do so may not prove a difficult transition, if the Legislature determines that there is value in establishing that legal requirement.

Staff Recommendation: *The Bureau should provide the Committees with its opinion as to whether there would be value in codifying the Advisory Committee within the Act.*

ISSUE #2: Information Technology. Are the Bureau's current Information Technology options sufficient given that it was ultimately excluded from the BreZE project?

Background: The Bureau was one of 19 boards and bureaus that were previously scheduled to participate in Release 3 implementation of the BreZE information technology system but were ultimately removed from that project. The DCA's Office of Information Services (OIS) has since worked with those Release 3 entities, including the Bureau, to determine what business modernization opportunities are available to meet each entity's technology needs. The Bureau previously reported that while it has worked with OIS to identify internal software options to modernize business processes, these efforts were put on hold due to a lack of financial resources as OIS continues to explore enterprise architecture solutions.

In the years since its last sunset review, the Bureau successfully went live with a new database, called CFB Connect, in May of 2023. In its report to the Committees, the Bureau indicated that CFB Connect was currently only being utilized for its funeral director application, but that it was actively working towards the release of additional applications and expanded functionality. The Bureau indicated that it expected the release of the next online application to occur in early 2024. It would be useful to hear an update from the Bureau in regards to its progress in continuing to roll out its new information technology project.

Staff Recommendation: *The Bureau should provide the Committees with updates regarding the launch of its new Information Technology solution and whether there are any identified impediments to its business modernization efforts.*

FISCAL ISSUES

ISSUE #3: Fee Amounts. Were the Bureau's recent fee increases sufficient to ensure its long-term fiscal stability?

Background: During the CFB's prior sunset review in 2019, Issue #3 in the committee background paper posed the question as to whether the Bureau's fee caps should be increased to address its insufficient reserve levels. At that time, the CFB had engaged Capital Accounting Partners to prepare a detailed independent cost analysis of its fees, with a goal of ensuring that the Bureau was fully accounting for all of its costs and recovering adequate revenues to be reimbursed for its expenses. The analysis provided a 10-year forward projection of fees based on an annual increase of 3 percent, and recommended that the CFB work with the Legislature to set the cap at the 10-year projected maximum, then adjusting fees annually or at least biannually to maintain alignment of revenues and expenditures. However, no increase to the CFB's fee caps were included in its sunset review vehicle.

The CFB subsequently commissioned another fee study in 2021, again through Capital Accounting Partners, to audit the Bureau's activities and calculate what revenue increases would be necessary to continue its operations. This fee study took into consideration the immediate impacts of the COVID-19 pandemic and sought to ensure that costs were assigned in equitable, achievable, and defensible ways. The study noted that it had been over 25 years since the CFB had last increased its fees, and that the prior fee audit's recommendations had never been implemented.

According to the DCA, the CFB's special fund was expected to be insolvent by the end of FY 2022-23 due to an ongoing structural deficit of over \$2 million. To address this deficit, the DCA worked with the CFB to propose new fee levels, which considered growth in the CPI over the time since the bureau's prior fee increase. The DCA has also recommended that new fees be established to fund workload associated with activities that the CFB has long been required to perform, thereby reducing the distribution of that workload's costs across other fee categories.

As previously discussed, Senate Bill 1443 (Roth) was enacted in 2022 to increase the Bureau's fees consistent with the DCA Budget Office's recommendations. While the adjustments were less substantial than the third party fee study had proposed, the DCA's alternative fee analysis was likely performed to avoid burdening the Bureau's licensee population with drastic increases in their fees. Nevertheless, the Cemetery and Mortuary Association of California and the California Funeral Directors Association still jointly opposed Senate Bill 1443, arguing that there had been inadequate stakeholder consultation.

While the CFB's recent fee increases temporarily stabilized its fund condition, the Bureau has indicated that its current revenue remains insufficient to sustain its operations long-term. According to the Bureau's report to the Committees, the CFB is projected to have a three-month reserve in FY 2023-24, and this reserve is projected to continue to decrease significantly over the next several years. The Bureau states that it will continue to work with the DCA's Budget Office to monitor the Bureau's fund condition for any future needs or expectations, which may ultimately require additional fee increases. Assuming workload and revenue projections remain stagnant, and expenditures are increased by three percent annually, the Bureau anticipates becoming insolvent in FY 2028-29.

It appears likely that the Bureau will require yet another fee increase within the next several years. In anticipation of that discussion, the Bureau should inform the Committees of whether any action can be taken to promote efficiencies, reduce costs, or generate additional revenue for the Bureau. While it is likely premature to increase fees through this current sunset process, the Committees may wish to consider establishing higher caps in statute for the Bureau's current fees to provide the Bureau with flexibility to pursue additional increases later on through the regulations process.

Staff Recommendation: *The Bureau should update the Committees on its current financial projections, whether it has already begun to plan for a future fee increase, and whether action could be taken by the Legislature to ensure a smooth effectuation of any needed revenue adjustments.*

LICENSING ISSUES

ISSUE #4: *Hydrolysis Facilities. What is the status of the Bureau's implementation of hydrolysis facility licensing?*

Background: In 2017, Assembly Bill 967 (Gloria) was signed into law, which established a licensure and regulation process for hydrolysis facilities under the Bureau. Alkaline hydrolysis is a process by which human remains are reduced to bone fragments with the utilization of water and a blended alkaline solution, combined with heat and pressure. Similar to cremation, the body is reduced to bone fragments after the remaining by-product which is a sterile *effluent* or *hydrolysate* is removed from the hydrolysis chamber. The hydrolysis process is considered to be more environmentally friendly than traditional flame cremation in which hazardous emissions are released and natural gas is consumed.

Assembly Bill 967 authorized specified entities to maintain a hydrolysis facility with a valid license issued by the Bureau, imposed the same requirements on hydrolyzed remains as for cremated remains, specified training standards for hydrolysis facility employees, and, specified the requirements for disposal of hydrolysate. The bill delayed implementation of its provisions until July 1, 2020; therefore, no hydrolysis facilities were licensed at the time of the Bureau’s prior sunset review. The Bureau reports that beginning in FY 2021-22, there has been one actively licensed hydrolysis facility in California. To better gauge the successful effect of Assembly Bill 967, the Committees would benefit from hearing an update from the Bureau on the implementation of hydrolysis facility licensure and whether it anticipates more facilities seeking licensure in the coming years.

Staff Recommendation: *The Bureau should provide the Committees with an update on its current implementation of Assembly Bill 967 and if it believes that alkaline hydrolysis is likely to become a more prominent method of reduction in the future.*

ISSUE #5: *Reduction Facilities. What is the status of the Bureau’s implementation of reduction facility licensing?*

Background: In 2022, Assembly Bill 351 (Garcia/Rivas) was signed into law, which established a licensure and regulation process for reduction facilities under the Bureau. Natural Organic Reduction (NOR) is a method that transforms human remains into soil using the natural decomposition process, accelerated by the addition of natural materials. Generally, NOR occurs in a contained, aerated steel vessel, where the body is covered with organic material including wood chips, alfalfa, and straw. The transformation results in soil that is considered safe for disposal. The preferred method of disposal is integrating the remains as a soil amendment for trees or plants. Washington was the first state, and previously the only state, to approve NOR as an alternative to burying or cremating human remains.

In 2018, Recompose, an organization offering NOR services in Washington, sponsored a research project with the Washington State University Soil Science Department to demonstrate the safety and efficacy of the NOR process. Using six human research subjects, the study concluded that the “process of recomposition has been shown to effectively and quickly biologically convert human remains. Final material was obtained that was unrecognizable visually, chemically, or microbiologically as human remains.” Similar to animal composting, human NOR can reach temperatures high enough to destroy almost all harmful pathogens, and transform the body, wood chips, and straw into a final material which is safe for humans and plant life.

Assembly Bill 351 authorized a person or entity to obtain a license as a reduction facility from the Bureau. The bill required the CDPH to adopt regulations prescribing health and safety standards for reduction facilities and required reduction chambers to be approved by the CDPH prior to licensure by the Bureau. To provide time for the Bureau and the CDPH to implement the program, language in provisions of the bill delayed their effective date until 2027. Therefore there are currently no actively licensed reduction facilities in California and the Bureau is not accepting applications for such licensure. As the Bureau and the CDPH prepare for the provisions of Assembly Bill 351 to become effective within the next few years, it would be appropriate for the Committees to receive an update on implementation efforts and whether the Bureau expects to begin to license reduction facilities within the timeframe provided for in the legislation.

Staff Recommendation: *The Bureau should provide an update on its implementation of Assembly Bill 351 in partnership with the CDPH.*

ENFORCEMENT ISSUES

ISSUE #6: *Enforcement of Funeral Practices. Is the Bureau appropriately enforcing the Act's requirements for funeral directors and other licensees?*

Background: The CFB is authorized to inspect any premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted; where embalming is practiced; or where human remains are stored. The Bureau is also empowered to investigate complaints against a licensee. The Bureau may then take disciplinary action against a licensee for violations of the law.

As previously discussed, the CFB has seen a substantial increase in the number of complaints it has received over the past several years, with a corresponding increase in the number of investigations. However, there does not appear to be an increase in the number of accusations filed or the number of disciplinary outcomes involving revocation or suspension of a license. It would appear that the discipline imposed in a majority of cases consists of a citation and fine, with 228 citations issued in FY 2022-23.

Based on the above statistics, one could infer that most actions taken by the Bureau against licensees are for relatively minor offenses. According to the Bureau's report to the Committees, the most common violations for which the Bureau issued citations in the past five years included failure to conspicuously display an issued license or failing to maintain up-to-date price ranges on the Casket Price List. While these laws should be enforced, the question could arguably be posed as to whether they should be a priority for the Bureau given its ongoing fiscal challenges and the general increase in complaints in need of investigation. The Bureau's perspective on this question would be valuable so that the Committees can confirm that resources are being appropriately utilized and licensees are not being disproportionately subjected to citations for minor violations.

Staff Recommendation: *The Bureau should describe how it chooses whether to take action against a licensee for minor offenses and provide its perspective on whether its enforcement activities appropriately further the protection of the public.*

PRACTICE ISSUES

ISSUE #7: *Pet Burials. Should private cemeteries be authorized to designate a section where deceased pets may be co-buried with their deceased owners?*

Background: Current law only allows for human remains to be interred on the premises of a cemetery designated for human burial. In recent years, however, news outlets have reported a growing interest in pet owners being buried alongside their companion animals. In 2017, NPR published an opinion piece titled "When 'Whole-Family' Cemeteries Include Our Pets," which included comments from Green Pet-Burial Society, a group that advocates for "whole-family" cemeteries where full-body burials of a pet's remains would be permitted in a family cemetery plot in adjacent or tiered graves.

Only a handful of states currently allow for co-burial of human and animal remains and animal remains. In some states, humans may be cremated and their ashes buried in a pet cemetery alongside their pets. California allows for pets to be buried on one's own property, cremated, or buried in a designated "pet cemetery." The Bureau currently has no oversight of either pet cremations or pet cemeteries, and any regulation of these activities occurs at the local level.

In 2023, Assembly Bill 528 was introduced by Assemblymember Jacqui Irwin to specifically authorize Bureau-licensed cemeteries and public cemeteries to designate a place in the cemetery where humans and pets may be buried together, either in the same coffin, urn, crypt, or niche, or alongside the animal in its own and separate cemetery plot, crypt, vault, or niche. The Bureau did not take a formal position on this bill, but it did report anticipated costs of more than \$450,000 annually to implement its provisions, and Assembly Bill 528 was ultimately held under submission on the Senate Appropriations Committee's suspense file. As it is likely that there will continue to be legislative interest in the topic of pet burials, the Bureau should provide the Committees with any insights on the subject.

Staff Recommendation: *The Bureau should inform the Committees of any positions it has taken on proposals to allow for the co-burial of animal and human remains and make any recommendations it may have on how to implement policies to further that goal.*

ISSUE #8: *Abandoned Cemeteries. What steps could be taken to ensure that older cemeteries are appropriately and respectfully maintained by another entity after they have been abandoned?*

Background: A significant issue raised by the Bureau in its report to the Committees relates to the perpetual care and maintenance of abandoned cemeteries. This topic has been discussed during prior sunset reviews, when the Committees cited the specific example of a cemetery in Southern California where grave markers were allowed to become overgrown with dirt and grass and minimum maintenance standards were not met. In its response to the issue discussed in the prior sunset review background paper, the Bureau indicated that it would continue to work with all licensed cemeteries to ensure they are adhering to maintenance standards and practice a progressive discipline model if needed to bring them into compliance.

There continue to be concerns that issues regarding perpetual maintenance will grow more severe and prevalent. There are two distinct drivers of the problem: older cemeteries have limited spaces remaining to sell and endowment funds are inadequate to perpetually maintain cemeteries that have since sold all available plots. As explained by the Bureau in its report to the Committees, the less income a licensed cemetery business produces through new sales, the more it has to rely on its endowment care fund for the care, maintenance, and embellishment of the cemetery grounds. Meanwhile, an Endowment Care Sufficiency Study published in 2017 found that at least 43 licensed cemeteries have an underfunded endowment care fund with limited spaces to sell. Because these cemeteries are private businesses, properties that no longer generate revenue become abandoned if they cannot be sold, or they are abandoned following disciplinary measures by the Bureau, including revocation of a license. The result is an unlicensed, abandoned cemetery where the resting places of the dead are not treated with dignity.

A recent example of the devastation this situation can cause is the cancelation of the license and subsequent abandonment of Lincoln Memorial Park Cemetery in Carson, California. In August 2023, the Bureau began receiving information from the public that the cemetery had closed its gates. Upon investigation, the Bureau confirmed that the cemetery was no longer being maintained by the cemetery manager and cemetery authority, who requested cancelation of their licenses. The community was devastated as public access for family members had been limited and there was no local entity to oversee new internments of loved ones who had passed away who had previously purchased a plot in the cemetery. Neither the City of Carson nor Los Angeles County were able to assist in providing ongoing care to the abandoned cemetery.

Currently, when a private cemetery that has not interred more than 10 human bodies in the preceding five years threatens or endangers the health, safety, comfort, or welfare of the public, statute allows (but does not require) a city or county to declare that cemetery abandoned. The abandoned cemetery is then declared a pioneer memorial park and is maintained by the city or county. This statute, however, only applied to abandoned cemeteries that never collected endowment care funds—in other words, cemeteries established prior to 1939.

The Act only provides for two options for maintenance by a private cemetery by an entity other than the licensee. One statute authorizes a court to appoint a temporary licensed cemetery manager to manage the property and serve prepaid internments, or the county if there is no appointed temporary manager. The Bureau states that typically when a cemetery is within city limits, a county will not utilize this section and defer to the city (as occurred with Lincoln Memorial Park Cemetery).

Statute additionally allows a city or county to perform maintenance within a cemetery when its license has been revoked, suspended, or not renewed. This law only applies to maintenance necessary to protect the health and safety of the public. In other words, while dry weeds creating a fire hazard would be addressed, the law does not provide for cosmetic upkeep to grounds and embellishments, which while not a matter of safety are important for communities whose families are interred in the cemetery.

In all of the above cases, local governments are not *required* to take action following the abandonment of a cemetery, but are merely permitted to under certain circumstances. The Bureau points out that when a cemetery is proposed to be created, the local government in which it will be situated has to authorize and zone a parcel of land as cemetery property with approval to intern decedents. Local authorities are responsible for determining whether a piece of property within their communities will be dedicated as cemetery property, and local governments know that there is no guarantee a private cemetery business will remain active forever.

The Bureau suggests that the Legislature consider amending current statute to vest the responsibility of perpetual care with the jurisdiction that authorized the underlying use upon abandonment of a cemetery. Such a mandate may create challenges with local governments who may argue that a lack of resources would not allow them to successfully assume responsibility for all private cemeteries within their boundaries. However, the importance of this issue necessitates a thorough discussion of all potential options.

Staff Recommendation: *The Bureau should further explain its proposal to have local governments assume responsibility for the care and maintenance of abandoned cemeteries and provide any language that it recommends the Legislature consider adopting.*

ISSUE #9: *Endowment Care Sufficiency Study. Should private cemeteries be required to respond to the Bureau's requests for data relating to endowment care funds?*

Background: As discussed in the preceding issue, endowment care funds are critical for ensuring that there is adequate funding for the perpetual care and maintenance of cemeteries that no longer generate income from the sale of new plots. Statute requires the Bureau to conduct a study to determine if the endowment care fund levels of each licensed cemetery are sufficient to cover the cost of future maintenance and to review the levels of endowment care funds. The Bureau is then required to submit its report to the Legislature by January 1, 2029.

The data collected by the Bureau includes the total size of each property including any undeveloped land, how many spaces (by type) have been sold, how many spaces are left to sell, and details about the history of the endowment care fund. This data is needed to make informed policy recommendations to the Legislature. The Bureau has raised concerns that without a mandate to require all licensed cemeteries to respond to the study, the Bureau's report will solely be based on the data received and may not accurately account for the proper level of endowment care funds. The Bureau requests the Legislature consider amending current statute to mandate reporting from all licensed cemeteries.

Staff Recommendation: *The Bureau should speak further to its desire for the Legislature to mandate that private cemeteries respond to the Bureau's endowment care sufficiency surveys.*

ISSUE #10: *Conservatorship of Endowment Care Funds. Should statute expressly authorize the Bureau to conserve the endowment care fund of a cemetery authority that has voluntarily surrendered the fund to the Bureau, along with other clarifications?*

Background: In its report to the Committees, the Bureau once again raised the issue of cemetery maintenance in cases where cemetery businesses close after running out of spaces to sell. As previously discussed in the context of several other issues in this background paper, endowment care funds play an essential role in resolving these challenges. A licensed cemetery's endowment care fund is comprised of consumer deposits for each space sold within the cemetery, and the accumulated income generated on those deposits from investments. Investment decisions must be conservative and are limited under the Cemetery and Funeral Act. Only the accumulated income portion of the fund may be spent on the care, maintenance, and embellishment of the cemetery.

According to the Bureau, some cemeteries have voluntarily surrendered their endowment care funds to the Bureau to avoid the annual audit costs as they transition to fewer employees and limited public access hours. The Act authorizes Bureau oversight of an endowment care fund, including requirements regarding the number of days deposits must be made into the fund, proper and allowable investments, mandated annual independent audits of funds, and annual reporting to the Bureau. The Act also allows the Bureau to take possession of the fund and act as the conservator under certain conditions. However, the Act does not clearly identify that the Bureau shall conserve, and thus protect, the endowment care fund upon revocation or cancellation of a cemetery license or abandonment of a cemetery property.

The Bureau argues that a private cemetery that is no longer licensed due to the surrender or revocation of a license poses additional risks to the endowment care fund, ranging from it being used for items that are not related to the care and maintenance of the unlicensed cemetery to the fund being liquidated entirely leaving nothing for the care and maintenance of the cemetery for years to come. Once there is no longer a licensee, the cemetery is no longer subject to the Act; however, endowment care funds remain under the authority of the Bureau. The Bureau believes that without clarifying language within the Act, an unlicensed entity outside the Bureau's jurisdiction may take over the fund.

Specifically, the Bureau recommends that the Act be amended to 1) identify the entities allowed to hold endowment care funds (licensed cemetery authorities, the Bureau, and with Bureau approval, the city or county in which the cemetery is situated if it is transitioned to a public district cemetery or a pioneer cemetery); 2) provide that when a previously licensed cemetery becomes unlicensed due to abandonment, cancellation, surrender, or revocation of the license the Bureau shall conserve the fund; and 3) authorize the Bureau to conserve the endowment care fund when a cemetery authority voluntarily surrenders the fund to the Bureau.

Staff Recommendation: *The Bureau should provide the Committees with more detail about its proposed amendments to the Act regarding the conservatorship of endowment care funds and provide the Committees with any language it recommends the Legislature consider adopting.*

TECHNICAL CLEANUP

ISSUE #11: *Technical Cleanup. Is there a need for technical cleanup?*

Background: As the industry continues to evolve and new laws are enacted, many provisions of the Act have potentially become outmoded or superfluous.

Staff Recommendation: *The Bureau should recommend cleanup amendments for inclusion in its sunset bill.*

CONTINUED REGULATION OF CEMETERY AND FUNERAL INDUSTRY BY THE CEMETERY AND FUNERAL BUREAU

ISSUE #12: *Continued Regulation. Should the licensing of the cemetery and funeral professions be continued and be regulated by the Cemetery and Funeral Bureau?*

Background: The health, safety, and welfare of consumers are protected by the presence of a strong licensing and regulatory Bureau charged with regulating the cemetery and funeral industry within California. The death of a loved one can be one of the most traumatic experiences a consumer will face. Given the complex and sensitive nature of ensuring compliance with state and federal laws regarding the death care industry, such as ensuring fair and accurate price list disclosures, auditing endowment care funds, overseeing preneed trusts, and inspecting funeral homes and crematory facilities, the Bureau is well-positioned to continue the regulation over nearly every aspect of the licensed cemetery and funeral industry. Regulation by the Bureau should be continued and reviewed again in a future year, during which time the Legislature may once again review whether the issues and recommendations in this background paper have been addressed.

Staff Recommendation: *The Bureau should be continued, to be reviewed again on a future date to be determined.*