

DEPARTMENT OF STATE
Office of General Counsel

LEGISLATION REPORT
PENDING LEGISLATION

TO: New York State Cemetery Board

FROM: Antonio Milillo

DATE 4/10/2020

New Action/Matter is Highlighted

1. A613 (A. Paulin) S3824 (S. RANZENHOFER):
Clarifies that state regulated cemetery operations are under the sole jurisdiction of the state cemetery board. It deletes the word “public” from the phrase “public burial grounds” and adds this text: “This vital interest shall be protected and the uniqueness of these entities shall be affirmed by providing the state with the responsibility for sole jurisdiction of the regulation of cemeteries as set forth in this article.”

A613 Actions:
01/08/20 referred to corporations, authorities and commissions

S3824 Actions:
01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS
2. A887 (A. Jones) S. S.2033 (S. Little)
Modifies the requirement of Executive Law § 365(2)(b) that the Directors of the Division of Veterans’ Affairs, Division of Budget and Division of Cemeteries as well as the Office of State Comptroller certify that the veterans remembrance and cemetery maintenance and operation fund contains moneys sufficient to fund the operation, maintenance and perpetual care of a state veterans' cemetery for a period of not less than fifteen years. The investigation and study of a proposed state veterans cemetery would not have to await such certification.

A887 Actions:
01/08/2020 referred to veterans' affairs

S2033 Actions:
01/08/2020 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS
02/24/2020 NOTICE OF COMMITTEE CONSIDERATION - REQUESTED
3. A977 (A. Gottfried) S872 (S. RIVERA)
Amends the Public Health Law regarding appointment of a person in control of disposition of human remains, to permit other forms and to require only one witness to a form.

A977 Actions:
01/08/20 referred to health

S872 Actions:
01/08/20 REFERRED TO HEALTH
4. A1234 (A. Paulin) S2269 (S. COMRIE):

Expands the definition of the term "cremation" in N-PCL § 102 to include: "any other technical process to reduce human remains to cremains that the cemetery board deems in the public interest and authorizes pursuant to regulations promulgated by the cemetery board."

A1234 Actions:

01/08/20 referred to corporations, authorities and commissions

S2269 Actions:

01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

5. A1254 (A. Paulin) S2501 (S. Helming):

Provides for the sole administration of the state cemetery vandalism restoration, monument repair or removal and administration fund by the state cemetery board. Removes the jurisdiction of the Comptroller and Tax Commissioner.

A1254 Actions:

01/08/20 referred to corporations, authorities and commissions

S2501 Actions:

01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

6. A1891 (A. Zebrowski):

Amends the Penal Law by adding a new section 145.24 to create the crime of Desecration of a military monument and makes it a Class A Misdemeanor.

A1891 Actions:

01/08/20 referred to codes

7. A2280 (A. Abinanti) S5333 (S. COMRIE)

This bill would add a section 75-vv to the General Business Law and would permit pet cemeteries to charge a fee for interring the cremains of pet owners with their pet remains. It provides for a notice and contract. These provisions conflict with Division regulation 19 NYCRR § 201.19.

A2280 Actions:

01/08/20 referred to corporations, authorities and commissions

S5333 Actions:

01/08/20 REFERRED TO CONSUMER PROTECTION

8. A3207 (A. Colton) S1654 (S. SKOUFIS):

This bill would amend the General Business Law to prohibit the unauthorized sale, purchase, or transfer of any cemetery marker, flag holder, monument, statue or other physical memorabilia that is over 75 years old and that commemorates the life or death of a veteran or group of veterans. It would make violations a class B misdemeanor. The bill would allow cemeteries - even cemeteries that are not under Division jurisdiction - to engage in such purchase, sale or transfer with permission from the New York State Cemetery Board. The Board could authorize the purchase, sale or transfer of cemetery commemorative statues or monuments at a public hearing of which veterans groups have been notified.

A3207 Actions:

01/08/20 referred to veterans' affairs

S1654 Actions:

01/08/20 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS

9. A3338 (A. Ortiz) S3254 (S. PARKER):

This bill would allow cemetery corporations to grant qualified veterans' organizations the right to receive the

cremains of a veteran which has not been claimed by a relative or friend of the deceased within one hundred twenty days after cremation.

A3338 Actions:

01/08/20 referred to corporations, authorities and commissions

S3254 Actions:

01/08/20 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS

10. A3429-A (A. Dilan) S4284-A (S. COMRIE):

This bill would create a cemetery disclosure form which would be posted in the cemetery corporation's office and given to every potential customer. The details of the form would be created by the State Cemetery Board and would provide a lengthy list of detailed information to consumers.

A3429-A Actions:

01/08/20 referred to corporations, authorities and commissions

S4284-A Actions:

01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

02/12/2020 1ST REPORT CAL.432

02/13/2020 2ND REPORT CAL.

02/24/2020 ADVANCED TO THIRD READING

02/27/2020 PASSED SENATE

02/27/2020 DELIVERED TO ASSEMBLY

02/27/2020 referred to corporations, authorities and commissions

11. A3550 (A. Rozic) S502 (S. KAMINSKY):

This bill would add the crime of cemetery desecration in the first degree if the damage or theft involves property with a value exceeding \$2,000 and makes such crime a class D felony.

A3550 Actions:

01/08/20 referred to codes

01/10/2020 amend and recommit to codes

01/10/2020 print number 3550a

S502 Actions:

01/08/20 REFERRED TO CODES

12. A3726-B (A. Dinowitz) S3701-B (S. COMRIE):

This bill would amend Tax Law § 1115(a) to exclude from sales tax tangible personal property and services sold by a cemetery for exclusive use on the grounds and in the buildings of the cemetery; amends Tax Law § 116(a) to add cemetery corporations to the list of organizations exempt from sales tax; and adds a new section 1149 to the Tax Law creating an amnesty program to waive interest and penalties for previous sales taxes prior to December 31, 2017

A3726-B Actions:

01/08/20 referred to ways and means

S3701-B Actions:

01/08/20 REFERRED TO BUDGET AND REVENUE

13. A5134 (A. DiPietro) S3992 (S. Gallivan)

Would add a new section 240.12 to the Penal Law establishing the crime of "Unlawful funeral protest". Certain activity such as picketing and amplified speech would be prohibited within a certain distance of a funeral from 1 hour prior to one hour after the funeral service.

A5134 Actions:
01/08/20 referred to codes

S3992 Actions:
01/08/20 REFERRED TO CODES

14. A5928 (A. Englebright) S4422 (S. Comrie)
Would create a new N-PCL § 1518 regarding Native American burial sites but would exempt almost all of Article 15 from such burial sites. It would establish a Native American burial site review committee (no Division or Cemetery Board person would be on the committee) and would establish procedures when a Native American burial site is discovered.

A5928 Actions:
01/08/20 referred to corporations, authorities and commissions

S4422 Actions:
01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

15. S345 (S. FELDER) A8727 (S. Eichenstein)
Removes the \$250 amount of damage from cemetery desecration in the second degree; makes cemetery desecration in the second degree a class E felony to apply to any damage or theft regardless of value; adds crime of cemetery desecration in the first degree and makes such crime a class D felony.

S345 Actions:
01/08/20 REFERRED TO CODES

A8727 Actions:
01/08/2020 referred to codes

16. S1156 (S. TEDISCO) A6613 (A. Crespo):
This bill would give the mother greater control over fetal remains and would permit the mother to obtain a removal/transit/burial permit from the local registrar directly, instead of going through a funeral director. The bill would seem to permit the mother to bring the remains to a cemetery/crematory herself and would seem to permit cremation of remains of less than 20 weeks gestation – both not permitted by current practice.

S1156 Actions:
01/08/20 REFERRED TO HEALTH

A6613 Actions:
01/08/20 referred to health

17. S1167 (S. FUNKE) A9808 (A. Stirpe):
Amends the Executive Law to Authorize a veteran's close friend or family member who is reasonably familiar with such veteran's wishes to request that such veteran be buried in a state veterans' cemetery

S1167 Actions:
01/08/20 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS

A9808 Actions:
02/13/2020 referred to veterans' affairs

18. A4027 (A. Weprin) (MS):
Provides for a one-year study for package pricing methods for funerals and funeral services. Requires that individual item pricing still be offered and requires that the package prices be broken down and "listed by their component parts on such itemization statement, except for direct cremations, direct burials, forwarding of remains

and receiving of remains.”

A4027 Actions:

01/08/20 referred to health

19. A5347 (A. DiPietro):

Relates to the New York state veterans cemeteries. It amends Executive Law § 365 which requires the establishment of a program for approving state veterans cemeteries in New York by eliminating the requirement that a study and funding be in place before establishing such program and by requiring that the director of the division of veterans affairs start the process of construction and establishment of the first state veterans cemetery by 1/1/2021.

A5347 Actions:

01/08/20 referred to veterans' affairs

20. S3780 (S. GRIFFO):

Creates a new § 368-a of the Executive Law to establish a Veterans cemetery funding promotion program by which groups, individuals and corporations are encouraged to contribute funds to the existing veterans remembrance and cemetery maintenance and operation fund

S3780 Actions:

01/08/2020 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS

21. S4646 (S. KENNEDY) A7527 (A. Peoples-Stokes)

Amends Public Health Law § 4202(4) which relates to disposition of cremated remains in the possession of a funeral home that have been unclaimed for 120 days. It adds sending the remains to a cemetery for scattering in a designated scattering area.

S4646 Actions:

01/08/20 REFERRED TO HEALTH

A7257 Actions:

01/08/20 referred to health

22. S5057-A (S. JACOBS) A7151 (A. Lupardo)

Amends the Anti-Combination Law to permit a funeral entity that was grandfathered under the Law to permit it to continue to operate a crematory to:

- a. transfer the right to operate the crematory;
- b. add space/equipment to meet increased demand; and
- c. relocate

S5057 Actions:

01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

A7151 Actions:

01/08/20 referred to corporations, authorities and commissions

23. A7301 (A. Cusick) S820 (S. Lanza)

This bill would amend §453 of the Gen Bus L; §§107 & 3208 of the Ins L; and §3450 of the Pub Health L. to permit funeral directors who are licensed insurance agents to receive a commission for the sale of pre-need life (funeral) insurance. The bill defines a pre-need life insurance policy as: “a prearrangement agreement for goods and services, or other benefits, to be provided at the time of and immediately following the death of the insured. “Goods and services may include embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased.”. It does not include the cost of a lot or interment fees.

A7301 Actions:
01/08/20 referred to consumer affairs and protection

S820 Actions:
01/08/20 REFERRED TO CONSUMER PROTECTION

24. A7350 (A. Woerner) S4610 (S. Savino)
This bill would amend Religious Corporation Law § 7 to prohibit a religious corporation that has a cemetery from selling/displaying monuments.

A7350 Actions:
01/08/20 referred to corporations, authorities and commissions

S4610 Actions:
01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

25. S5463 (S. COMRIE) A7651 (A. Paulin)
This bill would Amend N-PCL § 1507 to strike out provisions added in 2014 that allows cemeteries to spend a portion of the net appreciation of its Permanent Maintenance Fund and Perpetual Care Fund and replace it with a provision that does the following:

[A cemetery may spend and] treat as income for all purposes, an amount of trust principal equal to the excess, if any, of a percentage of the fair market value of the principal of the trust, as of the last day of the cemetery's immediately preceding fiscal year, as is prudent under the standard established by article five-A of this chapter, the prudent management of institutional funds act over interest and ordinary dividends received in such year; provided, however, that an appropriation of an amount (the safe harbor amount) of trust principal equal to the excess of up to four percent of the fair market value of the principal of the trust, as of the last day of the cemetery's immediately preceding fiscal year over interest and ordinary dividends received in such year shall be deemed to be prudent in all events. A "qualified corporation" means a cemetery corporation which adopts a written investment policy setting forth guidelines on investments and delegation of management and investment functions in accord with the standards of article five-A of this chapter.

The bill requires the cemetery to give the Cemetery Board 60 days' notice and states:

Such proposed appropriation shall become effective sixty days after receipt of such notice, unless the proposed appropriation exceeds the safe harbor amount or the written investment policy is not provided or is not prepared in accordance with the standards of article five-A of this chapter, and the cemetery board within such sixty-day period notifies the cemetery corporation that the board objects to the proposed appropriation.

S5463 Actions:
01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISS.
03/02/2020 1ST REPORT CAL.509
03/03/2020 2ND REPORT CAL.
03/04/2020 ADVANCED TO THIRD READING

A7651 Actions:
01/08/20 referred to corporations, authorities and commissions

26. A7652 (A. Paulin) S5591 (S. Comrie)
Current N-PCL § 1513(a)(3) makes it illegal for a cemetery to pay anyone other than a regular employee a commission, bonus, rebate or other things of value in connection with the sale of a lot. This bill would add an exception for a contract with a third-party vendor that uses internet websites to offer cemetery goods or services to the public for a fee.

A7652 Actions:

01/08/20 referred to corporations, authorities and commissions

S5591 Actions:

01/08/20 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

03/02/20 1ST REPORT CAL.510

03/03/20 2ND REPORT CAL.

03/04/20 ADVANCED TO THIRD READING

27. A8727 (A. Eichenstein) S345 (S. Felder)

It would change Penal Law § 145.23, Cemetery Desecration in the First Degree – a Class E Felony – to a second degree crime and would add a new § 145.24 and a new Cemetery Desecration in the First Degree and make it a Class D Felony.

A8727 Actions:

01/08/20 referred to codes

S345 Actions:

01/08/20 REFERRED TO CODES

28. S5841 (S. Kaplan)

This bill would amend Executive Law § 354-b to add funerals for first responders to the World Trade Center as eligible for a supplemental burial allowance. Such allowance is currently limited to funeral for members of the armed forces killed in combat or duty.

S5841 Actions:

01/08/20 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS

29. S7155 (S. COMRIE) A9089 (A. Paulin)

This bill would amend various provisions of N-PCL § 1506 and add a new § 1506-d to permit mergers of cemeteries that are within a 50 mile radius of the principal place of business of the surviving cemetery corporation. It exempts such mergers from the “continuous property” and maximum acreage limitations of Article 15. A cemetery may merge with such distant cemeteries if it has \$10 million or more in financial assets and if it provides the cemetery board with certain information and agreements. The bill would also ratify land acquisitions that occurred prior to 1/1/2020 regardless of proximity and total acreage. Proposed new section 1506-d would also provide that nothing in new section 1506-d “shall prohibit a cemetery corporation from merging with a crematory operation, regardless of the location of the operation of such cemetery corporation.” The term “crematory operation” is not defined.

S7155 Actions:

01/09/2020 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

03/02/2020 REPORTED AND COMMITTED TO FINANCE

A9089 Actions:

01/17/2020 referred to corporations, authorities and commissions

02/26/2020 reported

02/27/2020 advanced to third reading cal.438

03/03/2020 passed assembly

03/03/2020 delivered to senate

03/03/2020 REFERRED TO FINANCE

30. S2810 (S. COMRIE) A3375 (A. Bichotte)

This bill would amend Public Health Law § 206 to provide a standardized way to address stillbirth cases in healthcare facilities that provide birthing and newborn services across the state. It includes having “an

informational pamphlet to be given to a family experiencing a stillbirth that includes information about funeral and cremation options”.

S2810 Actions:

01/08/20 REFERRED TO HEALTH

A3375 Actions:

01/08/20 referred to health

31. A5570 (A. Brabenec)

This bill would amend/add Real Property Tax Law §§102, 490, 403, 420 & 497 to permit municipalities to impose certain service charges on specific tax exempt property, including cemeteries. The service charges could cover the following services: “police protection; fire protection; street and highway construction, maintenance and lighting; sanitation; and water supply.”

A5570 Actions:

01/08/2020 referred to real property taxation

32. **A09839 (A. Paulin) S7822 (S. COMRIE)**

This bill would amend the N-PCL to insert new sections 1505-b and 1508 to allow a cemetery corporation to dispose of remains by “natural organic reduction” and to operate a “natural organic reduction facility”. The bill would include disposal or burial of remains by “natural organic reduction” in the definition of “cemetery corporation”. It would also add the following definitions:

The term "natural organic reduction" means the contained, accelerated conversion of human remains to soil.

The term "natural organic reduction facility" means a structure, room, or other space in a building or real property where natural organic reduction of a human body occurs.

The procedures for receiving approval to open/operate such a facility generally follow the procedures for opening/operating a crematory.

A9839 Actions:

02/20/2020 referred to corporations, authorities and commissions

02/26/2020 reported referred to codes

S07822 Actions:

02/25/2020 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS