

DEPARTMENT OF STATE  
Office of Counsel

LEGISLATION REPORT

TO: New York State Cemetery Board  
FROM: Antonio Milillo  
DATE: February 15, 2012

(New bills/new action in **bold**)

1. S136/A226 (S. Little/A. Ortiz): This bill would add a new section 627-a to the Tax Law providing for a gift for veterans` cemetery operation and maintenance through a contribution on the personal income tax return and would add a new section 89-h to the state finance law establishing the "New York state veterans` cemetery operation and maintenance fund." Moneys in the fund would be expended for the purposes of the operation and maintenance of state veterans` cemeteries.

S136 Actions:

01/04/12 Referred to Investigations and Government Operations

**03/01/12 Amend and Recommit to Investigations and Government Operations**

**03/01/12 Print Number 136a**

**03/05/12 Reported and Committed to Finance**

A226 Actions:

01/04/12 Referred to Veteran`s Affairs

**03/02/12 Amend and Recommit to Veterans' Affairs**

**03/02/12 Print Number 226a**

2. S229/A1879 (S. Maziarz/A. McEneny): This bill would amend Penal Law sections 165.50 and 155.35 to make it a class D felony to either steal property from a cemetery or possess property stolen from a cemetery which has a value exceeding one hundred dollars. The theft or possession of common grave site items such as flowers or flags are excluded.

S229 Actions:

01/04/12 Referred to Codes

A1879 Actions:

01/04/12 Referred to Codes

3. S473 (Nozzolio): This bill would amend section 145.23 relating to cemetery desecration in the first degree. Currently this section makes it a class E felony to damage or steal cemetery property having a value in excess of \$250.00. This bill would eliminate the dollar limit so that this provision would cover property of any value.

S473 Actions:

01/04/12 Referred to Codes

4. S1504/A2885 (S. Larkin/A. Morelle): 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 cemetery corporations 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.

S1504 Actions:

01/04/12 Referred to Veterans, Homeland Security and Military Affairs

01/18/12 1st Report Cal.80

01/19/12 2nd Report Cal.

01/23/12 Advanced to Third Reading

**03/05/12 Passed Senate**

**03/05/12 Delivered to Assembly**

**03/05/12 Referred to Veterans' Affairs**

A2885 Actions:

01/04/12 Referred to Veterans' Affairs

5. S1728/A3042-A (S. Larkin/A. Morelle): This bill would amend the Penal Law (PL) by making technical changes to PL sections 145.22 and 145.23 and would add two new sections to the Penal Law. PL §145.26 would define the term veteran and PL §145.27 would establish the crime of cemetery desecration of a veteran cemetery plot or grave by making it a class E felony.

S1728 Actions:

01/04/12 Referred to Codes

01/23/12 1st Report Cal.101

01/24/12 2nd Report Cal.

01/30/12 Advanced to Third Reading

**03/05/12 Passed Senate**

**03/05/12 Delivered to Assembly**

**03/05/12 Referred to Codes**

A3042-a Actions:

01/04/12 Referred to Codes

6. A1386-A/S5381-A (A. Ortiz/S. Ball): This bill would amend Executive Law section 353(12) dealing with state veterans' cemeteries. It would allow for state funding to operate and maintain such cemeteries.

A1386 Actions:

01/04/12 Reported to Veterans' Affairs

S5281A Actions:

01/04/12 Referred to Veterans, Homeland Security and Military Affairs

01/18/12 Reported and Committed to Finance

**03/06/12 1st Report Cal.307**

**03/07/12 2nd Report Cal.**

**03/12/12 Advanced to Third Reading**

7. S1469/A2356 (S. Parker/A. Cusick): This bill would re-letter existing paragraph (j) of Not-for-Profit Corporation Law section 1517 to paragraph (k) and would add a new paragraph (j)

which would allow a cemetery corporation which still has possession of the cremains of an individual known to be a veteran after 120 days from cremation, and which has not been instructed to arrange for the interment, entombment, inurnment or scattering of the cremains of such individual, to dispose of the cremains by relinquishing possession to a veterans' organization. Before a cemetery corporation may dispose of the cremains of a veteran in this manner, it must first use "diligent effort" to contact the authorizing agent or next of kin. Diligent effort means a reasonable effort, and includes a certified letter, delivery receipt requested, mailed to the next of kin or authorizing agent that signed the cremation authorization.

S1469 Actions:

01/04/12 Referred to Veterans, Homeland Security and Military Affairs

A2356 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

- 8.** A1134/S2489 (A. Kolb/S. Griffo): This bill creates the crimes of criminal interference with a funeral service in the first and second degrees. Criminal interference in the first degree would be a class E felony and in the second degree would be a class A misdemeanor.

A1134 Actions:

01/04/12 Referred to Codes

**03/20/12 Held for Consideration in Codes**

S2489 Actions:

01/04/12 Referred to Codes

01/09/12 Recommit, Enacting Clause Stricken

- 9.** A3027/S3313 (A. Cymbrowitz /S. Klein): This bill would make the current section 1513-a of the NPCL - "Reacquisition of a lot, plot or part thereof by a cemetery corporation" - applicable to unused graves owned by a burial society and also allows a cemetery to reacquire unused graves of a burial society if mailings to the burial society are returned by the post office. The bill adds certain provisions regarding use of the funds from resale of such lots and setting aside graves for members of the burial society who make seek burial.

A3027 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

S3313 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

- 10.** A4219/S4399 (A. Weisenberg/S. Flanagan): This bill would amend NPCL section 1510 to add a new paragraph "n" to require cemetery corporations to provide customers with a bill of rights. The bill of rights must be posted, must be provided at the beginning of face-to-face discussions regarding cemetery services and must be provided upon request.

A4219 Actions:

01/04/12 Referred to Codes

S4399 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

11. A5044 (Weisenberg): This bill would require each member of the Cemetery Board to appoint one unpaid consumer representative as a non-voting adviser to the Cemetery Board. The consumer representative must have no affiliations with the cemetery business. Each shall be appointed for a term of three years, but may be removed by the Secretary of State for misconduct, incompetence or neglect of duty.

A5044 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

12. S2424-A (Ball): This bill would add a new section 369 to the Executive Law which would direct the Division of Veterans' Affairs to conduct an investigation and study on the issue of the establishment of a New York state veterans cemetery program on or before December 31, 2011, and to submit to the federal Veterans Administration cemetery grants program a pre-application for the establishment of one or more veterans cemeteries.

S2424-A Actions:

01/04/12 Referred to Veterans, Homeland Security and Military Affairs

13. A6860-A (Galef): This bill would add a new section 369 to the Executive Law which would direct the Division of Veterans' Affairs to conduct an investigation and study on the issue of the establishment of a New York state veterans cemetery program on or before December 31, 2011, and to submit to the federal Veterans Administration cemetery grants program a pre-application for the establishment of one or more veterans cemeteries.

A6860 Actions:

01/04/12 referred to veterans' affairs

14. A6338 (Burling): This bill add a new section 240.12 to the penal law which would create the offense of unlawful funeral protest and make it a class B misdemeanor. A funeral protest is unlawful if it occurs during or one hour before or after a funeral, occurs within 1000 feet of entrance or egress of the cemetery and it creates a disturbance through noise or activity or it impedes funeral traffic.

A6338 Actions:

01/04/12 Referred to Codes

**03/20/12 Held for Consideration in Codes**

15. A6617-A/S 3900-A (A. Roberts/S. Griffo): This bill would amend section 255 of the Military Law and create the crime of criminal interference with a funeral service. The crimes would only relate to military funerals and would prohibit blocking or impeding access to property where a burial or memorial is occurring; picketing or gathering within 500 feet; making noise or other disturbances within earshot of a funeral; or using utterances, gesture or displays which outrages the sensibilities of attendees of a funeral. It would be a class A misdemeanor.

A6617-A Actions:

01/04/12 Referred to Codes

S3900-a Actions:

01/04/12 Referred to Veterans, Homeland Security and Military Affairs

01/09/12 Recommit, Enacting Clause Stricken

16. A7416-A (Brennan): This bill would amend NPCL section 1504 and give the Cemetery Board, rather than the Comptroller and Tax Commissioner, custody of the Vandalism Fund and would authorize the Cemetery Board to administer the Fund.

A7416-A Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

17. A7418/S5370 (A. Brennan/ S. Ranzenhofer): This bill would remove the requirement of court approval for a cemetery application to purchase land, to sell land, and to borrow from the permanent maintenance fund. The Cemetery Board would have jurisdiction over those matter.

A7418 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

S5370 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

02/13/12 1st Report Cal.194

02/14/12 2nd Report Cal.

**02/15/12 Advanced to Third Reading**

**02/29/12 Passed Senate**

**02/29/12 Delivered to Assembly**

**02/29/12 Referred to Corporations, Authorities and Commissions**

18. A8171 (Ramos): This bill would authorize the Division of Veterans' Affairs to establish and maintain a state veterans' cemetery and to seek federal funding for same.

A8171 Actions:

01/04/12 Referred to Veterans' Affairs

19. S5539 (DeFrancisco): This bill would repeal section 1516 of the NPCL which prohibits the sale of cemetery monuments by cemetery corporations

S5539 Actions:

01/04/12 Referred to Corporations, Authorities and Commission

20. A7417-A/S 5429 (A. Brennan/ S. Ranzenhofer): This bill would amend the definition of "cremation" in NPCL section 1502(h) to include "any chemical processes".

A7417-A Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

S5429 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

**03/19/12 1st Report Cal.375**

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## ITEMS OF INTEREST

21. A4953 (Abbate): This bill would amend General Business Law section 750-b by deleting the requirement that a person in the business of operating a pet cemetery or crematory be

licensed, and replacing it with a requirement that any individual, business, or entity offering pet cremation or burial services use a licensed crematory or cemetery located in, licensed by, and subject to regulation by the state of New York.

A4953 Actions:

01/04/12 Referred to Economic Development

22. S3380-A/A6401 (S. Klein/A. Morelle): This bill would amend the Religious Corporation Law to prohibit religious corporations which own or operate a cemetery from selling monuments, memorials, gravestones or markers, other than flush bronze markers.

S3380-A Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

A6401 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

02/14/12 Reported Referred to Codes

23. A5727/S4611 (A. Brennan/ S. Ranzenhofer): This bill would enact substantial revision to the Not-for-Profit Corporation Law, including renaming it the Non-Profit Corporation Law; making changes to align it more closely to the Business Corporation Law; and making changes to align it more closely to national models. Articles 1 through 10 are amended, Article 15 is not.

A5727 Actions:

01/04/12 Referred to Corporations, Authorities and Commissions

S4611 Actions:

**01/04/12 Referred to Corporations, Authorities and Commissions**

24. A8618-A/S 5313-B (A. Abbate/ S. Golden): This bill would amend General Business Law section 750-b by deleting the requirement that a person in the business of operating a pet cemetery or crematory be licensed, and replacing it with a requirement that any individual, business, or entity offering pet cremation or burial services use a licensed crematory or cemetery located in, licensed by, and subject to regulation by the state of New York.

A8618-a Actions:

01/04/12 Referred to Consumer Affairs and Protection

01/30/12 Amend and Recommit to Consumer Affairs and Protection

01/30/12 Print Number 8618a

S5313-b Actions:

01/04/12 Referred to Consumer Protection

01/19/12 Amend and Recommit to Consumer Protection

01/19/12 Print Number 5313b

25. **A8883 (Quart): This bill would amend the Public Health Law by adding a definition of “alkaline hydrolysis” and permitting institutions authorized to receive unclaimed cadavers or anatomical gifts to dispose of same by alkaline hydrolysis.**

**A8883 Actions:**

**01/04/12 Referred to Health**