

Date of Hearing: May 4, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 1658 (Bigelow) – As Introduced January 13, 2016

SUBJECT: Happy Homestead Cemetery District: nonresident burial.

SUMMARY: Authorizes the Happy Homestead Cemetery District (District) to inter nonresidents from specified communities in Nevada. Specifically, **this bill:**

- 1) Authorizes the District, located in the City of South Lake Tahoe in El Dorado County, to inter nonresidents of the District who are residents of the Nevada communities of Glenbrook, Cave Rock, Skyland, Zephyr Cove, Round Hill, Elk Point, Kingsbury, and Stateline, if all of the following conditions apply:
 - a) The board of trustees determines that the District's cemetery has adequate space for the foreseeable future;
 - b) The District has an endowment care fund that requires a contribution for every interment of at least the minimum amount set, pursuant to existing law; and,
 - c) The District requires the payment of a nonresident fee set, pursuant to existing law.
- 2) Finds and declares that a special law is necessary because of the unique circumstances pertaining to the District.

EXISTING LAW:

- 1) States that a cemetery district shall limit interments to the following:
 - a) Persons who are residents of the cemetery district;
 - b) Persons who are former residents of the cemetery district and who acquired interment rights while they were residents of the district;
 - c) Persons who pay property taxes on property located in the cemetery district;
 - d) Persons who formerly paid property taxes on property located in the cemetery district and who acquired interment rights while they paid those property taxes;
 - e) Eligible nonresidents of the cemetery district, as provided; or,
 - f) Persons who are family members of any person described above.
- 2) Authorizes the Cottonwood, Anderson, Silveyville, Halcumb, and Kern River Valley cemetery districts to use their cemeteries for up to a total of 400 interments each, not to exceed 40 interments each per calendar year, for interment in the ground or a columbarium of any person who is not a resident or a property taxpayer of any cemetery district, and who does not qualify for that interment, pursuant to existing law, if all of the following apply:

- a) The board of trustees determines that the district's cemetery has adequate space for the foreseeable future;
 - b) The cemetery district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set, pursuant to existing law; and,
 - c) The cemetery district requires the payment of a nonresident fee set, pursuant to existing law.
- 3) Authorizes the Oroville Cemetery District to use its cemetery on Feather River Boulevard, for up to a total of 100 interments, for interment in the ground of any non-residents, the Elsinore Valley Cemetery District to use a portion of its cemetery for up to a total of 536 interments for nonresidents, and the Davis Cemetery District to use its cemetery for up to a total of 500 interments, for interment in the ground of any nonresident, if all of the following in 2), above, apply.

FISCAL EFFECT: None

COMMENTS:

- 1) **Public Cemetery Districts.** California's 253 public cemetery districts are separate local governments that operate cemeteries and provide interment services, mostly in rural areas and suburbs that were formerly rural communities. County boards of supervisors appoint the cemetery districts' boards of trustees, composed of three to five registered voters from within the districts' boundaries. The districts finance their operations with small shares of local property tax revenues, by selling interment rights and charging for services.

State law limits who may be buried in a district cemetery. Generally, cemetery districts can bury only residents, former residents, property taxpayers, former taxpayers, certain eligible nonresidents, and their family members.

- 2) **Bill Summary.** This bill authorizes the District to inter nonresidents in its cemetery, pursuant to the conditions established for several other cemetery districts under existing law. This bill only authorizes the interment of non-District residents from the Nevada communities of Glenbrook, Cave Rock, Skyland, Zephyr Cove, Round Hill, Elk Point, Kingsbury, and Stateline. This bill is sponsored by the District.
- 3) **Author's Statement.** According to the author, "The purpose of public cemetery districts is to provide cost-effective burial services for residents and taxpayers of each district. Public cemetery districts are the successors to Gold Rush community burying grounds and community cemetery associations. Thus, the purpose is to provide interment services for residents of the local community. The Nevada communities on the east shore of Lake Tahoe, from Glenbrook down to Stateline, are a part of the contiguous social and economic community of South Lake Tahoe, of which South Lake Tahoe, California is a major part. There is only one cemetery in the region – the Happy Homestead Cemetery in South Lake Tahoe. Yet current California law prevents Nevada residents of the community from being buried in this community cemetery. This bill will permit their interment in the District, with the payment of a non-resident premium. Doing so will serve to further the cohesive social and economic community as well as increase revenues for the District."

- 4) **District.** The District is located in South Lake Tahoe in El Dorado County and was formed in 1952 by the Board of Supervisors. According to the El Dorado County Local Agency Formation Commission (LAFCO), the area served by the District includes 212 square miles and an estimated population of 30,500 as of 2007. The District is the only known cemetery service provider, public or private, in the El Dorado County portion of the Tahoe Basin.
- 5) **Previous Legislation.** Responding to an Attorney General's opinion, the Legislature allowed the Oroville Cemetery District (Butte County) to inter up to 100 nonresidents in a former Jewish cemetery which the District had acquired (SB 1906, Johnson, 1982). When the Public Cemetery District Law was revised, the Legislature retained Oroville's special provision (SB 341, Senate Local Government Committee, 2003). The Legislature allowed the Elsinore Valley Cemetery District (Riverside County) to inter up to 536 nonresidents in a former Jewish cemetery, under specified conditions (AB 1969, Jeffries, 2010). To facilitate a group purchase of cemetery plots by members of the Congregation Bet Haverim Synagogue, the Legislature allowed the Davis cemetery district to inter up to 500 nonresidents, under specified conditions (AB 966, Yamada, 2011).

SB 1131 (La Malfa), Chapter 65, Statutes of 2012, authorizes Anderson, Cottonwood, and Silveyville cemetery districts to inter nonresidents due to financial hardship caused by the openings of nearby state and federal veterans' cemeteries. SB 1131 allows those three cemetery districts to inter up to 40 nonresidents in each cemetery's district - up to a maximum of 400, provided that a nonresident fee is paid. The District's board of trustees affirms that there is adequate space for the foreseeable future, and the cemetery has an endowment care fund. Most recently, SB 159 (Fuller), Chapter 55, Statutes of 2013, added the Kern River Valley Cemetery District, and SB 1291 (Nielsen), Chapter 276, Statutes of 2014, added Halcumb Cemetery District to the list of cemetery districts that may inter nonresidents under specified conditions.

AB 1593 (Dahle) of 2014 would have added the Auburn Public Cemetery District to the list of cemetery districts that currently have the authorization to inter nonresidents. This bill was never heard in the Local Government Committee.

- 6) **Related Legislation.** SB 1009 (Nielsen), pending in the Senate Governance and Finance Committee, has not been set for hearing. SB 1009 would establish a statewide approach and allow a cemetery district that serves at least one county located in a rural area to inter nonresidents, subject to the conditions established under current law for individual districts. SB 1009 would limit the number of nonresidents a district could inter to a total of 400, not to exceed 40 per calendar year.
- 7) **Policy Considerations.** The Committee may wish to consider the policy of exempting cemetery districts one at a time. The Committee may wish to consider if a more comprehensive solution involving LAFCOs at the local level should be explored. For example, the Legislature could authorize cemetery districts, using conditions in existing law for individual districts, to petition LAFCO if they would like to inter nonresidents. This approach would allow LAFCOs, who are the Legislature's watchdog over local boundaries, make the decision at the local level and to consider other options like annexing new territory into the cemetery district.

- 8) **Arguments in Support.** The District argues, "AB 1658 is intended to achieve two ends: First, it is intended to increase the population that Happy Homestead serves, thus increasing potential revenues and permitting continuing cemetery operations without additional tax revenues. Second, and equally important, it will help to preserve the southern Lake Tahoe community, one that is divided by the border between California and Nevada. The residents of the Nevada communities on the east and south shore of the Lake and those in California's South Lake Tahoe comprise a single, economic, social and cultural community. Yet those Nevada residents are largely ineligible for interment in the only cemetery in the region – the Happy Homestead Cemetery – because they are not residents or taxpayers within the boundaries of the District."
- 9) **Arguments in Opposition.** The Cemetery and Mortuary Association of California argues, "Cemetery districts, as entities of municipal government are intended to serve their residents. The law therefore sets forth specific connections where interments are appropriate. The expansion of the law to include non-residents, as proposed by AB 1658, creates an opportunity and incentive for municipalities to engage in business practices that compete with the private sector."

REGISTERED SUPPORT / OPPOSITION:**Support**

Happy Homestead Cemetery District [SPONSOR]
Tahoe Chamber of Commerce

Opposition

Cemetery and Mortuary Association of California

Analysis Prepared by: Misa Lennox / L. GOV. / (916) 319-3958