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HEALTH AND SAFETY CODE - HSC

DIVISION 8. CEMETERIES [8100 - 9703] (*Division 8 enacted by Stats. 1939, Ch. 60.*)

PART 4. PUBLIC CEMETERY DISTRICTS [9000 - 9093] (*Part 4 repealed and added by Stats. 2003, Ch. 57, Sec. 5.*)

CHAPTER 4. Powers [9040 - 9056] (*Chapter 4 added by Stats. 2003, Ch. 57, Sec. 5.*)

9040. (a) A district may own, operate, improve, and maintain cemeteries and provide interment services within its boundaries.

(b) A district shall maintain the cemeteries owned by the district.

(c) The district that owns a cemetery shall have exclusive jurisdiction and control over its maintenance and management.

(*Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.*)

9041. A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this part, including, but not limited to, all of the following powers:

(a) To sue and be sued.

(b) To acquire by purchase, eminent domain, grant, gift, lease, or other lawful means, any real property within the district or any personal property that may be necessary or proper to carry out the purposes and intent of this part.

(c) To sell, lease, or otherwise dispose of any real or personal property. A board of trustees may exchange equivalent properties if the board determines that the exchange is in the best interests of the district.

(d) To donate any surplus real or personal property to any public agency or nonprofit organizations.

(e) To engage necessary employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties.

(f) To engage counsel and other professional services.

(g) To enter into and perform all necessary contracts.

(h) To borrow money, give security therefore, and purchase on contract, as provided in this part.

(i) To adopt a seal and alter it at pleasure.

(j) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(k) To adopt and enforce rules and regulations for the administration, maintenance, operation, and use of cemeteries.

(l) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(m) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

(n) To provide training to trustees that will assist in the governance of the district.

(o) To appoint one or more advisory committees to make recommendations for the ownership, improvement, expansion, and the operation of cemeteries owned by the district and the provision of interment services.

(p) To take any and all actions necessary for, or incidental to, the powers expressed or implied by this part.

(*Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.*)

9042. (a) When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7 of the Government Code.

(b) When disposing of surplus land, a district shall comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9043. (a) A district shall have perpetual succession.

(b) A board of trustees may, by a two-thirds vote of its total membership, adopt a resolution to change the name of the district. The name shall contain the words "public cemetery district" or "cemetery district." The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 2 of the Government Code. Within 10 days of its adoption, the board of trustees shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.

(c) A district may destroy a record, paper, or document pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code, unless the board of trustees determines that there is a need for its retention. In determining whether there is a need for retaining a document, the board of trustees shall consider future public need, the effect on statutes of limitation, and historical significance. This subdivision does not apply to records of interments that are governed by Section 9064.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9044. (a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchase of supplies and equipment. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5 of the Government Code.

(b) A district may request the Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Section 10298 of the Public Contract Code.

(c) A district may request the purchasing agent of the principal county to make purchases of materials, equipment, or supplies on its behalf pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

(d) A district may request the purchasing agent of the principal county to contract with persons to provide projects, services, and programs authorized by this part pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9045. (a) The Myers-Milius-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.

(b) A board of trustees may adopt an ordinance establishing an employee relations system that may include, but is not limited to, a civil service system or a merit system.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9046. A board of trustees may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9047. A board of trustees may provide for any programs for the benefit of its employees and members of the board of trustees pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9048. A district may authorize the members of its board of trustees and its employees to attend professional, educational, or vocational meetings, and pay their actual and necessary traveling and incidental expenses while on official business. The payment of expenses pursuant to this section may be in addition to the payments made pursuant to Section 9031.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9049. A district may sell interment rights in its cemeteries, columbariums, and mausoleums, subject to the limitations of this part.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9050. (a) A district may acquire, construct, improve, maintain, or repair a columbarium for the placement of cremated remains.

(b) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).

(c) A district that sells interment rights in a columbarium shall require a deposit to be made in the endowment care fund pursuant to Section 9065.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9051. (a) A district may acquire, maintain, or repair a mausoleum for crypt entombment that was completed on or before May 1, 1937. A district may construct additions to the mausoleum.

(b) Notwithstanding subdivision (a), the Visalia Public Cemetery District may acquire and manage the mausoleum originally constructed by the City of Visalia in 1965.

(c) Notwithstanding subdivision (a), the Arroyo Grande Cemetery District may allow a private mausoleum, as defined by Section 9504.5. The cost of construction and maintenance shall be completely borne by the person or persons for whom the private mausoleum is constructed. That person or persons shall contribute to a special care trust fund an amount of money that, when invested, will provide a return sufficient to assure adequate maintenance of the private mausoleum. The district shall not use public funds to construct, maintain, or repair a private mausoleum.

(d) Notwithstanding subdivision (a), a district may allow a private mausoleum, as defined by Section 9504.5, if the mausoleum was completed on or before January 1, 2003.

(e) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9052. (a) A district may require that monuments or markers shall be placed at interment plots.

(b) A district may adopt minimum requirements for the permanency of monuments or markers.

(c) A district may cause to be purchased and placed suitable permanent monuments or markers at the interment plots of indigents, persons whose estates are insufficient to pay for the monuments or markers, or persons who have no responsible survivors to pay for the monuments or markers. A district may accept gifts or donations for the exclusive purpose of purchasing and placing these monuments or markers.

(d) A district, a member of the board of trustees, a district officer, or a district employee shall not engage in the business of selling monuments or markers.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9053. A district may sell accessory and replacement objects that are necessary or convenient to interments, including but not limited to burial vaults, liners, and flower vases, but excluding monuments or markers.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9054. (a) A district may use or lease land acquired for a future cemetery for an enterprise if all of the following conditions apply:

- (1) The district has filed with the county recorder a declaration of intention to use the land for a cemetery.
- (2) The amount of land is reasonably necessary for the district's future requirements.
- (3) The enterprise is consistent with the applicable regulations of the city or county in which the land is located.
- (4) The enterprise does not permit the conduct of funeral or cemetery functions not authorized by this part.
- (5) The enterprise does not prevent the future use of the land as a cemetery.

(b) A district may lease land acquired for future cemetery use to a public agency for recreational use, provided that the district has filed with the county recorder a declaration of intention to use the land for a cemetery.

(c) Nothing in this part authorizes a district to acquire or retain real property that is not reasonably necessary for the district's future requirements.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9055. (a) A district may convey a cemetery owned by the district to any cemetery authority, pursuant to this section.

(b) The board of trustees of a district that proposes to convey a cemetery owned by the district to a cemetery authority shall adopt a resolution of intention that contains:

- (1) A description of the cemetery that the district proposes to convey.
- (2) The name of the cemetery authority to which the district proposes to convey the cemetery.

(3) An appendix that reports the cemetery's current assets and current liabilities and contains a reasonable projection of the district's ability to finance the ownership, improvement, expansion, and operation of the cemetery in the future.

(4) The terms and conditions of the proposed conveyance. The terms and conditions shall require all of the following:

(A) The cemetery authority maintain the cemetery as a endowment care cemetery pursuant to Sections 8738 and 8738.1.

(B) Appropriate consideration, as determined by the board of trustees.

(C) A restriction in the deed that conveys the cemetery to the cemetery authority that will permit the district or another public agency as the district's successor in interest to enter the cemetery and perform any repairs, restoration, or maintenance that the district or its successor deems necessary to protect the public interest, and will require the cemetery authority to reimburse the district or its successor for those costs.

(D) Any other terms and conditions that the board of trustees determines to be necessary to protect the public interest in the cemetery.

(5) A declaration that the proposed conveyance is in the public interest and in the best interests of the district.

(c) The board of trustees shall send its resolution of intention to the board of supervisors of the principal county.

(d) Within 60 days of receiving a resolution of intention adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the proposed conveyance. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6064 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district with the first day of publication at least 30 days before the hearing. The board of supervisors shall post the public notice in at least three public places within the jurisdiction of the district, at least 30 days before the hearing. One of the public places shall be at the cemetery that the district proposes to convey, and one of the public places shall be at the offices of the district. In addition, the board of supervisors shall mail the notice at least 30 days before the hearing to the district, the cemetery authority, and any other person who has filed written request for notice with the clerk of the board of supervisors.

(e) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the proposed conveyance of the cemetery. At the conclusion of the hearing, the board of supervisors shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) If the written protests filed and not withdrawn are at least 50 percent of the registered voters of the district or property owners owning at least 50 percent of the assessed value of the land within the district, the board of supervisors shall adopt a resolution that terminates the proceedings to convey the cemetery.

(2) If the written protests filed and not withdrawn are less than 50 percent of the registered voters of the district or property owners owning less than 50 percent of the assessed value of the land within the district, the board of supervisors may by a four-fifths vote adopt a resolution that concurs in the conveyance of the cemetery to the cemetery authority.

(f) The board of supervisors shall send copies of its resolution adopted pursuant to subdivision (e) to the district and the cemetery authority.

(g) If the board of supervisors adopts a resolution that concurs in the proposed conveyance of the cemetery, the board of trustees may order the conveyance of the cemetery to the cemetery authority, subject to the terms and conditions set by the board of trustees and concurred in by the board of supervisors.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)

9056. (a) A district may dedicate real property or an interest in real property owned by the district to another public agency for use as roads or utility rights-of-way, including but not limited to water, sewer, drainage, gas or electricity transmission, or communications purposes, pursuant to this section.

(b) The board of trustees of a district that proposes to dedicate real property or an interest in real property owned by the district to another public agency shall adopt a resolution of intention that contains:

(1) A description of the real property or interest in real property.

(2) The name of the public agency to which the district proposes to dedicate the property.

(3) The terms and conditions, including any consideration, of the proposed dedication.

(4) Findings, based on substantial evidence in the record:

(A) That the real property has never been used for interments.

(B) That no interment rights have been sold or leased for the real property.

(C) That the district does not need the property for cemetery purposes.

(5) A statement of the reason or reasons for the proposed dedication.

(6) A declaration that the proposed dedication is in the public interest and in the best interests of the district.

(c) Within 60 days of adopting a resolution of intention pursuant to subdivision (b), the board of trustees shall hold a public hearing on the proposed dedication. The board of trustees shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. The board of trustees shall post the public notice in at least three public places within the jurisdiction of the district, at least 10 days before the hearing. One of the public places shall be at the real property that the district proposes to dedicate, and one of the public places shall be at the offices of the district. In addition, the board of trustees shall mail the notice at least 10 days before the hearing to the other public agency and any other person who has filed written request for notice with the board of trustees.

(d) If the board of trustees adopts a resolution that dedicates the real property to another public agency, the board of trustees shall promptly execute a deed of dedication and send the deed to the other public agency. The dedication is effective when the other public agency records the deed of dedication with the county recorder of the county in which the real property is located.

(Added by Stats. 2003, Ch. 57, Sec. 5. Effective January 1, 2004.)