

**CALIFORNIA**  
**HEALTH AND SAFETY CODE - HSC**  
**DIVISION 8. CEMETERIES [8100 - 9703]**  
**PART 4. PUBLIC CEMETERY DISTRICTS [9000 - 9093]**

**CHAPTER 1. General Provisions [9000 - 9007]**

*( Chapter 1 added by Stats. 2003, Ch. 57, Sec. 5. )*

**9000.**

This part shall be known and may be cited as the Public Cemetery District Law.

*(Repealed and added by Stats. 2003, Ch. 57, Sec. 5.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

**9001.**

(a) The Legislature finds and declares all of the following:

(1) There is a continuing need to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities.

(2) The Legislature authorized the creation of public cemetery districts in 1909 to assume responsibility for the ownership, improvement, expansion, and operation of cemeteries and the provision of interment services from fraternal, pioneer, religious, social, and other organizations that were unable to provide for those cemeteries.

(3) For nearly a century, public cemetery districts have provided communities with the means to publicly finance the ownership, improvement, expansion, and operation of public cemeteries and the provision of interment services, particularly in rural and formerly rural communities.

(4) Interment customs and practices have changed since the creation of the public cemetery districts but communities continue to need the means to own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(b) In enacting this part, it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts that can own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(c) It is also the intent of the Legislature that local officials adapt the powers and procedures provided by this part to meet the diversity of local conditions and circumstances.

*(Repealed and added by Stats. 2003, Ch. 57, Sec. 5.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

## 9002.

The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 apply to this part. Further, as used in this part, the following terms have the following meanings:

(a) "Active militia" means the active militia as defined by Section 120 of the Military and Veterans Code.

(b) "Armed services" means the armed services as defined by Section 18540 of the Government Code.

(c) "Board of trustees" means the legislative body of a district.

(d) "District" means a public cemetery district created pursuant to this part or any of its statutory predecessors.

(e) "Domestic partner" means two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, and are qualified and registered with the Secretary of State as domestic partners in accordance with Division 2.5 (commencing with Section 297) of the Family Code.

(f) "Family member" means any spouse, by marriage or otherwise, domestic partner, child or stepchild, by natural birth or adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

(g) "Firefighter" means a firefighter as defined by Section 1797.182.

(h) (1) "Interment right" means the rights held by the owner to use or control the use of a plot authorized by this part, for the interment of human remains, including both of the following rights:

(A) To determine the number and identity of any person or persons to be interred in the plot within a cemetery in conformance with all applicable regulations adopted by the cemetery district.

(B) To control the placement, design, wording, and removal of memorial markers in compliance with all applicable regulations adopted by the cemetery district.

(2) An interment right is a transferable property interest, and is governed by Chapter 5.5 (commencing with Section 9069.10).

(i) "Nonresident" means a person who does not reside within a district or does not pay property taxes on property located in a district.

(j) "Peace officer" means a peace officer as defined by Section 830 of the Penal Code.

(k) "Principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district.

(l) "Voter" means a voter as defined by Section 359 of the Elections Code.

*(Amended by Stats. 2017, Ch. 561, Sec. 110. (AB 1516) Effective January 1, 2018.)*

### 9003.

(a) This part provides the authority for the organization and powers of public cemetery districts. This part succeeds the former Part 4 (commencing with Section 8890), as added by Chapter 60 of the Statutes of 1939, as subsequently amended, and any of its statutory predecessors.

(b) Any public cemetery district formed pursuant to the former Part 4 or any of its statutory predecessors that was in existence on January 1, 2004, shall remain in existence as if it has been organized pursuant to this part.

(c) Any indebtedness, special tax, benefit assessment, fee, election, ordinance, resolution, regulation, rule, or any other action of a district taken pursuant to the former Part 4 or of any of its statutory predecessors which was taken before January 1, 2004, shall not be voided solely because of any error, omission, informality, misnomer, or failure to comply strictly with this part.

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

### 9004.

This part is necessary to protect the public health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

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

### 9005.

If any provision of this part or the application of any provision of this part in any circumstance or to any person, city, county, special district, school district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this part are severable.

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

### 9006.

(a) Any action brought to determine the validity of the organization or of any action of a district shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(b) Any judicial review of an action taken pursuant to this part shall be conducted pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

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

### 9007.

(a) Except as provided in this section, territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district. Territory that is already within a public cemetery district or another type of special district that provides cemetery facilities and services shall not be included within a public cemetery district.

(b) Except as provided in this part, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall govern any change of organization or reorganization of a district. In the case of any conflict between that division and this part, the provisions of this part shall prevail.

(c) A district shall be deemed an “independent special district,” as defined by Section 56044 of the Government Code, except when a county board of supervisors has appointed itself as the board of trustees.

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

## **CHAPTER 2. Formation [9010 - 9014]**

*( Chapter 2 added by Stats. 2003, Ch. 57, Sec. 5. )*

### **9010.**

A new district may be formed pursuant to this chapter.

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

### **9011.**

(a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700 of the Government Code. In addition, the petition shall:

- (1) Set forth the methods by which the district will be financed, including but not limited to special taxes, special benefit assessments, and fees.
- (2) Propose a name for the district.
- (3) Specify the size of the initial board of trustees and the method of their appointment.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 3 of Title 5 of the Government Code. In the case of any conflict between that chapter and this chapter, the provisions of this chapter shall prevail.

(c) The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission.

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

**9012.**

(a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district and the methods by which the district will be financed. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The following shall be signed by a representative of the proponent, and shall be in substantially the following form:

“Notice of Intent to Circulate Petition

“Notice is hereby given of the intention to circulate a petition proposing to form the \_\_\_\_\_ [name of the district]. The reasons for forming the proposed district are: \_\_\_\_\_ . The method(s) by which the proposed district will be financed are: \_\_\_\_\_ .”

(c) Within five days after the date of publication, the proponents shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of the publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

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

**9013.**

(a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city that contains the territory proposed to be included in the district. Except for the provisions regarding the signers, signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 9011.

(b) Before adopting a resolution of application, the legislative body shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the county or city. At least 20 days before the hearing, the legislative body shall give mailed notice of its hearing to the executive officer of the local agency formation commission of the principal county. The notice shall generally describe the proposed formation of the district and the territory proposed to be included in the district.

(c) At the hearing, the legislative body shall give any person an opportunity to present his or her views on the resolution.

(d) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

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

#### 9014.

(a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code.

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines both of the following:

(1) That the public interest requires the formation of the proposed district.

(2) That the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding paragraph (2) of subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue, provided that the commission conditions the approval on the approval by the voters of special taxes or approval by the property owners of special benefit assessments that will generate those sufficient revenues. The commission shall provide that if the voters do not approve the special taxes or if the property owners do not approve the special benefit assessments, the proposed district shall not be formed.

(d) If the local agency formation commission approves the proposal for the formation of a district, then, notwithstanding Section 57007 of the Government Code, the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5 of the Government Code.

(e) Notwithstanding Section 57075 of the Government Code, the local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078 of the Government Code, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall either:

(A) Order the formation subject to the approval by the voters.

(B) Order the formation subject to the approval by the voters of a special tax or the approval by the property owners of a special benefit assessment, pursuant to subdivision (c).

(f) If the local agency formation commission orders the formation of a district pursuant to paragraph (2) of subdivision (e), the commission shall direct the board of supervisors to direct county officials to conduct the necessary elections on behalf of the proposed district.

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

### **HAPTER 3. Board of Trustees [9020 - 9031]**

*( Chapter 3 added by Stats. 2003, Ch. 57, Sec. 5. )*

#### 9020.

A legislative body of at least three members known as the board of trustees shall govern every district. The board of trustees shall establish policies for the operation of the district. The board of trustees shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.

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

#### 9021.

Within 30 days after the effective date of the formation of a district, a board of trustees shall be appointed as follows:

- (a) In the case of a district that contains territory in a single county, the board of supervisors shall appoint three or five persons to the board of trustees.
- (b) In the case of a district that contains territory in more than one county, the board of supervisors of the principal county shall appoint three or five persons from any county in which the district is located to the board of trustees.

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

#### 9022.

- (a) Each person appointed by a board of supervisors to be a member of a board of trustees shall be a voter in the district.
- (b) All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this part. The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors that appointed them.

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

#### 9023.

- (a) The initial board of trustees of a district formed on or after January 1, 2004, shall be determined pursuant to this section.
- (b) The persons appointed to the initial board of trustees shall meet on the first Monday after 45 days after the effective date of the formation of the district.
- (c) At the first meeting of the initial board of trustees, the trustees shall classify themselves by lot into two classes, as nearly equal as possible. The term of office of the class having the greater number shall expire at noon on the first Monday in January that is closest to the fourth year from the appointments made pursuant to Section 9021. The term of office of the class having the lesser number shall expire at noon on the first Monday in January that is closest to the second year from the appointments made pursuant to Section 9021.

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

**9024.**

(a) Except as provided in subdivision (b) of this section, subdivision (c) of Section 9023, and subdivision (d) of Section 9026, the term of office for a member of the board of trustees shall be for a term of four years and until the appointment and qualification of the successor. Terms of office commence at noon on the first Monday in January.

(b) For districts formed before January 1, 2004, where the members of the board of trustees are not serving staggered terms, the board of supervisors shall stagger the terms of the trustees and to accomplish this purpose shall appoint trustees, on or after January 1, 2004, for terms of less than four years. However, a board of supervisors shall not reduce the term of office of a trustee once the trustee has been appointed to that term, whether the appointment was made before, on, or after January 1, 2004.

(c) Any vacancy in the office of a member appointed to a board of trustees shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

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

**9025.**

(a) A board of trustees may adopt a resolution requesting the board of supervisors of the principal county to increase or decrease the number of members of the board of trustees. The resolution shall specify the number of members for which the board of trustees requests the increase or decrease.

(b) Within 60 days of receiving a resolution adopted pursuant to subdivision (a), the board of supervisors shall consider the resolution at a public hearing. The board of supervisors 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. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(c) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the resolution. After receiving and considering those comments, the board of supervisors may adopt a resolution that orders the increase or decrease in the number of members of the board of trustees.

(d) If the board of supervisors adopts a resolution that orders an increase in the number of members of the board of trustees, the board of supervisors shall promptly appoint a person or persons to the board of trustees and specify their term of office, consistent with the requirements of this part. If the board of supervisors adopts a resolution that orders a decrease in the number of members of the board of trustees, the board of supervisors shall designate the trustee or trustees whose office shall be eliminated at the termination of the trustee's current term of office. Any trustee whose office is designated to be eliminated shall continue to serve until his or her term expires.

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



9026.

(a) The board of supervisors of the principal county may appoint itself to be the board of trustees of a district and the board of supervisors may divest itself of that authority, pursuant to this section.

(b) In the case of a district that has a board of trustees appointed by the board of supervisors, the board of supervisors may adopt a resolution declaring its intention to appoint itself to be the board of trustees of the district. In the case of a district where the board of supervisors has appointed itself to be the board of trustees, the board of supervisors may adopt a resolution declaring its intention to divest itself of that authority.

(c) Within 60 days of adopting a resolution adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the question whether the board of supervisors should govern the district. The board of supervisors 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. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(d) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding a resolution adopted pursuant to subdivision (b). 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) In the case of a district that has a board of trustees appointed by the board of supervisors:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to protect the public health, safety, and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

(2) In the case of a district where the board of supervisors has appointed itself to be the board of trustees:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution divesting itself of that

authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to protect the public health, safety, and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution divesting itself of that authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

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

#### **9027.**

(a) A local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single district, may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, change the number of members on the board of trustees of the consolidated or reorganized district, provided that the resulting number of trustees shall be an odd number but not less than five.

(b) Upon the expiration of the terms of the members of the board of trustees of the consolidated or reorganized district whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of trustees shall be reduced until the number equals the number of members determined by the local agency formation commission.

(c) Notwithstanding subdivision (c) of Section 9024, in the event of a vacancy on the board of trustees of the consolidated or reorganized district at a time when the number of members of the board of trustees is greater than the number determined by the local agency formation commission, the vacancy shall not be filled and the membership of the board of trustees shall be reduced by one member.

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

#### **9028.**

(a) At the first meeting of the initial board of trustees of a newly formed district, and in the case of an existing district not later than the first meeting of every calendar year, the board of trustees shall elect its officers.

(b) The officers of a board of trustees are a chairperson, vice chairperson, and a secretary. The chairperson and vice chairperson shall be trustees. The secretary may be either a trustee or a district employee. A board of trustees may create additional officers and elect members to those positions. No trustee shall hold more than one office.

(c) Except as provided in Section 9077, the county treasurer of the principal county shall act as the district treasurer. The county treasurer shall receive no compensation for the receipt and disbursement of money of the district.

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

#### **9029.**

A board of trustees shall meet at least once every three months. Meetings of the board of trustees are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) 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.)*

#### **9030.**

- (a) A majority of the board of trustees shall constitute a quorum for the transaction of business.
- (b) Except as otherwise specifically provided to the contrary in this part, a recorded vote of a majority of the total membership of the board of trustees is required on each action.
- (c) The board of trustees shall act only by ordinance, resolution, or motion.
- (d) The board of trustees shall keep a record of all of its acts, including financial transactions.
- (e) The board of trustees shall adopt rules for its proceedings.

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

#### **9031.**

- (a) The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. A member of the board of trustees shall not receive compensation for more than four meetings of the board in a month.
- (b) The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.
- (c) In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.
- (d) A member of the board of trustees may waive any or all of the payments permitted by this section.
- (e) For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.
- (f) For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

*(Amended by Stats. 2005, Ch. 700, Sec. 13. Effective January 1, 2006.)*

## **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-Milias-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 an 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.)*

## **CHAPTER 5. Interments [9060 - 9069]**

*( Chapter 5 added by Stats. 2003, Ch. 57, Sec. 5. )*

### **9060.**

(a) A district shall limit interment in a cemetery owned by the district to interment in the ground, in columbariums, and in mausoleums, as provided in this part.

(b) A district shall limit interments to:

(1) Persons who are residents of the district.

(2) Persons who are former residents of the district and who acquired interment rights while they were residents of the district.

(3) Persons who pay property taxes on property located in the district.

(4) Persons who formerly paid property taxes on property located in the district and who acquired interment rights while they paid those property taxes.

(5) Eligible nonresidents of the district, as provided in this chapter.

(6) Persons who are family members of any person described in this subdivision.

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

9061.

(a) A district may inter a person who is not a resident of the district or a person who does not pay property taxes on property located in the district in a cemetery owned by the district if all of the following apply:

(1) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(2) The district requires the payment of a nonresident fee set pursuant to Section 9068. A board of trustees may adopt a written policy that permits waiving the payment of the nonresident fee for a nonresident who had purchased an interment right while a resident or a taxpayer.

(3) The person meets the conditions listed in one or more of subdivisions (b) through (e).

(b) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if the person is a family member of a person who is already interred in a cemetery owned by the district or is a family member of a person who has acquired interment rights in a cemetery owned by a district.

(c) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of the district or paid property taxes on property located in the district for continuous period of at least five years, a portion of which time period shall have occurred within the 10 years immediately before the person's death.

(2) The district receives a written request for the interment of the person from a person who is a resident of the district or who pays property taxes on property located within the district, and the person submitting the written request is not a trustee, officer, or employee of the district and is not a funeral director or an employee of a funeral director.

(3) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(d) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of this state at the time of death.

(2) There is no private cemetery within a straight-line radius of 15 miles of the person's residence.

(3) There is no private cemetery nearer to the person's residence than the nearest cemetery owned by the district.

(4) The distances shall be measured in a straight line from the person's residence to the nearest private cemetery and the nearest cemetery owned by the district.

(e) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person died while either:

(A) Serving in the Armed Forces or the active militia, or

(B) In the line of duty as a peace officer or firefighter.

(2) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

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

#### **9062.**

Notwithstanding Section 9060, the board of trustees may contract with any county in which the district is located to inter persons for whose interment the county is responsible pursuant to Chapter 10 (commencing with Section 27460) of Division 2 of Title 3 of the Government Code or Chapter 3 (commencing with Section 7100) of Part 1 of Division 7 of this code, if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(c) The contract requires the county to pay the costs of the interment, including a payment to the district's endowment care fund.

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

#### **9063.**

Notwithstanding Section 9060, the Oroville Cemetery District may use its cemetery on Feather River Boulevard, north of Oro Dam Boulevard for up to a total of 100 interments, for interment in the ground of any person who is not a resident of the district if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

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

#### **9063.3.**

Notwithstanding Sections 9060 and 9061, the Happy Homestead Cemetery District located in the City of South Lake Tahoe in the County of El Dorado may inter residents of the Nevada communities of Glenbrook, Cave Rock, Skyland, Zephyr Cove, Round Hill, Elk Point, Kingsbury, and Stateline in the cemeteries in the district if all of the following apply:

(a) The Happy Homestead Cemetery District Board of Trustees determines that the district's cemeteries have 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 Sections 8738, 9065, and 9068.

(c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

*(Added by Stats. 2016, Ch. 242, Sec. 1. (AB 1658) Effective January 1, 2017.)*

#### 9063.5.

Notwithstanding Section 9060, the Elsinore Valley Cemetery District may use the portion of its cemetery formerly known as Home of Peace for up to a total of 536 interments, for interment in the ground of any person who meets the criteria for burial in that area but is not a resident of the district if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

*(Added by Stats. 2010, Ch. 40, Sec. 1. (AB 1969) Effective January 1, 2011.)*

#### 9063.7.

Notwithstanding Section 9060, the Davis Cemetery District may use its cemetery at 820 Pole Line Road, Davis, for up to a total of 500 interments, for interment in the ground of any person who is not a resident or a property taxpayer of the district if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

*(Added by Stats. 2011, Ch. 111, Sec. 1. (AB 966) Effective January 1, 2012.)*

#### 9063.9.

Notwithstanding Sections 9060 and 9061, the Cottonwood Cemetery District in Shasta County, the Anderson Cemetery District in Shasta County, the Halcumb Cemetery District in Shasta County, the Kern River Valley Cemetery District in Kern County, and the Silveyville Cemetery District in Solano County may 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 Section 9061, 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 district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set pursuant to Sections 8738 and 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

*(Amended by Stats. 2014, Ch. 276, Sec. 1. (SB 1291) Effective January 1, 2015.)*

#### 9064.

(a) The board of trustees shall cause to be prepared and maintained accurate and current records of:

(1) The cemeteries owned by the district, showing the location of the sites where persons have acquired interment rights, including the names and addresses of the persons who have acquired these interment rights, and the location of plots where interment rights are available for acquisition.

(2) All remains interred in cemeteries owned by the district, including the name of each person, his or her age at the time of death, place of death, date of interment, the interment plot, and the name and address of the funeral director.

(b) A district may keep the records required by this section in their original form or by any other method that can produce an accurate reproduction of the original record.

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

#### 9065.

(a) The board of trustees shall create an endowment care fund.

(b) The board of trustees shall require a payment into the endowment care fund for each interment right sold. The amount of the payment shall be not less than the minimum amounts set by Section 8738.

(c) The board of trustees may require a payment into the endowment care fund for each interment where no payment has previously been made. The amount of the payment shall be not less than the minimum amounts set by Section 8738.

(d) The board of trustees may pay into the endowment care fund any money from the district's general fund and from any other sources which is necessary or expedient to provide for the endowment care of the cemeteries owned by the district.

(e) The board of trustees shall not spend the principal of the endowment care fund.

(f) The board of trustees shall cause the income from the endowment care fund to be deposited in an endowment income fund and spent solely for the care of the cemeteries owned by the district.

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

#### 9066.

The board of trustees shall cause the principal of the endowment care fund to be invested and reinvested in any of the following:

(a) Securities and obligations designated by Section 53601 of the Government Code.

(b) Obligations of the United States or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest. These shall not be limited to maturity dates of one year or less.

(c) Obligations issued under authority of law by any county, municipality, or school district in this state for which are pledged the faith and credit of that county, municipality, or school district for the payment of principal and interest, if within 10 years immediately preceding the investment that county,

municipality, or school district was not in default for more than 90 days in the payment of principal or interest upon any legally authorized obligations issued by it.

(d) Obligations of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest.

(e) Interest-bearing obligations issued by a corporation organized under the laws of any state, or of the United States, provided that they bear a Standard and Poor's financial rating of AAA at the time of the investment.

(f) Certificates of deposit or other interest-bearing accounts in any state or federally chartered bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation.

*(Amended by Stats. 2009, Ch. 332, Sec. 75.4. (SB 113) Effective January 1, 2010.)*

#### 9067.

The board of trustees may cause the funds deposited in the endowment income fund pursuant to subdivision (f) of Section 9065 that are not required for the immediate care of the cemeteries owned by the district to be invested in the securities and obligations designated by Section 53601 of the Government Code.

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

#### 9068.

(a) The board of trustees shall adopt a schedule of fees for interments in cemeteries owned by the district and for other necessary and convenient services.

(b) The board of trustees shall also adopt a schedule of fees for nonresidents. The board of trustees shall set these fees at an amount that at least equals the amount of fees charged to residents or taxpayers and shall include a nonresident fee of at least 15 percent of that amount.

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

#### 9069.

(a) A district may seek the abandonment of an interment plot in a cemetery owned by the district pursuant to this section.

(b) The board of trustees shall file a petition with the superior court of the principal county which contains all of the following:

(1) An identification of the interment plot that the district desires to be declared abandoned.

(2) A statement that the district has made a diligent search to locate the present owner of the interment plot.

(3) A statement that the present owner of the interment plot is unknown to the district.

(4) A statement that, to the best knowledge of the district, at least 50 years have passed since any portion of the interment plot has been used for interment purposes.



(5) A statement that, after a reasonable physical investigation of the interment plot, the interment plot has not been used for the interment of human remains.

(6) A request that the court declare the interment plot abandoned.

(c) Upon the filing of a petition pursuant to subdivision (b), the clerk of the superior court shall set a time for a hearing on the petition.

(d) After the clerk of the superior court has set the hearing, the district shall give notice of the court's hearing. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, state that the court will hold a hearing to determine whether to declare the interment plot abandoned, and state the time and place of the court's hearing. The district shall give notice of the court's 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 district 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 interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, at least 10 days before the hearing to the last known owner of the interment plot.

(e) At the time set for the hearing, the superior court shall hear and consider any evidence that is introduced in favor or, and any objections to, the abandonment of the interment plot. The court may continue its hearing from time to time. The court shall determine from the evidence presented whether the facts stated in the district's petition are true. The court shall dismiss any portion of the district's petition if the court determines that any of the facts stated in that portion of the petition are not true, or if the court determines the identity of the present owner of the interment plot. If the court determines that the facts stated in the district's petition are true, the court may order that the interment plot shall be deemed abandoned and full title shall revert to the district. The superior court's order shall not become final until one year after the date on which the court made its order.

(f) Within 30 days after the date on which the superior court made its order, the district shall give notice of the court's order. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, and state the date on which the court's order will be final. The district shall give notice of the court's order 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. The district shall post the public notice in at least three public places within the jurisdiction of the district. One of the public places shall be at the interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, to the last known owner of the interment site.

(g) At any time before the superior court's order becomes final, any person may petition the court to reopen the proceeding. Upon receiving a petition and after giving notice to the district, the court may reopen the proceeding. The court may hear and consider any additional evidence regarding the facts in the district's petition. The court may amend its previous order. If the court determines that any of the

facts stated in any portion of the district's petition are not true, or if the court determines the identify of the present owner of the interment plot, the court shall dismiss that portion of the district's petition.

(h) The interment plot shall be deemed abandoned on the date on which the superior court's order becomes final. The district shall record the court's order in the office of the county recorder of the county in which the interment plot is located. Upon recordation of the court's order, the district is the owner of the interment plot and the district may resell the interment rights.

(i) If, after the proceedings taken pursuant to this section, the district discovers the presence of human remains in the interment plot, the district shall make reasonable efforts to identify the remains. The district shall close and appropriately mark the interment plot. The district shall offer the new owner of the interment rights in that interment plot comparable interment rights in another interment plot. The district shall not be liable for any claims for damages if the district has proceeded pursuant to this section.

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

## **CHAPTER 5.5. Interment Rights [9069.10 - 9069.40]**

*( Chapter 5.5 added by Stats. 2016, Ch. 592, Sec. 2. )*

### **9069.10.**

An interment right does not include the right for disinterment of human remains except on consent of the cemetery district and the written consent of the surviving spouse, child, parent, or sibling, in that order of priority.

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

### **9069.15.**

(a) This chapter does not apply to, or prohibit, the removal of remains from one plot to another in the same cemetery or the removal of remains by a cemetery district upon the written order of any of the following:

- (1) The superior court of the county in which the cemetery is located.
  - (2) The coroner having jurisdiction of the location of the cemetery.
  - (3) The health department having jurisdiction of the cemetery.
- (b) The cemetery district shall maintain a duplicate copy of an order pursuant to subdivision (a).
- (c) The cemetery district shall retain a true and correct record of a removal of remains pursuant to subdivision (a) that includes all of the following:
- (1) The date the remains were removed.
  - (2) The name and the age at death of the person whose remains were removed if available.

- (3) The cemetery and plot from which the remains were removed.
- (4) (A) If the removed remains are reinterred, the plot number, cemetery name, and location to which the remains were reinterred.
- (B) If the removed remains are disposed of other than by being reinterred, a record of the alternate disposition.
- (5) If the removed remains are reinterred at the cemetery, the date of reinterment.
- (d) The person making the removal shall deliver to the cemetery district operating the cemetery from which the remains were removed a true, full, and complete copy of the record containing all of the information specified in subdivision (c).

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

**9069.20.**

- (a) An interment right provides a transferable property interest to the person listed as the owner in the records of the cemetery district, subject to any written designation to the contrary signed by the owner and deposited with the cemetery district, or to the owner's successor pursuant to either this section or subdivision (a) of Section 9069.25. An interment right shall not be construed as conferring title to the property burdened by the transferable property interest.
- (b) The owner of record of an interment right may designate in writing the person or persons, other than the owner of record, who may be interred in the plot to which the owner holds the interment right.
- (c) The owner of an interment right shall, at the time of purchase, designate a successor owner or owners of the interment right in a signed written designation deposited with the district.
- (d) Use of an interment right transferred from the owner to a successor pursuant to subdivision (c) shall be made in compliance with applicable provisions of state and local law, and of applicable requirements or policies established by the district board of trustees.

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

**9069.25.**

- (a) If the owner of an interment right dies without making a valid and enforceable disposition of the interment right by a specific devise in a testamentary device, or by a written designation pursuant to subdivision (c) of Section 9069.20, the interment right shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code. In the event that the owner has no heirs at law, the district shall follow the abandonment procedures established under Section 9069.
- (b) A surviving spouse, registered domestic partner, child, parent, or heir who has an interment right pursuant to this section may waive that interment right in favor of any other relative of the deceased owner or spouse of a relative of the deceased owner.

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

**9069.30.**

When a public cemetery district acts to transfer ownership rights or make an interment on the basis of the affidavit, given under penalty of perjury pursuant to Section 9069.35, the district, and any employee or trustee of the district, shall not be liable for any claims, losses, or damages asserted in any action unless the district had actual knowledge that the facts stated in writing are false.

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

#### **9069.35.**

A person who purports to be the successor owner of an interment right shall execute a written affidavit declaring, under penalty of perjury, all of the following:

- (a) He or she is the person entitled to succeed to the interment right pursuant to Section 9069.20.
- (b) He or she has exerted all reasonable efforts to find other persons who may have an equal or higher claim to succeed to the interment right.
- (c) He or she is unaware, to the best of his or her knowledge, of any opposition challenging his or her right to succeed to the interment right.

*(Added by Stats. 2016, Ch. 592, Sec. 2. (SB 1179) Effective January 1, 2017.)*

#### **9069.40.**

Upon the sale to a person of a plot in a cemetery within a district, the district shall notify the purchaser, in writing, of any interment rights, that this chapter governs the succession of ownership of the interment rights, and the district's duly adopted policies, rules, and regulations governing the use, sale, or other transfer of interment rights.

## **CHAPTER 6. Finances [9070 - 9079]**

*( Chapter 6 added by Stats. 2003, Ch. 57, Sec. 5. )*

#### **9070.**

(a) On or before August 30 of each year, the board of trustees shall adopt a final budget, which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of Division 2 of Title 2 of the California Code of Regulations.

(b) The board of trustees may divide the annual budget into categories, including, but not limited to:

- (1) Maintenance and operation.
- (2) Employee compensation.
- (3) Interest and redemption for indebtedness.
- (4) Restricted reserves for the following categories:

(A) Endowment income fund.

(B) Capital outlay.

(C) Pre-need.

(D) Contingencies.

(5) Unallocated general reserve.

(c) The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located.

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

#### **9071.**

(a) In its annual budget, the board of trustees may establish one or more restricted reserves. When the board of trustees establishes a restricted reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the restricted reserve shall be spent only for the exclusive purposes for which the board of trustees established the restricted reserve. The reserves shall be maintained according to generally accepted principles.

(b) Any time after the establishment of a restricted reserve, the board of trustees may transfer any funds to that restricted reserve.

(c) If the board of trustees finds that the funds in a restricted reserve are no longer required for the purpose for which the restricted reserve was established, the board of trustees may, by a four-fifths vote of the total membership of the board of trustees, discontinue the restricted reserve or transfer the funds that are no longer required from the restricted reserve to the district's general fund.

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

#### **9072.**

(a) On or before July 1 of each year, the board of trustees shall adopt a resolution establishing its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of California Constitution and Division 9 (commencing with Section 7900) of the Government Code.

(b) Pursuant to subdivision (c) of Section 9 of Article XIII B of the California Constitution, this section shall not apply to a district that existed on January 1, 1978, and that did not, as of the 1977-78 fiscal year, levy an ad valorem tax on property in excess of twelve and one-half cents (\$0.125) per one hundred dollars (\$100) of assessed value.

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

#### **9073.**

The auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

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

**9074.**

(a) A district may accept any grants, goods, money, property, revenue, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

(b) Except as provided by Section 9077, all moneys received or collected by a district shall be paid into a separate fund in the county treasury on or before the 10th day of the month following the month in which the district received or collected the money.

(c) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

*(Amended by Stats. 2010, Ch. 699, Sec. 25.2. (SB 894) Effective January 1, 2011.)*

**9075.**

All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

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

**9076.**

(a) All claims against a district shall be audited, allowed, and paid by the board of trustees by warrants drawn on the county treasurer.

(b) As an alternative to subdivision (a), the board of trustees may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of trustees.

(c) The county treasurer shall pay the warrants in the order in which they are presented.

(d) If a warrant is presented for payment and the county treasurer cannot pay it for want of funds in the account on which it is drawn, the treasurer shall endorse the warrant, "NOT PAID BECAUSE OF INSUFFICIENT FUNDS" and sign his or her name and the date and time the warrant was presented. From that time until it is paid, the warrant bears interest at the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 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.)*

**9077.**

(a) Notwithstanding Section 9076, a district that has total annual revenues greater than five hundred thousand dollars (\$500,000) may withdraw its funds from the control of the county treasurer pursuant to this section.

(b) The board of trustees shall adopt a resolution that does each of the following:

- (1) States its intent to withdraw its funds from the county treasury.
  - (2) Adopts a procedure for the appointment of a district treasurer. The board of trustees may appoint the district treasurer. The board of trustees may appoint the district treasurer, or the board of trustees may delegate the appointment of the district to the district's general manager. The district treasurer may be a member of the board of trustees, the secretary of the board of trustees, the general manager, or a district employee.
  - (3) Fixes the amount of the bond for the district treasurer and other district employees who will be responsible for handling the district's finances.
  - (4) Adopts a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles.
  - (5) Adopts a procedure for drawing and signing warrants, provided that the procedure adheres to generally accepted accounting principles. The procedures shall provide that bond principal and salaries shall be paid when due. The procedure may provide that warrants to pay claims and demands need not be approved by the board of trustees before payment if the district treasurer determines that the claims and demands conform to the district's approved budget.
  - (6) Designates a bank or a savings and loan association as the depository of the district's funds. A bank or savings and loan association may act as a depository, paying agent, or fiscal agency for the holding or handling of the district's funds, notwithstanding the fact that a member of the board of trustees whose funds are on deposit in that bank or savings and loan association is an officer, employee, or stockholder of that bank or saving and loan association, or of a holding company that owns any of the stock of that bank or savings and loan association.
- (c) The board of trustees and the board of supervisors of the principal county shall determine a mutually acceptable date for the withdrawal of the district's funds from the county treasury, not to exceed 15 months from the date on which the board of trustees adopts its resolution.
- (d) In implementing this section, the district shall comply with Article 1 (commencing with Section 53600) and Article 2 (commencing with Section 5360) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Nothing in this section shall include the district treasurer from depositing the district's funds in the county treasury of the principal county or the State Treasury pursuant to Article 11 (commencing with Section 16429.1) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.
- (e) The district treasurer shall make annual or more frequent written reports to the board of trustees, as the board of trustees shall determine, regarding the receipts and disbursements and balances in the accounts controlled by the district treasurer. The district treasurer shall sign the reports and file them with the secretary.

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

#### **9078.**

A district may, by resolution, establish a revolving fund pursuant to Article 15 (commencing with Section 53950) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. The maximum amount of the revolving fund shall not exceed either of the following:

- (a) One thousand dollars (\$1,000) if the purpose of the revolving fund is to make change and pay small bills directly.
- (b) One hundred ten percent of one-twelfth of the district's adopted budget for the current fiscal year if the purpose of the revolving fund is to pay any authorized expenditures of the district.

*(Amended by Stats. 2009, Ch. 332, Sec. 75.7. (SB 113) Effective January 1, 2010.)*

#### **9079.**

- (a) The board of trustees shall provide for regular audits of the district's accounts and records and the district's endowment care fund pursuant to Section 26909 of the Government Code.
- (b) The board of trustees shall provide for the annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 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.)*

### **CHAPTER 7. Alternative Revenues [9080 - 9083]**

*( Chapter 7 added by Stats. 2003, Ch. 57, Sec. 5. )*

#### **9080.**

Whenever a board of trustees determines that the amount of revenues available to the district or any of its zones is inadequate to meet the costs of providing facilities, programs, projects, and services, the board of trustees may raise revenues pursuant to this chapter or any other provision of law.

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

#### **9081.**

A district may levy special taxes pursuant to either of the following:

- (a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.



(b) The Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) 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.)*

#### **9082.**

(a) Whenever a board of trustees determines that it is necessary to incur a general obligation bond indebtedness for the acquisition or improvement of real property, the board of trustees may proceed pursuant to Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code. For the purposes of that article, the board of trustees shall be considered the board of directors of the district.

(b) Notwithstanding subdivision (a), a district shall not incur indebtedness that exceeds 2 percent of the assessed value of all taxable property in the district at the time the bonds are issued.

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

#### **9083.**

(a) In addition to the other fees authorized by this part, a board of trustees may charge a fee to cover the cost of any other service that a district provides or the cost of enforcing any regulation for which the fee is charged. No fee charged pursuant to this section shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

(b) Notwithstanding Section 6103 of the Government Code, a board of trustees may charge a fee authorized by this section to other public agencies.

(c) A board of trustees may charge residents or persons who pay property taxes on property located in the district a fee authorized by this section that is less than the fee that it charges to nonresidents or nontaxpayers.

(d) A board of trustees may authorize district employees to waive the payment, in whole or part, of a fee authorized by this section when the board of trustees determines that payment would not be in the public interest. Before authorizing any waiver, the board of trustees shall adopt a resolution that specifies the policies and procedures governing waivers.

### **CHAPTER 8. Zones [9090 - 9093]**

*( Chapter 8 added by Stats. 2003, Ch. 57, Sec. 5. )*

#### **9090.**

(a) Whenever a board of trustees determines that it is in the public interest to provide different services, to provide different levels of services, or to raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this chapter.

(b) The board of trustees shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

- (1) States that the proposal is made pursuant to this chapter.
- (2) Sets forth a description of the boundaries of the territory to be included in the zone.
- (3) States the different services, the different levels of services, or the additional revenues that the district will provide.
- (4) Sets forth the methods by which those services or level of service will be financed.
- (5) States the reasons for forming the zone.
- (6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of trustees shall fix the date, time, and place for the public hearing on the formation of the zone. The district shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation in the district. The district shall mail the notice at least 45 days before the date of the hearing to all owners of property within the proposed zone. The district shall post the notice in at least three public places within the territory of the proposed zone.

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

#### 9091.

(a) At the hearing, the board of trustees shall hear and consider any protests to the formation of a zone pursuant to this chapter. The board of trustees shall terminate the proceedings, if at the conclusion of the hearing, it determines either of the following:

- (1) More than 50 percent of the total number of voters residing within the proposed zone have filed and not withdrawn written objections to the formation.
- (2) Property owners who own more than 50 percent of the assessed value of all taxable property within the proposed zone have filed written and not withdrawn objections to the formation.

(b) If the board of trustees determines that the written objections have been filed and not withdrawn by 50 percent or less of those voters or property owners, then the board of trustees may proceed to form the zone.

(c) If the resolution or petition for formation of a zone proposes that the zone use special taxes, special benefit assessments, fees for property-related services, or general obligation bonds to finance its purposes, the board of trustees shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

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

**9092.**

(a) A board of trustees may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 9090 and 9091.

(b) Except as provided in Section 56886 of the Government Code, a local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

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

**9093.**

(a) As determined by the board of trustees and pursuant to the requirements of this part, a zone may provide any service at any level or levels within its boundaries that the district may provide.

(b) As determined by the board of trustees and pursuant to the requirements of this part, a zone may exercise any fiscal powers within its boundaries that the district may exercise.

(c) Any special taxes, special benefit assessments, fees, or general obligation bonds which are intended solely for the support of projects, services, or programs within a zone shall be levied, assessed, and charged within the boundaries of that zone.

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