Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

Sub. H.B. 481*

129th General Assembly
(As Reported by S. State and Local Government and Veterans Affairs)

Reps. Hackett, Beck, Grossman, Boose, Wachtmann, Henne, Slaby, Combs, R. Adams, Boyd, Bubp, Buchy, Carney, Damschroder, Gardner, Garland, Gerberry, Goodwin, Hall, Hayes, Kozlowski, Letson, Mallory, McClain, Milkovich, Newbold, Thompson, Yuko, Batchelder

BILL SUMMARY

- Permits embalmers and funeral directors to place their licenses on inactive status.
- Authorizes funeral directors in bordering states to conduct limited funeral-related activities in Ohio.
- Authorizes unlicensed (in Ohio), out-of-state funeral directors to work with Ohio-licensed funeral directors during a declared disaster or emergency.
- Eliminates the requirement that funeral homes be the guarantor of the identity of decedents and instead requires funeral homes to complete only visual identification of remains.
- Clarifies that, if there is a sale or change in location of a funeral home, the home may remain operating if a new license application has been submitted to the Board.
- Authorizes employees of joint county departments of job and family services and any detention facility district to be eligible for the additional deferred compensation programs that governing boards are currently allowed to offer their employees in addition to the Ohio Public Employees Compensation Program.
- Includes joint county departments of job and family services and detention facility districts of any kind among the specified entities that are included in the definition

* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

of "government unit" whose governing board is allowed to offer up to two additional deferred compensation programs.

- Provides that the "governing board" of a joint county department of job and family services is the department's board of directors and that the board or joint board of county commissioners is the governing board of a detention facility district.

- Adds to the list of prohibited activities under the Embalmers, Funeral Directors, and Crematories Law, a prohibition against holding a dead human body, before final disposition, for more than 48 hours after the time of death unless the body is embalmed or refrigerated at a constant temperature of less than 40 degrees.

- Exempts certain insurance agreements, reports, and financial records from the Public Records Law.

- Specifies that certain political subdivision insurance reporting requirements pertain to "aggregate" amounts reserved and "aggregate" amounts disbursed from funds reserved to cover health care costs of officers and employees of political subdivisions.

- Provides that political subdivision reporting requirements pertaining to individual and joint self-insurance programs are "in lieu of" records otherwise required under a provision of law concerning services provided to governmental entities that requires accurate and complete financial records and makes them public records under the Public Records Law.

CONTENT AND OPERATION

Inactive status for license

The bill provides that a funeral director or embalmer may request that the funeral director's or embalmer's license be placed on inactive status by submitting to the Board of Embalmers and Funeral Directors a form prescribed by the board and such other information as the board may request.[1] A funeral director or embalmer must be in good standing with the board and be in compliance with applicable continuing education requirements in order to place the funeral director's or embalmer's license on inactive status. A funeral director or embalmer who is granted inactive status is prohibited from participating in any activity for which a funeral director's or embalmer's license is required in Ohio. A funeral director or embalmer who has been

[1] R.C. 4717.05(F).

granted inactive status is exempt from continuing education requirements during the period of inactive status.

A funeral director or embalmer who has been granted inactive status may not return to active status for at least two years following the date that the inactive status was granted.[2] Following a period of at least two years of inactive status, the funeral director or embalmer may apply to return to active status upon completion of all of the following conditions:

(1) The funeral director or embalmer files with the board a form prescribed by the board seeking active status and provides any other information as the board may request;

(2) The funeral director or embalmer takes and passes the Ohio laws examination for each license being activated;

(3) The funeral director or embalmer pays a reactivation fee to the board in the amount of $140 for each license being reactivated.

Embalmers and funeral director licensed in another state

Courtesy card

The bill authorizes the Board of Embalmers and Funeral Directors to issue a special permit, called a courtesy card, to a funeral director licensed in a state that borders Ohio and who does not hold an Ohio funeral director's license.[3] A courtesy cardholder is authorized to prepare and complete those sections of a death certificate and other permits needed for disposition of deceased human remains in Ohio, to sign and file these death certificates and permits, and to supervise and conduct funeral ceremonies and interments in Ohio.[4]

The Board may determine under what conditions a courtesy card may be issued to funeral directors in bordering states after taking into account whether and under what conditions and fees the border states issue similar courtesy cards to funeral directors licensed in this state. Applicants for courtesy cards must apply on forms prescribed by the board, pay an annual fee set by the board for initial applications and

---

[2] R.C. 4717.05(G).

[3] R.C. 4717.10(B) and (E).

[4] R.C. 4717.10(B).

renewals, and adhere to such other requirements imposed by the board on courtesy cardholders.[5]

The bill prohibits authorizing a courtesy cardholder from undertaking any of the following activities in Ohio:

(1) Arranging funerals or disposition services with members of the public in Ohio;

(2) Be employed by or under contract to a funeral home licensed in Ohio to perform funeral services in Ohio;

(3) Advertise funeral or disposition services in Ohio;

(4) Enter into or execute funeral or disposition contracts in Ohio;

(5) Prepare or embalm deceased human remains in Ohio; or

(6) Arrange for or carry out the disinterment of human remains in Ohio.

Emergency assistance

The bill exempts from the licensing requirements of Ohio law, any person who is licensed in another state as a funeral director or embalmer and who is assisting an Ohio licensed funeral director or embalmer during a disaster or an emergency in Ohio that has been declared by the state or a political subdivision.[6]

Decedent identification

The bill clarifies and modifies the requirements of a funeral home with respect to the identification of a decedent for purposes of cremation. Under the bill, in making the identification of the decedent, the funeral home arranging the cremation must require the person authorizing cremation, who is called the authorizing agent, or the authorizing agent's appointed representative, to visually identify the decedent's remains or a photograph or other visual image of the remains. If identification is by photograph or other visual image, the authorizing agent or representative must sign the photograph or other visual image. If visual identification is not feasible, other positive identification of the decedent may be used, including, but not limited to, reliance upon an identification made through the coroner's office or identification of photographs or

[5] R.C. 4717.10(C).

[6] R.C. 4717.12(4).

other visual images of scars, tattoos, or physical deformities taken from the decedent's remains.[7]

Under the bill, a funeral home and its employees are not responsible for verifying the accuracy of any information or statements the authorizing agent made on the authorization form, unless the funeral home or its employees have actual knowledge to the contrary regarding any such information or statement. When delivering the decedent's remains to a crematory or in carrying out the disposition in its own facility, the funeral home is responsible only for having the decedent identified and carrying out the obligations imposed on the funeral home under law.[8]

Under current law, if a licensed funeral director signs the authorization form as a witness, the funeral director is responsible for verifying the accuracy of the information and statements required, but is not responsible for verifying the accuracy of any of the other information or statements provided on the authorization form by the authorizing agent, unless the funeral director has actual knowledge to the contrary regarding any of the other information or statements. In addition, at the time the decedent is delivered to the crematory facility, the funeral director must certify that the dead human body delivered to the crematory facility is that of the decedent identified on the authorization form.[9]

Change in location or ownership

The bill clarifies that upon the filing of an application for a new funeral home license by a licensed funeral director, the funeral home may continue to operate until the board denies the funeral home's application. Under continuing law, a funeral home must obtain a new license to operate upon any change in location of the funeral home or for certain changes in ownership of the funeral business.[10]

Deferred compensation authority

The Ohio Public Employees Deferred Compensation Program is established in Chapter 148 of the Revised Code. Generally, any public employee that is eligible for membership in the Public Employees Retirement System is eligible to participate in the Program.[11] State law authorizes governing boards to offer to all officers and employees

---

[7] R.C. 4717.24(B).

[8] R.C. 4717.24(D).

[9] R.C. 4717.24(A)(17).

[10] R.C. 4717.11(A) and (B).

[11] R.C. 148.01(A) and 145.01(A).

of the government unit up to two additional programs of deferral of compensation designed for favorable tax treatment of the compensation deferred.[12] The term "government unit" is defined by a list of specified entities. Similarly, the term "governing board" is defined by a list of entities having governing authority over the specified government units.

The bill includes joint county departments of job and family services and detention facility districts of any kind among the specified entities that are included in the definition of "government unit" whose governing board is allowed to offer up to two additional deferred compensation programs. The bill also identifies the department's board of directors as the governing board of the joint county department of job and family services. Similarly, the bill specifies that the governing board of any detention facility district is the board or joint board of county commissioners. Accordingly, the effect of the bill's changes is to authorize the employees of the newly added entities to participate in any additional deferred compensation program that may be offered to those employees under R.C. 148.06, the provision of law that currently authorizes the additional programs of deferred compensation.

Embalmers, Funeral Directors, and Crematories Law prohibition

The Embalmers, Funeral Directors, and Crematories Law contains a number of prohibitions for any person; these generally require specified licenses for engaging in the professions and licensure for the facilities used in the professions. The bill adds a prohibition pertaining to the time a dead human body may be held before final disposition; the body may not be held for more than 48 hours after the time of death unless it is embalmed or placed into refrigeration and maintained at a constant temperature of less than 40 degrees.

Political subdivision insurance reporting requirements; exemption from Public Records Law

Current law authorizes political subdivisions to provide health care benefits to their officers and employees. They may establish individual or joint self-insurance programs and may agree with other political subdivisions to have their programs jointly administered. Funds must be reserved for the individual or joint self-insurance programs as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential cost of health care benefits for the officers and employees. A certified audited financial statement and a report of amounts so reserved and disbursements made from such funds, together with a certified actuarial report must be prepared and

[12] R.C. 148.06.

maintained, within 90 days after the last day of the fiscal year of the entity for which the report is provided for that fiscal year, in the program administrator's office.[13]

The bill inserts the term "aggregate" within certain requirements so that a certified audited financial statement and a report of "aggregate" amounts so reserved and "aggregate" disbursements made from the funds reserved, together with the actuarial report must be made within the 90-day period described above. Similarly, the report must include, but not be limited to, the "aggregate" of disbursements made for the administration of the program, including claims paid, cost of the legal representation of political subdivisions and employees, and fees paid to consultants.

Although the bill retains language requiring the program administrator to make the report available for inspection by any person at all reasonable times during regular business hours and to provide copies at cost upon request of any person, the bill provides that the report required by this section of law is "in lieu of" the records required under R.C. 149.431(A). That section of law generally requires any governmental entity or agency and any nonprofit corporation or association, that enters into a contract or other agreement with the federal government, a unit of state government, or a political subdivision or taxing unit for the provision of services to keep accurate and complete financial records of any moneys expended in relation to the performance of the services according to generally accepted accounting principles. That section further provides that such contract or agreement and such financial records must be deemed to be a "public record" under the Public Records Law, R.C. 149.43.[14] The bill excepts the insurance reporting provisions in the bill from R.C. 149.431 and, by providing that the reports under the insurance provisions are "in lieu of" R.C. 149.431, exempts those reports from the Public Records Law. Accordingly, the remedies and enforcement mechanisms of the Public Records Law would not apply.

The bill affords similar treatment (use of the word "aggregate"; report in lieu of public records provision; inspection and copies) to the section of law pertaining to the joint self-insurance pool to provide for the payment of judgments, settlement of claims, expense, loss, and damage that arises, or is claimed to have arisen from an act or omission of the political subdivision or any of its employees.[15]

---

[13] R.C. 9.833.

[14] R.C. 149.431.

[15] R.C. 2744.081.

HISTORY

ACTION	DATE
Introduced	03-13-12
Reported, H. State Gov't & Elections	05-09-12
Passed House (98-0)	05-22-12
Reported, S. State & Local Gov't & Veterans Affairs	---

h0481-rs-129.docx/ks