



AB 3746 (Speier) requires the Cemetery Board to promulgate regulations by July 1994 on standards for the burial depth of graves.

Existing law requires that an endowment care cemetery have specified monetary amounts deposited in its endowment care fund for each kind of plot sold. This bill increases these amounts.

AB 3746 also requires a cemetery authority to present to the survivor of the deceased who is handling the cremation arrangements or the responsible party a copy of the deceased's preneed agreement, if applicable; a cemetery authority who knowingly fails to present the agreement as required shall be liable for a civil fine equal to three times the cost of the preneed agreement, or \$1,000, whichever is greater.

This bill also requires every crematory licensee who prohibits relatives or the responsible party from viewing the cremation process to disclose that fact in writing to the person(s) entitled to the custody of the remains prior to the signing of any contract. This bill was signed by the Governor on September 20 (Chapter 797, Statutes of 1992).

AB 1981 (Elder) preempts any conflicting local or private rules or regulations on burial requirements and imposes a requirement on all cemeteries that a minimum amount of dirt cover the top of all vaults and caskets, with certain exceptions where specified alternative standards must be met. Any person who violates these requirements is subject to discipline by the Cemetery Board. This bill also provides that no person shall knowingly or willfully inter the remains of more than one body in a single plot, or place a casket or other human remains in an already occupied grave, except with certain express authorization; violation of this requirement would be a crime punishable as either a misdemeanor or felony. This bill was signed by the Governor on September 21 (Chapter 828, Statutes of 1992).

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including the Cemetery Board, to establish, by regulation, a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. This bill also provides that the unlicensed performance of activities for which a Cemetery Board license is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. This bill was signed by the

Governor on September 28 (Chapter 1135, Statutes of 1992).

SB 1482 (Johnston) requires the Cemetery Board to maintain, regulate, operate, and control a certain property in Amador County for purposes of protecting the human remains resting on the property and preserving the property in its natural state. The bill requires the Board to so administer and supervise endowment care funds established by a prescribed court order for the property. This bill also makes a legislative finding and declaration of unique circumstances. This bill was signed by the Governor on September 12 (Chapter 683, Statutes of 1992).

■ LITIGATION

On June 26, the former owners of the Lamb Funeral Home were acquitted of criminal charges that they had conducted mass cremations and commingled human remains; however, the jury deadlocked on counts of forging signatures on organ donor consent forms and unlawfully removing body parts. The verdicts came after nearly three weeks of deliberations by the Pasadena Superior Court jury in the case of husband and wife Jerry Sconce and Laurieanne Lamb Sconce, one part of the family-owned Lamb Funeral Home.

The case began five years ago when investigators determined that a Hesperia ceramics factory was actually being used as a cremation center run by the couple's son, David Sconce; in 1989, David Sconce pled guilty to 21 counts of mishandling remains, and served about half of a five-year prison term. Although some jurors felt to a degree that the parents may have had some knowledge of their son's activities, they agreed that there was not enough evidence to prove that knowledge beyond a reasonable doubt.

The case was so shocking that it led to a state law that allows inspections of crematoriums on demand, as well as a class action by relatives of those who were cremated by Sconce businesses; the civil suit was recently settled for \$15.4 million. [12:2&3 CRLR 73]

■ RECENT MEETINGS

At the Board's June 25 meeting, Chair Frank Haswell introduced Brian Armour, a newly-appointed member of the Board; Armour was appointed by Governor Wilson.

Also at its June 25 meeting, the Board discussed its receipt of a request for an opinion on cremation authorization as it relates to a domestic partner, as opposed to a legal spouse. The Board noted that Health and Safety Code section 7100 specifies that, unless other directions have

been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of interment and the liability for the reasonable cost of interment of such remains devolves upon, the following in the order named: the surviving spouse, the surviving child or children of the decedent; the surviving parent(s) of the decedent; and the public administrator when the deceased has sufficient funds. The Board instructed Executive Officer John Gill to respond to the inquiry given the provisions of section 7100 and the ability to grant a durable power of attorney to provide otherwise.

Linda Trujillo, representing The Relatives Urging Sacred Treatment (T.R.U.S.T.), appeared before the Board at its June 25 meeting to discuss her concerns that consumers are not being protected by the Board; the organization has been campaigning for strengthened state laws regarding cremations.

■ FUTURE MEETINGS

January 8 in San Diego (tentative).

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: James C. Diaz
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The Bureau of Collection and Investigative Services (BCIS) is one of 38 separate regulatory agencies within the Department of Consumer Affairs (DCA). The Chief of the Bureau is directly responsible to the DCA Director.

The Collection Agency Act, formerly codified at Business and Professions Code section 6850 *et seq.*, expired at midnight on June 30, 1992, by operation of a sunset provision in the law. Thus, BCIS is no longer authorized to regulate collection agencies (*see infra* MAJOR PROJECTS).

The Bureau still regulates eight other industries, including private security services (security guards and private patrol operators), repossessors, private investigators, alarm company operators, protection dog operators, medical provider consultants, security guard training facilities, and locksmiths.

Private Security Services. Regulated by the Bureau pursuant to Business and Professions Code section 7544 *et seq.*, private security services encompass those who provide protection for persons and/or



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property in accordance with a contractual agreement. The types of services provided include private street patrols, security guards, watchpeople, body guards, store detectives, and escort services. Any individual employed to provide these services is required to register with the Bureau as a security guard. Any security guard who carries a firearm and/or baton on the job must possess a firearm permit issued by the Bureau. The Bureau operates to protect consumers from guards who unlawfully detain, conduct illegal searches, exert undue force, and use their authority to intimidate and harass.

Repossessors. Repossession agencies repossess personal property on behalf of a credit grantor when a consumer defaults on a conditional sales contract which contains a repossession clause. Any individual employed by these services is required to be registered with the Bureau. Pursuant to the Repossessors Act, Business and Professions Code section 7500 *et seq.*, the Bureau functions to protect consumers from unethical methods of repossessing personal property, such as physical abuse resulting in bodily harm, threats of violence, illegal entry onto private property, and misrepresentation in order to obtain property or information about property.

Private Investigators. Private investigators conduct investigations for private individuals, businesses, attorneys, insurance companies, and public agencies. The scope of their job generally falls within the areas of civil, criminal, and domestic investigations. Any private investigator who carries a firearm on the job must possess a firearm permit issued by the Bureau. Pursuant to Business and Professions Code section 7512 *et seq.*, the Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate, or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify, or create evidence.

Alarm Company Operators. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. Any employee responding to alarms who carries a firearm on the job must be registered by the Bureau and possess a Bureau-issued firearm permit. Pursuant to the Alarm Company Act, Business and Professions Code section 7590 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or mis-

representation by alarm companies, and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease, and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. Individuals employed by any of these services must be registered by the Bureau. These services are employed by private individuals, business entities, and law enforcement agencies. Pursuant to Business and Professions Code section 7550 *et seq.*, the Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy, or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract collectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest. Medical provider consultants may be licensed by the Bureau pursuant to Health and Safety Code section 1249.5 *et seq.*

Training Facilities and Instructors. These facilities provide required firearm training to licensed private investigators; power to arrest and firearm training to alarm agents who respond to alarm systems; and power to arrest, firearm, and baton training to security guards. Upon completion of training, individuals must pass examinations before they may be issued the appropriate permits. Pursuant to Business and Professions Code section 7552 *et seq.*, the Bureau regulates these facilities in order to ensure that required training is provided to licensed individuals, and that only those qualified possess the proper permits to provide service to the consumer.

Locksmiths. Locksmiths install, repair, open, modify, and make keys for locks. These services are provided to private individuals, businesses, and public entities. Pursuant to Business and Professions Code section 6980 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy, and misuse of a locksmith's skills, tools, or facilities for the commission of a crime.

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To ac-

complish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

Two advisory boards previously functioned within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. However, the Collection Agency Act's sunset provision included the repeal, as of June 30, 1992, of the Collection Agency Board. Additionally, ABX 66 (Vasconcellos) (Chapter 21X, Statutes of 1992) provides for the elimination of the Private Security Advisory Board as of January 1, 1993.

MAJOR PROJECTS

Bureau Loses Authority to Regulate Collection Agencies. The Collection Agency Act, formerly codified at Business and Professions Code section 6850 *et seq.*, expired at midnight on June 30, 1992, by operation of a sunset provision in the law. In anticipation of that sunset provision, SB 315 (Deddeh) was amended on June 25 to provide for the enactment of a Collection Agency Act which would become operative on June 30, 1992, as a continuation of the existing Act. Among other things, the June 25 amendments to SB 315 would have revised exemptions to the Act, revised the duties of the BCIS Chief, imposed additional duties on BCIS, revised procedures regarding conservatorships and discipline, and increased fees. However, the collection agency industry persuaded Senator Deddeh to drop the bill, claiming that its actions were in response to its opposition to AB 3745 (Speier), which at that time would have subjected collection agencies to fines for violations of applicable statutes and regulations and created one enforcement arm within DCA to handle all consumer complaints currently processed by the individual boards, bureaus, and commissions within the Department. According to the California



Association of Collectors, the industry opposed AB 3745 because it would have shifted BCIS' auditors to DCA's new enforcement division and decreased the effectiveness of investigations regarding collection agencies; however, the industry's blocking of SB 315 resulted in the expiration of the Collection Agency Act and in the complete termination of BCIS' authority to regulate collection agencies. Ironically, the allegedly offensive language in AB 3745 was subsequently amended out and that bill, as signed by the Governor on September 27, authorizes DCA agencies to order a licensee found in violation of the applicable licensing law to pay the costs of the agency's investigation and enforcement, as specified.

Just prior to the end of the legislative session, the collection agency industry succeeded in revamping SB 315 to create an entirely new Collection Agency Act. Among other things, the August 29 amendments to SB 315 would have expanded the definition of the term "collection agency" to include all persons engaged, directly or indirectly and as a primary or secondary object, business, or pursuit, in soliciting claims for collection or in the collection of claims owed or due or asserted to be owed or due to another, whether the collection effort is directed at the primary debtor or some secondary source of payment; the term would also include any person using a fictitious name in collecting its own claims with the intention of conveying to the debtor that a third party has been employed, and any person who sells or offers to sell forms represented to be a collection system, scheme, or device intended or calculated to be used to collect claims, or who mails or dispatches letters of collection on behalf of others. The term would not include, among others, individuals collecting accounts for not more than one employer if all collection efforts are carried on in the name of the employer and if an employer-employee relationship exists.

In opposition to the August 29 version of SB 315, DCA commented that the legislation deleted the Department's authority to promulgate regulations under the new Act, and opined that the deletion of such rulemaking authority for any board or bureau within the Department is not only unprecedented, but would severely hamper DCA's ability to adequately protect consumers. Accordingly, Governor Wilson vetoed SB 315 on September 27, explaining that while he is "supportive of the intent to restore regulation of collection agencies and protect consumers from fraudulent collection practices, this

bill would unduly restrict the Bureau from adequately regulating the collection agency industry. This legislation does not contain essential consumer protection provisions to give recourse to debtors who are subject to abusive behavior by collection agencies....In the absence of a state regulatory agency, state and federal law will continue to control collection practices as enforced by appropriate law enforcement agencies."

At this writing, BCIS is committed to introducing new legislation to recreate the Collection Agency Act in order to provide adequate regulation and consumer protection. Presently, consumers' only recourse to stop abusive collection agencies is to contact the Federal Trade Commission (FTC), local law enforcement agencies, or the Better Business Bureau. However, the FTC does not have sufficient staff to adequately regulate this industry, and civil litigation is very expensive and time-consuming. As a result, many Californians currently have no effective recourse against abusive collection agencies.

BCIS Loses Advisory Boards, Will Retain Disciplinary Review Committees. Two advisory boards previously functioned within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. The Private Security Advisory Board (PSAB), formerly codified at Business and Professions Code section 7516 *et seq.*, and 46 other advisory boards were abolished by ABX 66 (Vasconcellos), which was signed by the Governor on September 28 (Chapter 21X, Statutes of 1992). ABX 66 also called for the elimination of the Collection Agency Board (CAB); however, the automatic repeal of the entire Collection Agency Act on June 30 rendered that provision moot. ABX 66 does not become effective until January 1, 1993, enabling PSAB to hold meetings until that time. However, because PSAB's spending authority was revoked, BCIS must request funds to enable PSAB to hold one final meeting; at this writing, no response to BCIS' request had been announced.

ABX 66 also provided for the elimination of BCIS' Private Security Disciplinary Review Committees (DRCs). However, after much lobbying by BCIS, provisions for the reestablishment of these review committees were amended into SB 2044 (Boatwright), which was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992). Under SB 2044, the Governor is required to appoint the members of the two private security DRCs and the alarm company operator DRC (*see infra* LEGISLATION).

BCIS Attempts to Avoid Deregulation of Private Security Services Industry. At PSAB's April 23 meeting, Bureau Chief James Diaz commented that the Bureau would be unable to carry out its enforcement responsibilities with regard to security guards, private investigators, and the security industry unless the legislature authorizes fee increases for those licensees. [12:2&3 CRLR 74] Without such increases, DCA and the Bureau stated they may be forced to turn their disciplinary function with respect to these industries over to local law enforcement and governmental agencies, but retain its current licensing function. Despite the failure of AB 3131 (Hunter), which would have provided the needed fee increases (*see infra* LEGISLATION), BCIS has decided not to deregulate these industries.

In light of the state's 1992-93 Budget Act provision requiring all DCA agencies and bureaus to reduce expenses by 10% and transfer that amount to the state's general fund, many BCIS licensees feel that any fee increase would only put more money into the general fund, rather than be used to cure BCIS' financial crisis. Nonetheless, many industry members are expected to support a fee increase proposal in the next legislative session in order to avoid deregulation of their industries.

LEGISLATION

ABX 66 (Vasconcellos) abolishes 47 specified advisory bodies, including BCIS' Private Security Advisory Board, Collection Advisory Board, and Private Security Disciplinary Review Committees. However, the sunset of the Collection Agency Act on June 30 also included CAB's repeal as of that date. PSAB will be eliminated on January 1, 1993, when ABX 66 takes effect. Finally, SB 2044 (Boatwright) reinstated BCIS' Private Security Disciplinary Review Committees (*see infra*). ABX 66 was signed by the Governor on September 28 (Chapter 21X, Statutes of 1992).

The following is a status update on bills reported in detail in CRLR Vol. 12, Nos. 2 & 3 (Spring/Summer 1992) at pages 75-76:

SB 315 (Deddeh). Existing law provides for the repeal of the Collection Agency Act on June 30, 1992. This bill would have enacted a new Collection Agency Act and would have—among other things—revised exemptions to the Act, revised the duties of the BCIS Chief, imposed additional duties on BCIS, and increased fees. On September 27, this bill was vetoed by the Governor, who claimed that SB 315 would unduly restrict DCA



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and the Bureau from adequately regulating the collection agency industry. According to Wilson, in the absence of a state regulatory agency, state and federal law will continue to control collection practices as enforced by appropriate law enforcement agencies." (See *supra* MAJOR PROJECTS.)

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including BCIS, to establish by regulation a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. This bill also provides that the unlicensed performance of specified activities for which a BCIS license or registration is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. SB 2044 also provides that if, upon investigation, BCIS has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services without being properly licensed by the Bureau to offer or perform those services, the Bureau may issue a citation containing an order of correction which requires the violator to cease the unlawful advertising and notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

This bill also requires licensed locksmiths, when providing access to a vehicle or certain registered personal property, residence, or commercial establishment for another person, to verify identification of clients and maintain work orders containing specified information.

Existing law provides that it is a crime to violate or conspire to violate provisions regarding private investigator and private patrol operator licensure or to engage an unlicensed private investigator or private patrol operator, after notification. This bill also makes it a crime to commit these same acts regarding protection dog operators. This bill also requires that an application for registration as an employee of a protection dog operator be accompanied by two classifiable fingerprint cards and requires a licensee to maintain a supply of applications and fingerprint cards.

Existing law requires every agreement, including labor, services, and materials to be provided for installation of an alarm system by an alarm company operator, to be in writing and specifies the contents of the agreement. This bill provides that the

DCA Director may refuse to issue a license pending final disposition of any investigation of any criminal activity and subjects certain licensees, certificate holders, and registrants to payment of fees and fines, as specified. This bill also requires lease agreements, monitoring, and service agreements for alarm systems to be in writing and specifies the contents of the agreement.

This bill also eliminates PSAB, reinstates BCIS' Private Security Disciplinary Review Committees, and requires the Governor to appoint the members of those two committees and BCIS' alarm company operator disciplinary review committee. This bill was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 2917 (T. Friedman) provides that, effective October 1, 1993, BCIS shall not issue a firearms permit qualification card to persons prohibited from carrying a firearm under specified law. This bill also requires BCIS to supply the Department of Justice (DOJ) with information to identify the applicant, and requires DOJ to inform DCA, within sixty days of the receipt of this information, if an applicant is prohibited from possessing, receiving, or purchasing a firearm pursuant to specified law. This bill allows DOJ to charge a fee sufficient to reimburse its costs of furnishing firearm eligibility information and requires BCIS to increase the fingerprint processing fee to cover its costs of obtaining that information from DOJ. This bill was signed by the Governor on September 30 (Chapter 1341, Statutes of 1992).

AB 2443 (Horcher). Regarding repossessors, existing law provides that if an applicant's residence address, telephone number, or driver's license number is required by BCIS for licensing purposes, that information shall be confidential. This bill instead provides that such information of any licensee, principal owner of a licensee, qualified certificate holder, or applicant for a qualification certificate shall be confidential.

Existing law permits certain employees who were registrants of a licensed repossession agency within the past thirty days to return to the agency and be assigned to work with a temporary registration issued by a certificate holder for thirty days. This bill deletes those provisions and revises other temporary registration provisions to permit employees to be employed by an agency and be assigned to work with a temporary registration on a form prescribed by the BCIS Chief and issued by a certificate holder for a period not to exceed ninety

days. This bill was signed by the Governor on September 27 (Chapter 1072, Statutes of 1992).

AB 1180 (Murray)—among other things—amends Business and Professions Code section 7548 to provide that no licensed private patrol operator, qualified manager, or registered security guard shall, during the course and scope of licensed activity, carry a pistol, revolver, or other firearm capable of being concealed upon the person unless the person has been issued a permit to carry the weapon by a local law enforcement agency pursuant to Penal Code section 12050. This bill was signed by the Governor on September 30 (Chapter 1340, Statutes of 1992).

The following bills died in committee: **AB 3131 (Hunter)**, which would have increased various licensing, registration, and other fees for locksmiths, repossessors, protection dog operators, and private detectives; and **AB 3821 (Hughes)**, which would have allowed outstanding government fees, fines, or penalties to be accepted as claims by collection agencies.

RECENT MEETINGS

At its July 16 meeting, PSAB established a committee to improve communication between law enforcement and private security officers and to foster a better working relationship; Committee Chair Lawrence Richman has already sent letters to all police chiefs and sheriff's departments in California. This committee may survive PSAB's abolition through BCIS' establishment of an ad hoc committee.

CONTRACTORS STATE LICENSE BOARD

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Toll-Free Information Number:
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The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board—consisting of seven public members, two General Building-B Contractors, two specialty