

Ohio Funeral Directors Association Legislative Update

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Governor Kasich signs Biennial Budget into law

On June 30, 2015, Governor John Kasich signed Ohio's \$71.2 billion biennial budget (H.B. 64) into law. The budget funds state government from July 1, 2015 - June 30, 2017. The budget increases funding for K-12 education, which will now be funded at approximately \$10 billion per year and cuts taxes by approximately \$2 billion. And the Kasich Administration just announced that the state now has \$2 billion in its "rainy day fund" (reserve fund). When Kasich took office in January 2011, the rainy day fund had 89 cents. Kasich did veto 44 items before signing the budget bill.

Below is a summary of provisions of the budget bill of interest to the funeral industry.

Tax provisions

The House and Senate both rejected Governor Kasich's proposed expansion of the state sales tax to numerous additional business-to-business related services. They also rejected Kasich's proposed "across-the-board" .50% increase in the state sales tax and an increase in the Commercial Activity Tax. An increase in cigarette taxes was retained at a lower level than Kasich had originally proposed. However, there was agreement between the Legislature and Kasich to further reduce the personal income tax and small business taxes as follows:

Personal Income Tax Cut – All income tax brackets are reduced by 6.3% for tax years beginning in 2015.

Small Business Tax Cut – The first 75% of business income up to \$250,000 (up to \$125,000 for spouses filing separately) is not taxable for 2015, and for 2016 and thereafter, 100% of the first \$250,000 (\$125,000 for spouses filing separately) is not taxable. There is a flat tax of 3% on all business income in excess of these amounts.

Please note: The business income tax cut does not apply to small businesses organized as C-corporations.

EDRS language

Language is included in H.B. 64 which makes it clear that signatures on death certificates "may be filed and registered by photographic, electronic, or other means as prescribed by the director." This language will help assist the Ohio Department of Health to move forward on updating the EDRS relating to electronic signing of death-related records.

Public Cemetery Taxing Authority

The provisions of [HB 91](#) relating to public cemeteries were included in the budget. The language lengthens, to any number of years or for a continuing period of time, the maximum term of a property tax levy to pay for operating and maintaining public cemeteries.

Other Legislation

[SB 61](#) (Hughes) To restrict to whom a certified copy of a death certificate containing the decedent's social security number may be issued. The purpose of the bill is to help deter identity theft of deceased relatives or close friends. OFDA Secretary Brad Chute provided testimony in support of the bill before the Senate Health & Human Services Committee and in the House Health & Aging Committee.

The bill has passed both the Ohio Senate and the Ohio House and has been sent to Governor Kasich for his signature. The bill will become effective 90 days after he signs the bill into law.

The bill as introduced placed a five-year restriction on including a social security number on a certified copy of a death certificate unless requested by one of the following:

1. Decedent's spouse.
2. County veterans service officer.
3. A lineal descendant of the deceased.
4. An individual with a Class A or B license to engage in the business of private investigation.
5. An official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime.
6. An individual engaged in the work of, or connected with, or employed by, any newspaper or any press association for the purpose of gathering, procuring, compiling, editing, disseminating, or publishing news.
7. The executor or administrator of the decedent's estate, or an attorney representing the executor or administrator.
8. An agent, as defined in section 1337.22 of the Revised Code, of the decedent, when the decedent had been the principal under a power of attorney created pursuant to Sections 1337.21 to 1337.64 of the Revised Code;
9. Any person, other than one described above, who is authorized by law to act on behalf of the decedent or the decedent's estate;
10. A licensed funeral director, or an employee or agent of that individual, who requests a certified copy of the decedent's death certificate on behalf of a person.

The OFDA was successful in adding an amendment to S.B. 61 that also includes the person who has been assigned the right of disposition pursuant to Ohio Revised Code Section 2108.70 to be able to receive a certified copy of a death certificate with a social security number on it. The amendment reads as follows:

“The adult, or any adult in a group of adults, serving as the representative or successor representative under a written declaration the decedent executed pursuant to Section 2108.70 of the Revised Code.”

[HB 36](#) (Retherford) (Introduced 2/3/2015) To authorize the Board of Embalmers and Funeral Directors to license and regulate alkaline hydrolysis facilities. The bill has been referred to the House Oversight & Accountability Committee. It received sponsor testimony on March 10, 2015.

Update on OFDA and Board of Embalmers & Funeral Directors discussions regarding proposed changes to Ohio Funeral laws

Over the past few months the OFDA Legislative Committee has met twice to review draft legislation prepared by the Board of Embalmers & Funeral Directors that would provide numerous updates/changes to Ohio’s funeral and crematory laws. The subject matters included in the draft legislation include:

- Abolishment of the Crematory Review Board – which would have the impact of giving the State Board sole jurisdiction over crematory complaints.
- Change the make-up of the State Board to replace one public member with a licensed crematory operator (discussion as to whether position would be open to all licensed crematory operators or only those who hold a financial interest in a cemetery).
- Authorize the State Board executive director, under certain circumstances, to issue a temporary license (or permit) until the Board makes a determination on the application.
- Establish throughout the legislation a “culpable mental state” such as “purposefully”, “knowingly”, “recklessly” or “negligently” that is the state of mind that a person must act with to be held legally responsible for certain actions.
- Update several definitions included in Chapter 4717 relating to Ohio’s funeral laws.
- Revisions to Ohio law concerning disclosures to members of the public at a main entrance of a funeral home relating to ownership and person actually in charge.
- Distinguish between reinstatement of a “lapsed license” as opposed to an annual courtesy care permit which would expire and have to be renewed each year. (This is consistent how adjoining courtesy card permit states handle this issue).
- Expand language relating to the lawful disposal of cremated remains.
- Establishment of a Preneed Recovery Fund to be administered by the State Board. Issues under discussion:
 - Should the fund apply to any future preneed losses or only to losses relating to preneed contracts entered into after the effective date of the legislation?
 - Is \$10 per preneed contract a sufficient funding level?
 - Should there be a mechanism to temporarily stop collection of the preneed contract fee when the fund reaches a certain level?
 - How much flexibility should the State Board have in determining the amount of payouts (partial vs. full-reimbursement)?

The OFDA Legislative Committee and OFDA officers will continue their dialogue with the State Board and keep OFDA's Board of Directors apprised of our activities. Recently, OFDA met with Representative Tim Schaffer (R-Lancaster) who will be introducing the legislation. We expressed to Representative Schaffer our desire to work with him and the State Board to continue to develop a bill that updates and improves Ohio's current law. Schaffer looks forward to working with OFDA and has expressed a desire to meet with OFDA and the State Board in August to iron-out the final details of the legislation. The legislation will likely be introduced in September before the Legislature returns from its summer recess.

OFDA has developed a very good working relationship with Representative Schaffer through the years. Back in 2008, then Senator Schaffer sponsored S.B 196 which was the last major re-write of Ohio's preneed law. The bill was passed into law and became effective in early 2009.

Governor Kasich Announces State Board Appointments

Recently, Governor Kasich announced the following appointments to the Board of Embalmers & Funeral Directors:

Bryan E. Chandler of Caldwell (Noble Co.) to the Board of Embalmers and Funeral Directors for a term beginning June 16, 2015 and ending June 30, 2019. Mr. Chandler is the owner of Chandler Funeral Home & Cremation Service in Caldwell.

Jack R. Marchbanks of Columbus has been appointed to the Board of Embalmers and Funeral Directors for a term beginning July 6, 2015 and ending June 30, 2020. For over 15 years Mr. Marchbanks was Deputy Director of District 6 of the Ohio Department of Transportation where he managed 525 employees and was responsible for the planning, designing and constructing over \$1.5 billion in new transportation infrastructure. He currently serves as a member of the Ohio Transportation Review Advisory Council which is responsible for funding policy and decisions directing federal and state dollars to projects that improves Ohio's highways and other transportation systems.