

MEETING
OF THE
SENATE STANDING COMMITTEE
ON
COMMERCE

8

Date: February 25, 1971

Members Present:

Chairman Close
Senator Drakulich
Senator Hecht
Senator Swobe

Members Absent:

Senator Lamb

Witnesses:

John Winn, Security Counseling Service
Inc.
Berkeley L. Bunker, Bunker Bros.
Funeral Home
H. E. Burton, Palm Mortuary & Mausoleum
Dr. Wm. White, Director, Department of
Commerce
Max Knauss, Palm Mortuary & Mausoleum
John T. Knobel and Mrs. Knobel, Ross-
Burke & Knobel Mortuary
Lou Mastos, former Insurance Commissioner
Ed McCaffery, Jr., Walton Funeral Home
Dan Walsh, former Deputy Attorney Gen-
eral of Nevada
Doug Erickson, former Deputy Insurance
Commissioner
Darryl Gunther, cemetery owner

Chairman Close called the meeting to order at 2:45 P.M. The purpose of the meeting was to hear testimony on Senate Bills 45 and 46.

SB 45 - Establishes requirements for prepaid funeral service contracts.

Mr. John Winn spoke in favor of the bill and said that such legislation had been sponsored during the last two or three sessions to no avail. However, Mr. Winn did feel that the commission schedule should be 25%. See Exhibit A attached.

Former Insurance Commissioner Lou Mastos advised the committee that he had helped draft AB 472 in the Assembly which is more stringent than SB 45. He recommended that a joint committee of the Assembly and Senate Commerce Committee get together and discuss the ramifications of each bill. He announced that AB 472 calls for administration by the Department of Insurance rather than the Department of Banking, although this provision is not an insurance matter per se.

Dr. White addressed the members saying he had no objections to the concept of the bill. However, he did feel that certain changes should be made. See Exhibit B for those amendments.

Mr. Knauss told the committee it was imperative that such legislation be passed this year.

According to John Knobel, he felt the bonding in \$5,000 increments would hurt the small funeral homes and put the burden on them. Mr. Mastos stated that while some consideration should be given the small funeral homes, the funeral business is big business in Nevada today with a large dollar volume.

Dr. White was of the opinion that the purchaser of such a contract should receive all money back if and when he dropped out of the contract.

This was followed by some discussion as to the fact that insurance companies did not refund the payments made when a policy lapsed. Mr. Burton announced that their business could not operate under the basis of refunding the money paid, particularly in an instance where \$20 is paid as a minimum deposit and so much paid a month. The business would need that money to pay commissions and for operating costs. See Exhibit E.

The committee was advised that a person was entitled to credit life when purchasing a prepaid funeral service contract, provided the individual fell in a certain age bracket. However, Mr. Mastos pointed out that a person could not be forced to purchase the credit life if he did not choose to do so.

Mr. Knauss told the committee that there were four benefits in purchasing a prepaid funeral contract:

1. Discount
2. Frozen Costs.
3. Credit Life.
4. Peace of Mind.

He also pointed out the the money paid for such a contract is never lost, since should a person move out of state or out of town, the fees could be transferred to that person's new area.

Ed McCaffery advised the committee that an individual receives a discount for signing a prepaid contract. Although there is a discount, the full face value of che contract would be credited to that individual.

SB 46 - Enlarges scope of cemetery
authority law.

Dr. White suggested many changes in this bill and after the meeting submitted a list the of amendments he felt were necessary. See Exhibit C.

There was discussion between SB 45 and SB 46 with regards to the commission schedule. The cemetery bill refers to material and services, while the funeral bill does not.

Mr. Mastos advised the committee that at the present time there is no set rule regarding commission. He said that AB 472 sets the commission fee at 15%.

Mr. Walsh submitted a report to the committee indicating the states which have a general pre-need statute. See Exhibit D. The report is at least five years old and Dr. White was asked to contact the states and update the report.

Mr. Erickson referred back to SB 45 and advised the committee that he felt pre-need contracts were not in the publics' interest. He mentioned that he would be most happy if the bill died in committee.

When the presentations were concluded, the witnesses left the meeting.

Chairman Close suggested the committee draft new bills rather than amending the present SB 45 and 46.

It was decided to hold a noon meeting Thursday, March 2, to discuss the drafting of new legislation.

The meeting was adjourned at 4:55 P.M.

February 24, 1971

Commerce Committee
Nevada State Legislature
Carson City, Nevada

Dear sir:

I represent Security Counseling Service, Inc., a newly organized pre-need corporation in Clark County, Nevada. We are associated with Bunker Brothers Mortuary, Inc.

I am a native of this state being born in Ely. I attended the University of Nevada in Reno and was a Washoe County high school teacher for three years before entering the pre-need field in Las Vegas. The other members of the corporation also have an extensive educational background.

We are greatly concerned about Section 30 of Senate Bill 45 which provides for the commission payable to a sales company. Some states operate at a commission of less than 25% but the companies which operate on this basis in these states are heavily financed by big businesses.

As a new sales company we feel justified in asking for a continuation of the present commission schedule of 25% for the following reasons:

- 1) The average funeral cost is approximately \$1,123.00. The consumer by purchasing before need pays only \$1,000.00. If we were able to retain 25% of this amount it would be expended in this manner:

\$250.00	Total commission
<u>-130.00</u>	Commissions paid to counselors, supervisors, and sales managers
120.00	Balance
<u>-30.00</u>	Advertising, public relations, and administration costs (See NOTE below)
90.00	Balance
<u>-80.00</u>	Processing and handling costs for an average of ten (10) years
10.00	Profit to corporation

(NOTE: A sophisticated and professional method of obtaining leads through a direct mail program constitutes nearly 3% per sale, after computing the cost of envelopes, letters, return cards, postage, printing, and employed typing personnel. This system is used because it is a more dignified way to reach those people interested in pre-arrangement, eliminating intrusion and unfavorable door-to-door solicitation.)

- 2) The processing and handling cost of each account is 8%. The average length of account is ten (10) years.

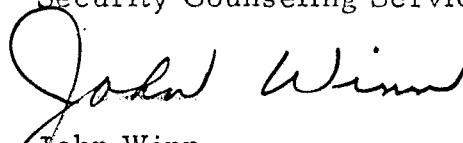
The contracts of pre-arrangement used by our organization in the field are consumer oriented.

- 1) If the consumer leaves the service area of Bunker Brothers Mortuary, we refund 100% of all monies paid to the funeral home that actually performs the service or to the legal representatives of the purchaser.
- 2) The quality of service provided for in the contract may be transferred to any member of the family when the need arises.
- 3) We guarantee that the cost of the service is a frozen cost, inflation free, and guaranteed against seizure for bad debts or bankruptcy by Bunker Brothers Mortuary, Inc.

We can provide all these important benefits at a competitive price with a 25% sales commission. The only way we could adjust to meet the expenses if we were to operate at less than 25% would be to increase contract prices, and this would not be fair to the consumer.

In conclusion, we as a pre-need organization are consumer oriented and our main goal and intent is to serve the best interests of the consumer. From our point of view as a new organization, we feel that any provision that would allow less than 25% commission would tend to create a monopolistic control of the pre-need industry in Southern Nevada because new companies would be forced from the industry because of insufficient working capital, having no earnings from the trust and insufficient amount of commission for effective operation. We feel that anything that tends to exclude and reduce competition does not benefit the consumer. We ask for your careful consideration of the influence of this provision on our organization, and the pre-need industry as a whole, and ask for your support in retaining the 25% commission.

Thank you
Security Counseling Service, Inc.


John Winn
Vice-President

BILL DRAFTING AND AMENDMENT REQUEST

[Please use separate sheet for each request]

To the Legislative Counsel:

From Department of Commerce

Date February 25, 1971

Please prepare a ~~bill~~/amendment as follows:

SENATE BILL NO. 45

Page 1 - Line 6 - SEC. 3. "Administrator" means the [superintendent of banks] ~~commissioner~~
of insurance.

Page 3 - Line 32 - under...may [:]

Line 33 - Delete

Line 34 - [(b)] [Approve] *approve* the posting...

Line 42 - ...is met. [The administrator may require a]

Line 43 - Delete

Page 4 - Line 45 - ...license fee of [\$5] *\$10*, which is not

Line 47 - ...application is [complete] *acceptable*,

Page 6 - Line 9 - ...up to [15] *30* days before it

Line 28 - The seller shall maintain unimpaired and shall deposit in the trust fund,
within 15 days following the end of the month in which payment was re-
ceived, [all installments received on prepaid contracts sold after the
sales commission has first been paid] *at least 85% of all payments.*

Page 7 - Line 24 - ...approval of the [superintendent of banks] , any

Line 36 - SEC. 34. 1. [Except as provided in subsection 2, if the buyer moves to
another geographic area beyond the normal facilities of the seller and
performers under the prepaid funeral contract, the] *The contract...*

Page 8 - Line 20 - istrator, [a financial statement] *an annual audited statement with an
unqualified opinion* showing the activity...

Page 8 - Line 40 - ...examiner required [.] .

Delete Lines 41-46, inclusive.

Page 9 - Line 15 - ...effective [60] 90 days after...

BILL DRAFTING AND AMENDMENT REQUEST

[Please use separate sheet for each request]

To the Legislative Counsel:

From DEPARTMENT OF COMMERCE

Date February 25, 1971

Please prepare an amendment as follows: SENATE BILL NO. 46

Page 2 - Line 28 - SEC. 16. ["Superintendent" means the superintendent of banks.] "Administrator" means the commissioner of insurance

Line 37 - authority from [superintendent] administrator.

Line 39 - ...with the [superintendent] administrator. Each...

Page 3 - Line 15 - ...statement, audited with an unqualified opinion, showing

Line 19 - the [superintendent] administrator.

Line 21 - required by the [superintendent] administrator.

Line 23 - ...by the [superintendent] administrator.

Line 27 - ...by NRS 452.120 [.] and NRS 452.130.

Line 29 - the [superintendent] administrator.

After SEC. 19. insert:

SEC. 20. 1. Prior to issuance of a certificate of authority to a seller, the seller shall post with the administrator and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit made up of cash or negotiable securities. If a deposit is made in lieu of a bond, the deposit shall at all times have a market value of not less than \$50,000.

2. In lieu of posting the entire amount of the bond or

deposit required under subsection 1, the administrator may approve the posting of a bond or deposit in the amount of \$5,000 or multiple thereof, not to exceed \$50,000, if he finds that the circumstances and status of the applicant's business do not immediately warrant the posting of a bond or the full amount of the bond or deposit for the purposes provided in subsection 3.

If less than the amount of the bond or deposit is posted by the applicant, the administrator may require him to post an additional bond or deposit of \$5,00 or multiple thereof each following year until the required maximum of \$50,000 is met. The administrator may require a quarterly report if no bond is required.

3. The bond or deposit shall be held for the benefit of buyers of prepaid funeral contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of moneys by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract.

4. The administrator:

(a) Shall release the bond or deposit after the seller has ceased doing business as such and the administrator is satisfied of the nonexistence of any obligation or liability of the seller which the bond or deposit was held; or

(b) May reduce the bond or deposit in \$5,000 incre-

ments if he finds that the circumstances and status of
the applicant's business warrant such reduction.

Page 3 - Line 30 - SEC. [20] 21.

Line 39 - SEC. [21] 22. 1. If the [superintendent] administrator
finds...

Line 45 - ...unless the [super-] admin-

Line 46 - [intendent] istrator has,...

Page 4 - Line 1 - SEC. [22] 23. A cemetery...

Line 13 --SEC. [23] 24. 1. A cemetery...

Line 29 - SEC. [24] 25. 1. It is...

Line 32 - ...by the [superintendent] administrator.

Line 34 - by governmental agencies [, churches and benevolent or
fraternal organizations not operated for pecuniary
profit].

LINE 36 - SEC. [25] 26. The [superintendent] administrator shall...

Line 40 - SEC. [26] 27. 1. The provisions...

Line 42 - ...The [superintendent] administrator may...

Line 46 - SEC. [27] 28. The [superintendent] administrator may...

Line 49 - SEC. [28] 29. 1. Except as...

Line 50 - ...the [superintendent] administrator, after...

Page 5 - Line 6 - ...by the [superintendent] administrator, in

Line 32 - SEC. [29] 30. 1. The proposed...

Line 41 - ...as the [superintendent] administrator may reason-

Line 44 - ...by the [superintend-] administrat-

Line 45 - [ent] or;

Page 6 - Line 4 - ...by the [superin-] adminis-

Line 5 - [tendent] trator; and

Page 6 - Line 7 - SEC. [30] 31. 1. If the...

Line 10 - 2. The [superintendent] *administrator* shall...

Line 12 - ...the [superintendent] *administrator*

Line 15 - SEC. [31] 32. 1. Each...

Line 18 - 2. The [superintendent] *administrator* may...

Line 22 - SEC. [32] 33. 1. After...

Line 23 - ...the [superintendent] *administrator* may,...

Line 29 - regulation of the [superintendent] *administrator*.

Line 31 - [superintendent] *administrator* may,...

Line 33 - SEC. [33] 34. 1. It is...

Line 35 - ...by the [superintendent] *administrator*.

Line 38 - SEC. [34] 35. 1. To qualify...

Line 40 - ...the [superintendent] *administrator*.

Line 44 - ...the [superintendent] *administrator* may

Line 46 - ...fee of [\$5] \$10, no part...

Line 48 - SEC. [35] 36. 1. If the [superintendent] *administrator* finds...

Page 7 - Line 8 - SEC. [36] 37.

Line 15 - SEC. [37] 38. The [superintendent] *administrator* shall...

Line 19 - SEC. [38] 39. 1. All...

Line 46 - SEC. [39] 40. 1. A seller...

Line 48 - ...the [superintendent] *administrator*.

Line 49 - 2. The [superintendent] *administrator* shall...

Page 8 - Line 13 - ...the [superintendent] *administrator*.

Line 14 - ...period of up to [30] 60 days before it

Line 17 - ...the [superintendent] *administrator* within...

Line 19 - SEC. [40] 41. The seller...

Page 8 - Line 21 - ...the [superintendent] *administrator*. The buyer...

Line 23 - [superintendent] *administrator*.

Line 24 - SEC. [41] 42. 1. The cemetery...

Line 26 - ...over and above [the sum permitted in this chapter for] selling costs.

Line 31 - ...the [superintendent] *administrator* all

Line 32 - ...trust account [, which shall not be less than 60 percent of the con-
tract price].

Page 9 - Line 6 - ...the [superintendent] *administrator* or as...

Line 9 - SEC. [42] 43. 1. The corpus...

Delete Lines 26-50, inclusive.

Page 10 - Delete Lines 1-3, inclusive.

Line 31 - ...damages [not more than 40 percent of the total contract price] *an
amount equal to the selling commission rate on all amounts paid in.*

Line 44 - ...the [superintendent] *administrator*.

Page 11 - Line 2 - ...the [superintendent] *administrator*, [quarterly a financial statement]
an annual statement audited with an unqualified opinion for each...

Line 4 - ...the [superintendent] *administrator*. Every

Line 9 - ...the [superintendent] *administrator* at any...

Line 17 - ...the [superintendent] *administrator*

Line 21 - ...the [superintendent] shall...

Page 12 - Line 24 - ...finance,] [superintendent]

Line 29 - of the cemetery authority [or its directors, or in the name of the
trustees appointed by the cemetery authority] *only*.

Page 13 - Line 37 - ...finance,] [superintendent] *administrator*,

Line 42 - ...finance,] [super-] *admin-*

Line 43 [intendent] *istrator*, any...

Line 46 - [deposited] *placed in federally insured accounts in any...*

Page 14 - Line 9 - ...finance,] [superintendent] *administrator*, for...

Line 17 - finance] [superintendent] *administrator* has...

Line 25 - 4. The [superintendent] *administrator* shall...

Line 28 - ...to exceed [~~\$50~~]~~\$85~~ for...

Line 29 - ...required [, not to exceed a total of \$250 for any regular examination
or investigation].

Line 34 - ...to exceed [~~\$50~~] ~~\$85~~ for each

Line 41 - ...of a [misdemeanor] *felony*.

<u>STATES</u>	<u>GENERAL PRE-NEED STATUTE</u>	<u>STATE CONTROL AGENCY</u>	<u>TRUST CREATED</u>	<u>INCOME PART OF TRUST</u>	<u>BUYER'S RIGHT TO WITHDRAW</u>
Arizona	YES	YES	100%	100%	YES
Arkansas	YES	YES	100%	100%	NO
California	YES	YES	100%	Used to pay fees and expenses	YES
Colorado	YES	YES	100%	100%	NO
Connecticut	Insurance law governs	--	--	--	--
Florida	YES	YES	100%	100%	YES
Georgia	YES	YES	100%	100%	100%
Idaho	YES	NO	100%	100%	YES
Illinois	YES	YES	100%	100%	75%
Indiana	YES	YES	100%	100%	90%
Iowa	YES	YES	80%	100%	80%
Kansas	YES	NO	100%	100%	YES
Kentucky	YES	YES	100%	100%	YES
Maine	YES	NO	100%	100%	YES
Michigan	YES	NO	100%	100%	YES
Minnesota	YES	NO	100%	100%	YES
Missouri	YES	YES	100%	NO	90%
Montana	YES	YES	100%	100%	Mutual consent
Nebraska	Funeral Director cannot contract with Solicitor of Pre-Need Sales				
New Jersey	YES	NO	100%	100%	YES
New York	YES	YES	100%	100%	YES
North Dakota	YES	NO	100%	100%	YES
Ohio	YES	NO	100%	100%	YES
Oklahoma	YES	NO	100%	100%	YES
Oregon	YES	NO	100%	100%	YES
Pennsylvania	YES	YES	100%	100%	NO
South Dakota	YES	YES	100%	100%	YES
Tennessee	YES	YES	100%	100%	YES
Texas	YES	YES	90%	100%	YES
Utah	YES	NO	100%	100%	YES
Virginia	YES	NO	100%	100%	Mutual Consent
Washington	Insurance law governs	--	--	--	--
West Virginia	YES	YES	100%	100%	NO
Wisconsin	YES	NO	100%	100%	YES

January 29, 1971

Senator Melvin D. Close, Jr.
c/o City Center Motel
Carson City, Nevada 89701

Dear Mel;

I perused the Senate Bill 45 and Senate Bill 46. I find in Senate Bill 45 two or three corrections that need to be made:

1. Page 1, line 14: merely a typographical error in spelling "cemetery."
2. Page 5, line 5: The word should be "cosigned" rather than "consigned."
3. Page 6, Section 31, paragraph 4: should be completely deleted as this is taken care of in Section 32, paragraph 3, Article E.

I would suggest that paragraph 5 of Section 31 be made paragraph 4 and that paragraph 6 of Section 31 be made paragraph 4 of Section 32. Other than these changes, I think the bill is as we had discussed.

Sincerely,

PALM MEMORIAL ESTATE PLANS

H. E. Burton

HEB:ls

Section 54 of S.B. 46 should read as our Section 5; namely:

"NRS 452.050 is hereby amended to read as follows:

452.050.1 Every cemetery [corporation, association, or other organization referred to as a "cemetery authority" in NRS 452.050 to 452.180, inclusive, which now or hereafter maintains a cemetery, may] authority which is not exempted pursuant to Subsection 2 shall, and any other cemetery authority may place its cemetery under endowment care and establish, maintain, and operate an endowment care fund after having first applied for and received a permit from the [State Board of Finance.] Superintendent of Banks.

452.050.2 A cemetery is exempted from the mandatory provisions of Subsection 1 if:

(a) it maintained a cemetery on the effective date of this amendatory Act; or

(b) its cemetery is owned and operated by a governmental agency, church, or benevolent or fraternal organization not operated for profit.

452.050.3. Endowment care and special care funds may be commingled for investment and the income therefrom shall be divided between the endowment care and special care funds in the proportion that each fund contributed to the principal sum invested. The funds may be held in the name of the cemetery authority or its directors, or in the name of the trustees appointed by the cemetery authority.

Section 55 of S.B. 46 should read as our Section 6; namely:

An "endowment care cemetery" is one which shall hereafter have deposited in its endowment care fund, [at the time of or not later than completion of the initial sale.] no later than 30 days following the end of the month in which the final payment is received for the sale of a grave, lawn crypt space, niche, or mausoleum crypt, not less than the following amounts:

Section 55. 1.

(a) \$1 per square foot for each grave or lawn crypt space.

Section 56 should read as our Section 7:

452.130

1. In addition to the requirements of NRS 452.120, any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of \$25,000, or have deposited the sum in a maintenance fund as required under NRS 452.250 before disposing [of any plot or making any sale thereof] or making a sale of any space specified in NRS 452.120.

2. & 3. are OK.