

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 370

INTRODUCER: Regulated Industries Committee; and Senator Sachs

SUBJECT: Disposition of Human Remains

DATE: March 29, 2013 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|--------------------|
| 1. | <u>Kraemer</u> | <u>Imhof</u> | <u>RI</u> | Fav/CS |
| 2. | <u>Looke</u> | <u>Stovall</u> | <u>HP</u> | Favorable |
| 3. | <u>Munroe</u> | <u>Cibula</u> | <u>JU</u> | Pre-meeting |
| 4. | _____ | _____ | <u>AP</u> | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

| | |
|---|--|
| Please see Section VIII. for Additional Information: | |
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> Technical amendments were recommended |
| | <input type="checkbox"/> Amendments were recommended |
| | <input type="checkbox"/> Significant amendments were recommended |

I. Summary:

CS/SB 370 amends various provisions relating to the disposition of human remains. The bill:

- Addresses technical issues such as adding the Department of Health (DOH) as an authorized issuer of extensions of time to provide the medical certification and of burial-transit permits, permitting electronic transfer of medical certification for cause of death, adding the appropriate district medical examiner as a persons who may file a death certificate, and clarifying the obligations of primary and attending physicians of a deceased person;
- Defines several terms to have the same meaning as provided in chapter 497, F.S.;
- Authorizes nontransplant anatomical donation organizations (NADOs) to accept donations of human remains.
- Directs any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at public expense to notify the anatomical board at the University of Florida Health Science Center (board);
- Defines the reasonable efforts that must be undertaken to dispose of unclaimed remains and to identify deceased persons, including veterans who may be eligible for burial in a national cemetery;
- Authorizes the board to embalm the human remains it receives;

- Permits a funeral director licensed under chapter 497, F.S., to act as a legally authorized person for the unclaimed remains when no family exists or is available and releases a funeral director from liability for damages when exercising that authority;
- Provides that, when the identity of the unclaimed remains cannot be ascertained, the remains may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state;
- Authorizes counties to dispose of unclaimed remains by burial or cremation pursuant to an ordinance or resolution if the remains are not claimed by the board;
- Clarifies that competing claims for unclaimed remains are prioritized according to the priority of legally authorized persons provided in s. 497.005, F.S.;
- Permits the board to lend remains to accredited colleges of mortuary science for education or research purposes;
- Requires the board, rather than the Department of Financial Services (DFS), to keep a record of all fees and other financial transactions, and authorizes the University of Florida to audit these records using an accounting firm paid by the board at least once every 3 years and provide DFS with the audit;
- Allows third parties to convey human remains or any part thereof outside the state for dental education or research purposes, with proper notice to and approval by the board;
- Creates an exception for NADOs that are accredited by the American Association of Tissue Banks (AATB) to convey human remains into or outside the state for medical or dental education or research purposes;
- Requires that the original burial-transit permit accompany human remains received by the board or a NADO;
- Requires that a NADO obtain written consent to dissect, segment, or disarticulate human remains, with such consent expressly stating such long-term preservation or extensive preparation methods that may be used on the remains being dissected, segmented or disarticulated; and
- Prohibits any person, institution or organization giving any monetary inducement or other valuable consideration to the donor's estate, or other third party for human remains. The payment or reimbursement of the reasonable costs associated with the removal, storage, and transportation of human remains, payment or reimbursement to a funeral establishment or removal service, and payment for the reasonable costs after use, including the disposition of human remains are not considered valuable consideration.

This bill substantially amends the following sections of the Florida Statutes: 382.002, 382.006, 382.008, 382.011, 406.50, 406.51, 406.52, 406.53, 406.55, 406.56, 406.57, 406.58, 406.59, 406.60, 406.61, 497.005, 497.382, 497.607, and 765.513.

The bill creates section 406.49, Florida Statutes. The bill repeals section 406.54, Florida Statutes.

II. Present Situation:

The Disposition of Human Remains

The transportation, handling, and disposition of human remains is addressed by multiple Florida laws regulating various departments and persons:

- The Department of Health (DOH), Office of Vital Statistics (Chapter 382, F.S., the Florida Vital Statistics Act);
- Medical examiners and state anatomical board (Chapter 406, F.S., the Medical Examiners Act);
- Funeral directors, crematories, and direct disposers (Chapter 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act);¹ and
- Persons making advance directives (health care surrogate designations and living wills) and anatomical gifts, i.e., donations of a person's body (or portions thereof) for transplantation, therapy, research, or education, to organ procurement organizations, eye banks or tissue banks (Chapter 765, F.S.).²

Section 382.002, F.S., defines "final disposition" as burial, interment, cremation, removal from the state, or other authorized disposition. Cremation, rather than dispersion of the resulting ashes or residue, is deemed final disposition. Death certificates are to be filed by the funeral director assuming custody of a dead body or a physician or other person in attendance at or after the death. Within 72 hours after receipt of a death certificate, the medical certification of cause of death must be completed by the physician in charge of the decedent's care for the illness or condition that resulted in death, the physician in attendance at the time of death (or immediately before or after death), or the medical examiner.³

Medical examiners must investigate and determine the cause of death when:

- Death is due to unlawful acts, unlawful neglect, violence, accident, or suicide;
- Sudden death occurs while the deceased was in apparent good health;
- Death occurs in prison, in police custody, under suspicious or unusual circumstances, or unattended by a physician;
- Death occurs by criminal abortion, by poison, or by disease constituting a public health threat;
- Death occurs by disease, injury, or toxic agent resulting from employment;
- The dead body is brought into the state without proper medical certification; or
- A body is to be cremated, dissected, or buried at sea.⁴

There are 24 medical examiner districts in Florida and 22 chief medical examiners. Some of the medical examiners serve more than one district.⁵

The legal disposition of human remains is further regulated in s. 406.50 through s. 406.61, F.S. Anyone (typically public officers and employees of governmental entities, and those in charge of

¹ Chapter 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, includes defined terms concerning the various methods of final disposition of dead human bodies, including procedures, descriptions of facilities and merchandise, and priority of those persons legally authorized to decide upon and direct such disposition.

² Chapter 765, F.S., addresses advance directives (health care surrogate designations and living wills) and anatomical gifts, i.e., donations of a person's body (or parts thereof) for transplantation, therapy, research, or education, to organ procurement organizations, eye banks, or tissue banks. The term "anatomical gift" is defined in s. 765.511(2), F.S., as "a donation of all or part of a human body to take effect after the donor's death and to be used for transplantation, therapy, research, or education."

³ Section 382.008, F.S.

⁴ Section 406.11, F.S.

⁵ See <http://myfloridamedicalexaminer.com/> (Last visited March 12, 2013).

prisons, morgues, hospitals, funeral parlors, or mortuaries) coming into possession of human remains that are not claimed by a legally authorized person as defined in s. 497.005, F.S., or of remains to be buried or cremated at public expense, must notify the anatomical board. However, such notification is not required if the death was caused by crushing injury, the deceased had a contagious disease, an autopsy was required to determine the cause of death, the body was in a state of severe decomposition, or a family member objects to the use of the body for medical education and research.⁶

There are special requirements for the identification and handling of veterans or others entitled to burial in a national cemetery. The person in control of such dead bodies must contact certain county or federal offices.⁷ Similar provisions exist for the handling of unclaimed bodies of indigent persons.⁸

The Anatomical Board

The stated mission of the board is to supply anatomical materials for teaching and research programs in the State of Florida.⁹ The program provides donated bodies for the training of physicians, dentists, physician assistants, and other health workers.¹⁰

The board is permitted to accept and receive the bodies of those who die within the state of Florida, if they executed wills leaving their body to the board for the advancement of medical science.¹¹ Bodies received by the board may not be used for medical science purposes until 48 hours after receipt.¹² If there is a surfeit of bodies, or if the board deems a body unfit for anatomical purposes, the board may notify the county where the person died for identification and contact of relatives.

After the delivery of a body to the board friends, representatives of a fraternal society of which the deceased was a member, or representatives of any charitable or religious organization, may claim a body, and the board must surrender the body after its reasonable expenses have been reimbursed.¹³

The board or its duly authorized agent shall distribute any bodies it receives to medical and dental schools, teaching hospitals, medical institutions, and health-related teaching programs that require cadaveric material for study. Alternatively, those bodies may be loaned for examination or study purposes to recognized associations of licensed embalmers or funeral directors or medical or dental examining boards.¹⁴

⁶ Section 406.50, F.S.

⁷ *Id.*

⁸ Section 406.53, F.S.

⁹ The anatomical board was created by the Legislature at the University of Florida in 1996, by ch. 96-251, L.O.F. Prior to 1996, the Division of Universities of the Department of Education was responsible for these functions.

¹⁰ See <http://old.med.ufl.edu/anatbd/> (Last visited March 12, 2013).

¹¹ Section 406.56, F.S.

¹² Section 406.52, F.S.

¹³ Section 406.54, F.S.

¹⁴ Section 406.57, F.S.

The board is prohibited from entering into any contract, oral or written, for the payment of any sum of money to a living person in exchange for the delivery of the body of that person upon death¹⁵ Moreover, the buying or selling of bodies or parts of bodies (except transmittal or conveyances by recognized Florida medical or dental schools) is prohibited in this state, which is punishable as a misdemeanor of the first degree.¹⁶

Fees may be charged by the board to defray the costs of obtaining and preparing the bodies. The board is also empowered to receive money from public or private sources to defray the costs of embalming, handling, shipping, storage, cremation, or other costs relating to the obtaining and use of the bodies. The record of all fees and other financial transactions are audited annually by the Department of Financial Services (DFS), and a report of the audit is provided to the University of Florida.¹⁷

Nontransplant Anatomical Donation Organizations

According to the American Association of Tissue Banks (AATB), an organization that promulgates industry standards and accredits tissue banks in the United States and Canada,¹⁸ a nontransplant anatomical donation organization (NADO) is a tissue bank or other organization that facilitates nontransplant anatomical donations. Facilitating activities include referral, obtaining informed consent or authorization, acquisition, traceability, transport, assessing donor acceptability, preparation, packaging, labeling, storage, release, evaluating intended use, distribution, and final disposition of nontransplant anatomical donations.¹⁹ The AATB developed accreditation standards for NADOs in 2012. There are currently four NADOs accredited by AATB, including one in Florida.²⁰

Organ Procurement Organizations

In addition to the organizations mentioned, the law defines several types of organizations permitted to handle human organs, human eye tissue, or other human tissue. An organ procurement organization is defined as an organization designated by the Secretary of the United States Department of Health and Human Services which engages in the retrieval, screening, testing, processing, storage, or distribution (hereafter collectively the “evaluation and conveyance”) of human organs.²¹ Four major organ and tissue procurement organizations operate in Florida to facilitate the process of organ donation. These organizations are certified by the U.S. Centers for Medicare and Medicaid Services (CMS) and operate in Florida to increase the number of registered donors and coordinate the donation process when organs become available.²² Each organization serves a different region of the state.²³ In addition to federal

¹⁵ Section 406.55, F.S.

¹⁶ Section 406.61(1), F.S.

¹⁷ Section 406.58, F.S.

¹⁸ Founded in 1976, the AATB has produced best practice standards for the operation of tissue banks since 1984. The association also provides an educational network for member organizations to encourage the dissemination of new practices. www.aatb.org/About-AATB (Last visited March 12, 2013).

¹⁹ See <http://www.aatb.org/index.asp?bid=271#> for accreditation requirements (Last visited March 12, 2013).

²⁰ See *supra* note 19.

²¹ Section 765.511(15), F.S.

²² Organ Procurement Organizations, [Organdonor.gov](http://organdonor.gov), available at <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 12, 2013).

certification of organ procurement organizations, the Agency for Healthcare Administration (AHCA) also certifies these organ procurement organizations and other eye and tissue organizations.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 382.002, F.S. The definition of “final disposition” is amended to include “anatomical donation” as an authorized final disposition of a dead body and to indicate that such a donation is considered final disposition. The term “funeral director” is amended to delete a reference to other persons as individuals who may first assume custody of, or who effect the final disposition of, a dead body.

Section 2 amends s. 382.006, F.S., to add the Department of Health (DOH) as an authorized issuer of burial-transit permits.²⁵

Section 3 amends s. 382.008, F.S., to:

- Require, in the absence of a funeral director who first assumes custody of the body, the district medical examiner of the county in which the death occurred or the body was found to file a death certificate.
- Permit electronic transfer of the medical certification of cause of death.
- Allow the decedent’s primary or attending physician, or the local district medical examiner in the event of a death in violent or suspicious circumstances, to provide certification of cause of death. Under existing law, the certification could be supplied only by the physician in charge of care for the illness or condition which resulted in death or the physician in attendance at the time of, or immediately before or after, the death.
- Define the term “primary or attending physician” as a physician who treated the deceased through examination, medical advice, or medication during the 12 months preceding the date of death.
- Conform additional references to physicians and medical examiners to the definition of “primary physician or attending physician” created in the section.
- Identify the appropriate medical examiner as the district medical examiner of the county in which the death occurred or the body was found.

Section 4 amends s. 382.011, F.S., to:

- Mandate that a medical examiner determine the cause of death when death occurs more than 12 months (rather than only 30 days) after last treatment by a primary or attending physician.
- Add the medical examiner of the county in which the body was found to the people to whom a case may be referred for investigation.

²³ Id.; LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves north Florida, TransLife Organ and Tissue Donation Services serves east Florida, and LifeAlliance Organ Recovery Services serves south Florida.

²⁴ AHCA’s authority for certifying organ, eye, and tissue banks can be found in s. 765.542, F.S., and a list of organ, eye and tissue banks is available on FloridaHealthFinder at www.floridahealthfinder.gov, (last visited on Mar. 12, 2013.)

²⁵ The county health departments appoint the registrars and deputy registrars.

Section 5 creates s. 406.49, F.S., to:

- Create definitions for “cremated remains,” “final disposition,” “human remains or remains,” and “legally authorized person” identical to definitions in s. 497.005, F.S.
- Create the definition of “nontransplant anatomical donation organization” as a tissue bank or other organization that facilitates nontransplant anatomical donations, including activities such as- referral, obtaining of consents and authorizations, acquisition, transport, assessment of acceptability of donors, preparation, storage, release, evaluation of intended use, distribution, and final disposition of nontransplant donations.
- Create a definition for “anatomical board”²⁶ and “indigent person.”²⁷
- Define the term “unclaimed remains” to mean human remains that are not claimed by a legally authorized person, other than a medical examiner or the board of county commissioners, for final disposition at the person’s expense.
- Define “human remains” or “remains” to mean the body of a deceased human person for which a death certificate or fetal death certificate is required under chapter 382, F.S., and includes the body in any stage of decomposition.²⁸ “Final disposition” is defined, in part, to mean the final disposal of a dead human body by earth interment, aboveground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal.²⁹

Section 6 amends s. 406.50, F.S., to direct a person or entity that comes into possession, charge, or control of unclaimed remains that are required to be buried or cremated at public expense to notify the board.³⁰ The notice is not required if:

- The unclaimed remains are decomposed or mutilated by wounds;
- An autopsy is performed on the remains;
- The remains contain a contagious disease;
- A legally authorized person objects to the use of the remains for medical education or research; or
- The deceased person was a veteran of the United States Armed Forces, United States Reserve Forces or National Guard and is eligible for burial in a national cemetery or was the spouse or dependent child of a veteran eligible for burial in a national cemetery.

The bill deletes an exception to the notification requirements for death caused by crushing injury.

The bill amends provisions to require that before final disposition, the person or entity that comes into possession, charge, or control of unclaimed remains make reasonable effort to

²⁶The definition of “anatomical board” is comparable to the term as used in s 406.50, F.S. Section 406.50(4), F.S., defines “anatomical board” to mean the anatomical board of this state located at the University of Florida Health Science Center.

²⁷ The definition of “indigent person” is comparable to the definition of the term as used in s. 406.53(3), F.S. “Indigent” is defined to be 100 percent of the federal poverty level recognized by the Federal Income Guidelines produced by the United States Department of Health and Human Services. *See* s. 406.53(3), F.S.

²⁸ *See* s. 497.005(38), F.S.

²⁹ *See* s. 497.005(32), F.S.

³⁰ The duty of notification is presently on “all public officers, agents, or employees of every county, city, village, town or municipality and every person in charge of any prison, morgue, hospital, funeral parlor, or mortuary and all other persons” coming into possession of such remains.

identify the remains, contact relatives, and determine if the deceased person is eligible for burial in a national cemetery. A reasonable effort is defined to include contacting the National Cemetery Scheduling Office in addition to contacting the county veterans' service office and the regional office of the United States Department of Veterans Affairs. If the deceased is eligible for burial in a national cemetery,³¹ the person or entity in charge of the remains make those arrangements in accordance with federal regulations and must also make a reasonable effort to cause the remains or cremated remains to be delivered to a national cemetery.

The bill provides that a funeral director licensed under chapter 497, F.S., may assume the responsibility of a legally authorized person when no family exists or is available. The funeral director after 24 hours has elapsed since the time of death may authorize arterial embalming for the purpose of storage and delivery of the unclaimed remains to the board. Funeral directors are released from liability for damages relating to embalming and delivering the remains to the board.

The bill provides that the remains of a deceased person whose identity cannot be ascertained may not be:

- Cremated;
- Donated as an anatomical gift;
- Buried at sea; or
- Removed from the state.

The bill strikes language which provides that competing claims for a body for interment by legally authorized persons shall be prioritized in accordance with s. 732.103, F.S.

The bill creates provisions that allow the board of county commissioners or its designated department of the county in which the remains were found or the death occurred to authorize and arrange for the burial or cremation of the entire remains if the anatomical board does not accept unclaimed remains. Boards of county commissioners may, by ordinance or resolution, prescribe policies and procedures for final disposition of unclaimed remains.

Section 7 amends s. 406.51, F.S., to make conforming changes and clarify references to federal law.

Section 8 substantially rewords s. 406.52, F.S., which relates to the retention of human remains and the process for reclaiming remains from the board. The bill:

- Authorizes the anatomical board to embalm human remains upon receipt and to refuse to accept unclaimed remains or the remains of an indigent person; and
- Provides that, at any point prior to use for medical education or research, human remains may be claimed by a legally authorized person, after payment of the board's expenses incurred for transporting, embalming, and storing the remains;
- Exempt licensees under chapter 497, F.S., from liability for any damages resulting from cremating or burying human remains at the written direction of the county.

³¹ The bill clarifies who is eligible by referencing 38 C.F.R. s. 38.620.

The bill deletes the provisions which:

- Deem county commissioners of the county where the death occurred as a legally authorized person under s. 497.005, F.S.;
- Allow the board to provide written notice to the appropriate county commission or other legally authorized persons that more bodies had been made available than could be used for medical science or that a body had been deemed unfit for anatomical purposes. In such cases the unclaimed body must be buried or cremated in compliance with rules, laws, and practices for disposing of unclaimed bodies; and
- Require the county to make reasonable efforts to determine the identity of the body, contact relatives, and accommodate the requests of relatives if a preference is expressed for either burial or cremation.

Section 9 substantially rewords s. 406.53, F.S. Notwithstanding the provisions of s. 406.50(1), F.S.,³² a county is not required to notify the anatomical board of the unclaimed remains of an indigent person if:

- The remains are decomposed or mutilated by wounds;
- An autopsy is performed;
- A legally authorized person or a relative by blood or marriage claims the remains for final disposition at his or her expense;
 - If such person or relative is also an indigent person, the person must provide for final disposition in a manner consistent with policies of the county in which the death occurred or the remains were found;
- The deceased person was a veteran, or the spouse or dependent child of a veteran, of the United States Armed Forces, United States Reserve Forces, or National Guard and is eligible for burial in a national cemetery; or
- A licensed funeral director certifies that the board has been notified and either accepted or declined the remains.

The bill deletes notification exceptions for the following circumstances:

- In the event of death caused by crushing injury;
- Where the deceased had a contagious disease; or
- Where the body is claimed for burial at the expense of any friend or a representative of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization, or a governmental agency that was providing residential care to the indigent person at the time of his or her death.

The bill also deletes the provision directing the DOH to assess fees for burial pursuant to s. 402.33, F.S., when it claims the body of an indigent client.

Section 10 amends s. 406.55, F.S., to make conforming and technical changes.

³² This section deals with unclaimed human remains generally.

Section 11 amends s. 406.56, F.S., to make conforming and technical changes.

Section 12 amends s. 406.57, F.S., to make conforming and technical changes and to require the board to loan remains to accredited colleges of mortuary science for education or research purposes.

Section 13 amends s. 406.58, F.S., to make conforming and technical changes and specify that the board may pay or reimburse the reasonable expenses, as determined by the board, for the removal, storage, or transportation of unclaimed remains by licensed funeral establishments or removal services.

The bill requires the board, not the Department of Financial Services (DFS), to keep records of all fees and other financial transactions. The bill directs the University of Florida to audit these records at least once every 3 years or more frequently if deemed necessary, and to provide a copy of the audit to DFS within 90 days after completion. The bill authorizes the University of Florida to contract with a licensed public accounting firm “to provide for” the audit, and the accounting firm “may be paid from the fees collected by the board.”

Section 14 amends s. 406.59, F.S., to make conforming and technical changes and mandate that entities receiving remains from the board may not use them for any purposes other than medical education or research.

Section 15 amends s. 406.60, F.S., to reference “human remains” and to provide that the board or a cinerator facility licensed under chapter 497, F.S., may dispose of human remains by cremation when such remains have been used for, and are not of any further value to, medical or dental education or research.

Section 16 amends s. 406.61, F.S., to make conforming and technical changes and to affirmatively state that the anatomical board may transport human remains outside the state for educational or scientific purposes. The bill allows other persons, institutions or organizations that convey human remains or any part thereof outside the state to do so for dental education or research purposes, but only upon the required notification to, and approval from, the anatomical board.

The bill allows a nontransplant anatomical donation association (NADO) that is accredited by the American Association of Tissue Banks (AATB) to convey human remains into or outside the state, for medical or dental education or research purposes without notifying the board or receiving board approval for the conveyance. The bill also requires that a NADO be accredited by the AATB effective October 1, 2014.

The bill makes buying or selling human remains or conveying human remains out of the state a misdemeanor of the first degree. Recognized Florida medical and dental schools are exceptions to this provision.

The bill requires that the original burial-transit permit issued pursuant to s. 382.007, F.S., accompany human remains received by the board or a NADO. It also prohibits the dissection,

segmentation, or disarticulation of the remains until the district medical examiner of the county in which the death occurred or the remains were found grants approval pursuant to s. 406.11, F.S.

The bill requires that a NADO obtain specific written consent for the dissection, segmentation, or disarticulation of any part of the remains from all persons who are authorized to consent to an anatomical gift as described in s. 765.512, F.S. Such consent must expressly state that the remains may undergo long-term preservation or extensive preparation, including but not limited to, removal of the head, arms, legs, hands, feet, spine, organs, tissues, or fluids.

The bill prohibits any person from offering any monetary inducement or other valuable consideration, including goods and services, to a donor, legally authorized person, the donor's estate, or any other third party, in exchange for human remains. The bill provides, however, that the term "valuable consideration" does not include, and does not prohibit payment or reimbursement of the following expenses:

- Reasonable costs associated with the removal, storage, and transportation of human remains;
- Fees of a licensed funeral establishment or removal service;
- Reasonable costs after use of the human remains; or
- Disposition by cremation of human remains after use when they are deemed of no further value to medical or dental education or research.

The bill also deletes language that provides a substitute format to comply with required documentation for plastinated remains exhibited before July 1, 2009, by entities accredited by the American Association of Museums. The substitute method of compliance expired on January 1, 2012, by the terms of the subsection.

Section 17 amends s. 497.005, F.S., to redefine "final disposition" as it relates to the Florida Funeral, Cemetery, and Consumer Services Act to include provisions relating to anatomical donation. Delivery of an anatomical donation is deemed to be final disposition if the medical institution or entity receiving it assumes responsibility for disposition after use.

Section 18 amends s. 497.382, F.S., to require that reports of embalming or other handling of dead bodies be recorded and signed monthly as appropriate by embalmers, funeral directors or direct disposers, and maintained at the business premises for inspection by staff of the Division of Funeral, Cemetery, and Consumer Services within the DFS. The bill deletes the requirement that the reports be submitted to or filed with the division. The bill also revises the reporting procedure for funeral directors performing a disinterment.

Section 19 amends s. 497.607, F.S., to require a reasonable effort be made by a funeral or direct disposal establishment to determine whether remains that have not been claimed within 120 days after cremation are those of a veteran or the spouse or dependent child of a veteran of the United States Armed Forces, United States Reserve Forces, or National Guard eligible for burial in a national cemetery. If they are, the establishment must arrange for interment in a national cemetery and may use the assistance of a veterans' service organization for this purpose. A funeral or direct disposal establishment or veterans' service organization acting in good faith is not liable for damages resulting from the release of required information to determine eligibility.

There is no requirement to determine if the deceased is an eligible veteran if the funeral or direct disposal establishment is informed by a legally authorized person that the deceased was not a veteran. Similarly, there is no requirement to relinquish possession of cremated remains to a veteran's service organization if the establishment is informed by a legally authorized person that the deceased did not desire any funeral, ceremony, or interment-related services recognizing the deceased's service as a veteran.

The bill defines "reasonable effort" to include contacting the National Cemetery Scheduling Office, the county veterans' service office, the regional office of the U.S. Department of Veterans Affairs, or a veteran's service organization. The term "veterans' service organization" is defined as a tax-exempt entity under s. 501(c) (3) or 501(c)(10) of the Internal Revenue Code, organized for the benefit of veterans' burial and interment, that is recognized by the Memorial Affairs Division of the U.S. Department of Veterans Affairs. This includes members and employees of those organizations that assist in facilitating the identification, recovery, and interment of the unclaimed cremated remains of veterans.

Section 20 amends s. 765.513, F.S., to specify that the anatomical board or a NADO may be a donee of the whole body for medical or dental education or research.

Section 21 repeals s. 406.54, F.S., which relates to the anatomical board surrendering a body to the claimant after payment of certain expenses. This is addressed by the bill in s. 406.52, F.S.

Section 22 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Effective October 1, 2014, a nontransplant anatomical donation organization must be accredited by the AATB to convey human remains outside and into the state. Staff at the American Association of Tissue Banks report that the initial application cost is \$5,000, and annual renewals thereafter range between a minimum of \$3,250 and \$75,000 annually, based on gross revenues.³³

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The title of part II of chapter 406, F.S., remains “Disposition of Dead Bodies,” even though all references therein will refer to “human remains” or “remains,” the Division of Law Revision and Information in the Office of Legislative Services should conform the reference accordingly as needed.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on March 7, 2013:

The committee substitute:

- Conforms the bill to its House companion (CS/HB 171);
- Allows the Department of Health as well as the local health department registrar to grant an extension of time for the submission of the medical certification of the cause of death;
- Defines nontransplant anatomical donation organizations (NADO) as authorized to accept donations of human remains;
- Describes specific requirements for the contents of consents to be obtained by NADOs;
- Provides that an institution or organization may not offer monetary or other valuable consideration in exchange for human remains; and
- Defines the term “valuable consideration” to exclude payments or reimbursement of reasonable costs associated with the handling of the remains before and after use, including cremation.

³³ Teleconference by the Senate Committee on Regulated Industries with D. Newman at AATB March 5, 2013.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
