

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB891

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. Patron: Chafin

3. Committee: General Laws and Technology

4. Title: Perpetual care trust funds; method of distribution.

5. Summary: Allows cemetery companies to request the trustee of a perpetual care trust fund to elect a total return distribution method for distributions from the trust. The bill provides that a total return distribution method allows the distribution of an amount not to exceed five percent of the fair market value of the perpetual care trust fund at the close of its preceding fiscal year. The bill contains notice and reporting requirements for the election and implementation of this method to the trustee, Cemetery Board, and commissioner of accounts. The bill sets forth requirements that a trustee using such method must meet, including adoption of a written investment and distribution policy, responsible investment decision making, and monitoring of the trust's fair market value. The bill prohibits a trustee from making distributions from the trust under the total return distribution method if (i) the fair market value of the trust after the distribution would be less than the aggregate of 80 percent of the fair market value of the trust at the close of the preceding fiscal year plus the total contributions made to the trust principal from such date to the date that the method of distribution is elected and (ii) beginning with the third year of using a total return distribution method, a three-year analysis of investment returns and distribution practices indicates insufficient protection of the trust principal. The bill requires the Cemetery Board to review conversions of perpetual care trust fund distribution methods for compliance with the requirements of the bill and allows the Cemetery Board to limit or prohibit conversions to and distributions under the total return distribution method under certain circumstances, including where the trustee or investment manager is without sufficient knowledge and expertise regarding implementation of this method. Under current law, a trustee of a perpetual care trust fund may make distributions only from the trust's net income and, absent approval by the Cemetery Board or a court, the trust principal may be used only for investment purposes. The bill refers to this method as the 'net income distribution method' and establishes this as the default distribution method in the event that a cemetery company does not elect a distribution method.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: No state fiscal impact.

8. Fiscal Implications: It is anticipated that this bill will not result in a fiscal impact to the Department of Professional and Occupational Regulation. The bill modifies the Code to

allow cemetery companies to request the trustee of a perpetual care trust fund to elect a total return distribution method for distributions from the trust.

9. Specific Agency or Political Subdivisions Affected: Department of Professional and Occupational Regulation.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to HB1505, as introduced.