

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
AB 868 (Eduardo Garcia) – As Amended March 18, 2021

SUBJECT: State of emergency: funeral expense assistance

SUMMARY: Creates the “Emergency Funeral Expenses Fund” and requires the California Department of Social Services (CDSS) to provide funeral expenses to a person who applies for funeral expense assistance for eligible funeral home contract costs incurred for a decedent who died due to COVID-19 or as a result of an emergency that is the basis of a state of emergency declared by the Governor. Specifically, **this bill:**

- 1) Defines “eligible funeral home contract costs” to mean costs that are incurred by a person seeking funeral expense assistance pursuant to a contract with a funeral home and that are for a casket; mortuary services; transportation of the deceased; identification of the deceased, as specified; two death certificates; a burial plot; interment or cremation; or, reinterment of a disinterred coffin, if disinterment is caused by the emergency that is the basis for a state of emergency declared by the Governor and occurs in a family cemetery on private property.
- 2) Defines “funeral home” to mean an establishment where the deceased are prepared for burial or cremation or that provide other burial or funeral services for the deceased and their families.
- 3) Defines “nonprofit organization” to mean any private, nonprofit organization that qualifies under Section 501(c)(3) of the United States Internal Revenue Code of 1986.
- 4) Requires CDSS to solicit nonprofit organizations to conduct intake for funeral expense assistance and to select one nonprofit organization to serve each region. Further requires CDSS to create regions for purposes of conducting intake and allocating funds.
- 5) Requires CDSS to adopt guidelines for the creation of regions, allocation of funds for each region, and conducting intake, as specified; and, to develop an application for nonprofit organizations to conduct intake.
- 6) Requires the application for nonprofit organizations to conduct intake to include, at a minimum, all of the following:
 - a) Date of completed application;
 - b) Full name of applicant;
 - c) Full name of decedent;
 - d) Death certificate;
 - e) Documentation from an attending physician, medical examiner’s office, coroner’s office, or other state or local entity that attributes the decedent’s death to COVID-19 or to an emergency that is the basis for a state of emergency declared by the Governor;

- f) Funeral home contract for the decedent that describes eligible funeral home contract costs and provides the total amount to be paid by the applicant, as specified;
 - g) Explanation of whether the applicant is seeking reimbursement for eligible funeral home contract costs already paid or for eligible funeral home contract costs yet to be paid. Further specifies that if the applicant is seeking a reimbursement, the applicant shall also attach proof of payment; and,
 - h) Affidavit provided under penalty of perjury that eligible funeral home contract costs have not been fully paid for by other public or private sources.
- 7) Requires CDSS to provide funeral expense assistance to a person that applies for assistance for either eligible funeral home contract costs incurred by the person for a decedent who died due to COVID-19 on or after March 4, 2020; or, eligible funeral home contract costs incurred by the person for a decedent who died as a result of an emergency that is the basis of a state of emergency declared by the Governor.
- 8) Specifies that a person is not eligible for funeral expense assistance if any of the following apply:
- a) The decedent's death is not attributed to an emergency that is the basis of a state of emergency declared by the Governor;
 - b) Eligible funeral home contract costs have already been fully paid by another public or private source; or,
 - c) The person provides incomplete or insufficient information or documentation on their application.
- 9) Requires a person seeking funeral expense assistance to contact a nonprofit organization selected by CDSS to complete an application for such assistance.
- 10) Requires a nonprofit organization selected by CDSS to conduct intake for funeral expense assistance to process an application for a person seeking funeral expense assistance, as developed by CDSS, on a first-come-first-served basis.
- 11) Requires CDSS to review and approve completed applications by region and in the order the nonprofit organization assisted and completed the application for the person seeking funeral expense assistance.
- 12) Requires CDSS to award upon receipt of a completed application that fulfills the requirements of these provisions, \$5,000 or the amount of eligible funeral home contract costs for the decedent, whichever is less, for each decedent.
- 13) Provides that, if a successful applicant seeks reimbursement, the assistance shall be provided in the form of a check made out in the applicant's name. Further, if a successful applicant seeks assistance for expenses yet to be paid under the funeral home contract, the assistance shall be sent to the funeral home directly in the form of a check made out to the funeral home.

- 14) Creates the “Emergency Funeral Expenses Fund” for these purposes. Further, specifies that moneys in the fund shall be available to implement these provisions only upon appropriation by the Legislature.
- 15) Requires CDSS to allocate moneys for each region based on the percentage of low-income individuals in the region and to achieve equitable distribution of funds for underserved regions.

EXISTING LAW:

- 1) Empowers the Governor to proclaim a state of emergency in an area affected or likely to be affected when:
 - a) The Governor finds that there is the existence of conditions of disaster or extreme peril to the safety of persons and property within the state which, due to their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single jurisdiction and require the combined forces of a mutual aid region or regions to combat, as specified; and,
 - b) Either:
 - i) The Governor is requested to do so by a mayor or chief executive or chairperson of the board of supervisors or county administrative officer, as applicable; or,
 - ii) The Governor finds that local authority is inadequate to cope with the emergency. (Government Code Section [GOV] 8625)
- 2) Authorizes the President to provide federal assistance when the magnitude of an incident or threatened incident exceeds the affected state, local, territorial, and tribal government capabilities to respond or recover. (Stafford Act, 42 United States Code Section [U.S.C.] 5121)
- 3) Authorizes the President of the United States, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses. (42 U.S.C. 5174(e)(1))

FISCAL EFFECT: Unknown

COMMENTS:

Stafford Act: When a state, territorial, or tribal government determines an incident has exceeded their capabilities to respond, the Governor or Tribal Chief Executive may request a declaration of “major disaster” or “emergency” from the President through the Federal Emergency Management Agency (FEMA) regional office. The Governor or Tribal Chief Executive must make the request within 30 days of the incident. Following a Stafford Act declaration, the President may authorize assistance to a state, local, territorial, or tribal government; certain types of private nonprofit organizations; or individuals and households. FEMA then provides assistance to individuals and households through the Individual Assistance program, which includes all of the following:

- Mass Care and Emergency Assistance
- Crisis Counseling Assistance and Training Program
- Disaster Unemployment Assistance
- Disaster Legal Services
- Disaster Case Management
- Individuals and Households Program (IHP)

Individuals and Households Program: IHP is a joint Federal and State program composed of two categories of assistance: Housing Assistance and Other Needs Assistance. IHP provides financial assistance and direct services to eligible individuals and households who have uninsured or underinsured necessary expenses and serious needs. IHP Assistance is limited to 18 months following the date of the disaster declaration. Under IHP, FEMA may provide awards in the form of rent, home repair or replacement, transportation repair or replacement, funeral expenses, personal property, medical, dental or other miscellaneous expenses.

CDSS Disaster Services Branch: The Disaster Services Branch of CDSS supports local emergency agencies in order to provide temporary shelter, feeding and other services for persons affected by a disaster or emergency. The Disaster Services Branch also assists in networking with and between counties. Additionally, the Disaster Services Branch tracks resources needed for care and sheltering with other state agencies and coordinates with the American Red Cross to assist in training for shelter operations. The Disaster Services Branch can provide grant assistance through two programs: the IHP and the State Supplemental Grant Program.

COVID-19: effects and response: In 2020 and continuing into 2021, across the state, throughout the nation, and around the world, the global COVID-19 pandemic has had drastic effects on public health and the economy. On March 4, 2020, in response to the global COVID-19 outbreak, Governor Newsom declared a statewide state of emergency. The state of emergency was declared following positive California cases of COVID-19 rising and one official COVID-19-related death. On March 13, 2020, President Trump declared an emergency under the Stafford Act, in response to the COVID-19 pandemic. The declaration authorized assistance to all U.S. states, territories, tribes, and the District of Columbia. Subsequently, the President approved major disaster declaration requests under the Stafford Act for all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. In addition to the over 500,000 lives lost to COVID-19 in the U.S., many individuals have also experienced unemployment, as well as food and housing insecurity resulting from reduced employment opportunities.

The American Rescue Plan of 2021: On March 11, 2021, President Biden signed The American Rescue Plan of 2021 (Rescue Plan)—a \$1.9 trillion stimulus relief package intended to provide support to individuals and businesses affected by COVID-19. Among other things, the Rescue Plan includes an additional \$50 billion for FEMA’s Disaster Relief Fund to cover costs associated with major disaster declarations, such as reimbursements for funeral expenses, at 100% federal cost share. As a result, FEMA may offer U.S. citizens, non-citizen nationals, and qualified aliens reimbursements for their COVID-19-related funeral expenses incurred after January 20, 2020. FEMA provides Funeral Assistance for disaster-related funeral expenses, but

not all expenses are eligible. Eligible expenses associated with interment or reinterment including:

- remains transfer;
- caskets/urns;
- burial plots/cremation niches;
- markers/headstones;
- additional state/local/territorial/tribal government mandated expenses.
- transportation to identify the deceased (up to two people), if required;
- interment;
- funeral services;
- clergy/officiant services; and,
- death certificate costs (up to five).

Financial effects of the COVID-19 pandemic on individuals with low-income: A 2017 study from the Substance Abuse and Mental Health Services Administration (SAMHSA) looking at how people in poverty, with low incomes, and of low socioeconomic status (SES) experience disasters states that “people of low SES are more vulnerable in the face of disasters and are more likely to suffer more serious consequences during impact, from property damage to homelessness to physical and financial impacts.” Additionally, the article states that the economic impact of disasters impacts people with lower income, “Because people of low SES have fewer assets, they have less to lose, and when they experience financial loss in disasters, a given amount of loss has a greater financial impact on them than it will on people of higher SES, as the loss is proportionally greater relative to a poorer person’s assets than it will be relative to the assets of someone of higher SES.”

A September 2020 Pew Research Center study looking at the effects of COVID-19 on Americans’ financial situations, found that, “One-in-four adults have had trouble paying their bills since the coronavirus outbreak started, a third have dipped into savings or retirement accounts to make ends meet, and about one-in-six have borrowed money from friends or family or gotten food from a food bank. As was the case earlier [in 2020], these types of experiences continue to be more common among adults with lower incomes, those without a college degree and Black and Hispanic Americans...Among lower-income adults, 46% say they have had trouble paying their bills since the pandemic started and roughly one third (32%) say it’s been hard for them to make rent or mortgage payments.”

Need for this bill: According to the National Funeral Directors Association, for 2019, the median cost of a funeral with viewing and burial was \$7,640, and if a vault is included—something that is typically required by a cemetery—the median cost was \$9,135. For many individuals, especially low-income individuals and those facing unemployment due to the economic crisis

caused by the COVID-19 pandemic, the costs for funeral expenses for a deceased loved one may be exorbitant and may cause financial stress.

The President has approved FEMA funding to cover COVID-19-related funeral expenses for U.S. citizens and legal residents. This bill would provide funeral expenses resulting from either the current COVID-19 pandemic or future Governor-declared disasters, thereby reducing the financial stress of interment or reinterment during a chaotic time. Additionally, this bill would provide funeral expenses for undocumented immigrants or other populations who may not be eligible for COVID-19-related funeral expenses through FEMA.

According to the author, “The COVID-19 pandemic has affected California in unprecedented ways – from high infection rates, to staggering number of hospitalizations, to the increasing devastating death toll. In addition to being a catastrophic public health crisis, COVID-19 has claimed over 20 million jobs statewide. Californians have been making significant adjustments to their everyday life with the intent to minimize the spread of COVID-19, but unfortunately, we have lost over 55,000 lives to this disease. Disproportionately, lower-income individuals account for a higher number of COVID-19 deaths in comparison to wealthier ones. A large number of Californians find themselves jobless, on the verge of losing their home, making ends meet, and with debt accumulating exponentially, when the responsibility to cover funeral expenses of a loved one is added to their load. This bill would alleviate the financial burden of paying for funeral expenses incurred by the unexpected deaths caused by the current COVID-19 pandemic and future State-declared emergencies.”

Double referral: This bill will be referred to the Assembly Business and Professions Committee should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Special Districts Association
County of Monterey

Opposition

None on file

Analysis Prepared by: Debra Cooper / HUM. S. / (916) 319-2089