

AMENDED IN SENATE JUNE 25, 2021

AMENDED IN ASSEMBLY MAY 24, 2021

AMENDED IN ASSEMBLY MARCH 18, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 868

**Introduced by Assembly Members ~~Eduardo Garcia and Carrillo~~
Eduardo Garcia, Carrillo, and Mathis
(Coauthors: Assembly Members Chiu, Cristina Garcia, Gipson,
Lorena Gonzalez, McCarty, Ramos, and Santiago)**

February 17, 2021

An act to add Chapter 7.2 (commencing with Section 8670) to Division 1 of Title 2 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 868, as amended, Eduardo Garcia. State of emergency: funeral expense assistance.

The California Emergency Services Act authorizes the Governor to declare a state of emergency when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor or the appropriate local government to exercise certain powers in response to that emergency.

This bill would require the State Department of Social Services to provide, to a person that applies for funeral expense assistance, for eligible funeral home contract costs, as defined, incurred by the person for a decedent who died due to COVID-19 on or after March 4, 2020, or who died as a result of an emergency that is the basis of a state of emergency declared by the Governor on or after January 1, 2022, as

described. The bill would require a person seeking funeral expense assistance to contact a nonprofit organization selected by the department to complete an application for such assistance. The bill would require a nonprofit organization selected by the department to conduct intake for funeral expense assistance, and to process applications, developed by the department, on a first-come-first-served basis. The bill would require the application to include specified information, including ~~an affidavit provided under penalty of perjury~~ *a certification that eligible funeral home contract costs have not been fully paid for by other public or private sources; sources and that, for eligible funeral home contract costs related to COVID-19 or to a state of emergency also declared by the federal government for which Federal Emergency Management Agency (FEMA) assistance is available, a certification that the applicant is ineligible for FEMA assistance due to immigration status. The bill would provide that any use, by an applicant, of false certification is punishable as a misdemeanor.* ~~By expanding the crime of perjury, creating a new crime,~~ the bill would impose a state-mandated local program.

This bill would require the department to review and approve completed applications by regions designated by the department and in the order the nonprofit organization assisted and completed the application for the person seeking funeral expense assistance. The bill would require the department to award, upon receipt of a completed application that fulfills the bill's requirements, \$5,000 or the amount of the eligible funeral home contract costs for the decedent, whichever is less, for each decedent.

This bill would create the Emergency Funeral Expenses Fund for purposes of implementing the bill's provisions. The bill would make moneys in the fund available only upon appropriation by the Legislature. The bill would also require the department to allocate moneys for each region designated by the department based on the percentage of low-income individuals in the region and to achieve equitable distribution of funds for underserved regions.

This bill would require the department to recapture an award of funds to cover funeral home contract costs that were improperly awarded to a person due to the person's intentional or unintentional misrepresentation of information on their application for funds. The bill would also require a person to pay an administrative fine of \$100 if the person intentionally and materially misrepresents information on an application for funds pursuant to the bill's provisions. The bill would

require recaptured moneys and fines to be deposited into the Emergency Funeral Expenses Fund.

This bill would make the operation of these provisions subject to appropriation by the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) In 2020 and continuing into 2021, across the state, nation,*
4 *and world, the COVID-19 pandemic has had drastic effects on the*
5 *public’s health and economy.*

6 *(b) As of May 4, 2021, COVID-19 has claimed over 60,000 lives*
7 *in California.*

8 *(c) In addition to being a catastrophic public health crisis,*
9 *COVID-19 has claimed over 20,000,000 jobs statewide.*

10 *(d) A 2017 study from the Substance Abuse and Mental Health*
11 *Services Administration (SAMHSA), which looks at how persons*
12 *in poverty, with low incomes, and of low socioeconomic status*
13 *(SES) experience disasters, states that “people of low SES are*
14 *more vulnerable in the face of disasters and are more likely to*
15 *suffer more serious consequences during impact, from property*
16 *damage to homelessness to physical and financial impacts.”*

17 *(e) Additionally, the article states that the economic impact of*
18 *disasters impacts people with lower income, “Because people of*
19 *low SES have fewer assets, they have less to lose, and when they*
20 *experience financial loss in disasters, a given amount of loss has*
21 *a greater financial impact on them than it will on people of higher*
22 *SES, as the loss is proportionally greater relative to a poorer*
23 *person’s assets than it will be relative to the assets of someone of*
24 *higher SES.”*

25 *(f) A September 2020 Pew Research Center study looking at*
26 *the effects of COVID-19 on Americans’ financial situations found*

1 *that “One-in-four adults have had trouble paying their bills since*
2 *the coronavirus outbreak started, a third have dipped into savings*
3 *or retirement accounts to make ends meet, and about one-in-six*
4 *have borrowed money from friends or family or gotten food from*
5 *a food bank.”*

6 *(g) These types of experiences continue to be more common*
7 *among adults with lower incomes.*

8 *(h) In recent written testimony provided to the United States*
9 *House of Representatives Committee on Appropriations, the*
10 *Director of Emergency Services stated that “the State of California*
11 *arguably faces the most complex and severe disaster conditions*
12 *in the nation and these challenges and complexities grow in*
13 *magnitude each year. In the past decade, California has*
14 *experienced every conceivable type of natural and manmade*
15 *disaster including drought, earthquake, flood, catastrophic wildfire,*
16 *mudslides, dam failure, cyber security attacks, oil spills, natural*
17 *gas leak, civil unrest, terrorism, and tsunami. However, the*
18 *COVID-19 pandemic has put our emergency management system*
19 *to the test.”*

20 *(i) In California, it is not a matter of “if” a major earthquake*
21 *or wildfire occur, it is a matter of “when.”*

22 *(j) Scientific evidence strongly indicates that California will*
23 *experience worsening wildfires due to climate change and that*
24 *California is overdue for its next major earthquake.*

25 *(k) Increased residential development in the wildland-urban*
26 *interface (WUI) has placed more residents in the potential path*
27 *of destruction. In total, over 11,000,000 people (approximately 25*
28 *percent of the state’s population) live in high fire risk areas,*
29 *including the WUI.*

30 *(l) In California, the 2020 Fire Siege claimed the lives of 28*
31 *civilians and three firefighters.*

32 *(m) The 2018 Camp Fire claimed the lives of 85 people.*

33 *(n) Since 2017, California wildfires have claimed the lives of*
34 *over 140 people.*

35 *(o) The United States Geological Survey and other scientists*
36 *estimate a 72-percent probability that at least one earthquake of*
37 *magnitude 6.7 or greater, capable of causing widespread*
38 *destruction, will strike the San Francisco Bay area before 2044.*
39 *For the Los Angeles region, the same model forecasts a 60-percent*

1 probability that an earthquake of magnitude 6.7 or greater will
2 occur before 2044.

3 (p) The cost for funeral services can change from year to year.

4 (q) According to the National Funeral Directors Association,
5 for 2019, the median cost of a funeral with viewing and burial was
6 \$7,640, and if a vault is included—something that is typically
7 required by a cemetery—the median cost was \$9,135. For many
8 individuals, especially low-income individuals and those facing
9 unemployment due to the economic crisis caused by the COVID-19
10 pandemic, the costs for funeral expenses for a deceased loved one
11 may be exorbitant and may cause financial stress.

12 (r) This act differs from programs offered by the Federal
13 Emergency Management Agency in that it would allow for the
14 assistance of expenses yet to be paid to be sent to the service
15 provider directly, relieving the applicant from struggling to come
16 up with the money upfront.

17 (s) It is the intent of the Legislature that moneys be appropriated
18 for purposes of the bill’s provisions following a declaration of a
19 state of emergency.

20 **SECTION 1.**

21 **SEC. 2.** Chapter 7.2 (commencing with Section 8670) is added
22 to Division 1 of Title 2 of the Government Code, to read:

23

24 **CHAPTER 7.2. FUNERAL EXPENSE ASSISTANCE**

25

26 8670. For purposes of this chapter, all of the following
27 definitions apply:

28 (a) “Cemetery entity” means either of the following:

29 (1) A public cemetery, as defined in Section 7612.1 of the
30 Business and Professions Code.

31 (2) A cemetery run by a cemetery authority, as defined in Section
32 7018 of the Health and Safety Code.

33 ~~(a)~~

34 (b) “Department” means the State Department of Social
35 Services.

36 ~~(b)~~

37 (c) “Eligible funeral home contract costs” means costs that are
38 incurred by a person seeking funeral expense assistance pursuant
39 to a contract with a funeral home or cemetery entity and that are
40 for any of the following:

- 1 (1) Casket.
- 2 (2) Mortuary services.
- 3 (3) Transportation of the deceased.
- 4 (4) Identification of the deceased by up to two family members
- 5 of the decedent who live within the state.
- 6 (5) Two death certificates.
- 7 (6) Burial plot.
- 8 (7) Interment or cremation.
- 9 (8) Reinterment of a disinterred coffin, if disinterment is caused
- 10 by the emergency that is the basis for a state of emergency declared
- 11 by the Governor pursuant to Section 8625 and occurs in a family
- 12 cemetery on private property.
- 13 ~~(e)~~
- 14 (d) "FEMA" means the Federal Emergency Management
- 15 Agency.
- 16 ~~(d)~~
- 17 (e) "Funeral home" means an establishment where the deceased
- 18 are prepared for burial or cremation or that provide other burial or
- 19 funeral services for the deceased and their families.
- 20 ~~(e)~~
- 21 (f) "Nonprofit organization" means any private, nonprofit
- 22 organization that qualifies under Section 501(c)(3) of the United
- 23 States Internal Revenue Code of 1986.
- 24 8670.0.2. (a) (1) The department shall solicit nonprofit
- 25 organizations to conduct intake, pursuant to Section 8670.0.3, for
- 26 funeral expense assistance under this chapter and shall select one
- 27 nonprofit organization to serve each region, as described in
- 28 paragraph (2).
- 29 (2) The department shall create regions for purposes of
- 30 conducting intake and allocating funds pursuant to this chapter.
- 31 (b) (1) (A) The department shall adopt guidelines for the
- 32 creation of regions, *the* allocation of funds for each region, and
- 33 *the* conducting of intake pursuant to this chapter, and shall develop
- 34 an application for nonprofit organizations to conduct intake
- 35 pursuant to Section 8670.0.3. ~~The adoption~~ *department shall take*
- 36 *into consideration geographical diversity when creating regions*
- 37 *and ensure that at least one nonprofit organization conducting*
- 38 *intake is designated for each county in the state.*
- 39 (B) *The adoption* of guidelines by the department pursuant to
- 40 this subdivision is exempt from the Administrative Procedure Act

1 (Chapter 3.5 (commencing with Section 11340), Chapter 4
2 (commencing with Section 11370), Chapter 4.5 (commencing with
3 Section 11400), and Chapter 5 (commencing with Section 11500)
4 of Part 1 of Division 3).

5 (2) The application shall include, at a minimum, all of the
6 following:

7 (A) Date of completed application.

8 (B) Full name of applicant.

9 (C) Full name of decedent.

10 (D) Death certificate.

11 (E) Documentation from an attending physician, medical
12 examiner's office, coroner's office, or other state or local entity
13 that attributes the decedent's death to COVID-19 or to an
14 emergency that is the basis for a state of emergency declared by
15 the Governor pursuant to Section 8625.

16 (F) Funeral home contract for the decedent that describes eligible
17 funeral home contract costs and provides the total amount to be
18 paid by the applicant. The applicant shall be a party to the contract.

19 (G) Explanation of whether the applicant is seeking
20 reimbursement for eligible funeral home contract costs already
21 paid pursuant to the contract in subparagraph (F), or for eligible
22 funeral home contract costs yet to be paid under the contract in
23 subparagraph (F). If the applicant is seeking a reimbursement, the
24 applicant shall also attach proof of payment.

25 (H) ~~Affidavit provided under penalty of perjury~~ *A certification*
26 that eligible funeral home contract costs have not been fully paid
27 for by other public or private sources.

28 (I) For eligible funeral home contract costs related to COVID-19
29 or to a state of emergency also declared by the federal government
30 for which FEMA assistance is available, ~~an affidavit~~ *a certification*
31 that the applicant is ineligible for FEMA assistance due to
32 immigration status.

33 8670.0.3. (a) The department shall provide, to a person that
34 applies for assistance pursuant to subdivision (c), funeral expense
35 assistance for either of the following:

36 (1) Eligible funeral home contract costs incurred by the person
37 for a decedent who died due to COVID-19 on or after March 4,
38 2020.

39 (2) Eligible funeral home contract costs incurred by the person
40 for a decedent who died as a result of an emergency that is the

1 basis of a state of emergency declared by the Governor, pursuant
2 to Section 8625, on or after January 1, 2022.

3 (b) A person is not eligible for funeral expense assistance under
4 this chapter if any of the following apply:

5 (1) The decedent's death is not attributed to an emergency that
6 is the basis of a state of emergency declared by the Governor
7 pursuant to Section 8625.

8 (2) Eligible funeral home contract costs have already ~~been~~ *been*,
9 *or will be*, fully paid by another public or private source.

10 (3) The person provides incomplete or insufficient information
11 or documentation on their application.

12 (4) The person's immigration status does not disqualify them
13 from FEMA assistance to cover eligible funeral home contract
14 costs incurred due to COVID-19 or to a state of emergency also
15 declared by the federal government for which FEMA assistance
16 is available.

17 (c) A person seeking funeral expense assistance pursuant to this
18 chapter shall contact a nonprofit organization selected by the
19 department to complete an application for such assistance.

20 (d) A nonprofit organization selected by the department to
21 conduct intake for funeral expense assistance shall process an
22 application, as developed by the department pursuant to Section
23 8670.0.2, for a person seeking funeral expense assistance on a
24 first-come-first-served basis.

25 (e) (1) The department shall review and approve completed
26 applications by region and in the order the nonprofit organization
27 assisted and completed the application for the person seeking
28 funeral expense assistance.

29 (2) The department shall award, upon receipt of a completed
30 application that fulfills the requirements of this chapter, five
31 thousand dollars (\$5,000) or the amount of eligible funeral home
32 contract costs for the decedent, whichever is less, for each decedent.

33 (3) If a successful applicant seeks reimbursement, the assistance
34 shall be provided in the form of a check made out in the applicant's
35 name. If a successful applicant seeks assistance for expenses yet
36 to be paid under the funeral home contract, the assistance shall be
37 sent to the funeral home *or cemetery entity* directly in the form of
38 a check made out to the funeral home.

39 *8670.0.4. (a) An award of funds to cover funeral home contract*
40 *costs shall be recaptured by the department, in whole or in part,*

1 *if the department determines funds were improperly awarded to*
2 *a person under this chapter due to the person’s intentional or*
3 *unintentional misrepresentation of information on their application*
4 *for funds.*

5 *(b) In addition to any penalties provided under law, a person*
6 *who intentionally and materially misrepresents information on an*
7 *application for funds under this chapter and receives funds as a*
8 *result of that misrepresentation shall pay an administrative fine*
9 *to the department in the amount of one hundred dollars (\$100).*

10 *(c) Recaptured moneys and fines shall be deposited into the*
11 *Emergency Funeral Expenses Fund.*

12 *(d) (1) The department shall adopt guidelines for purposes of*
13 *implementing procedures to recover funds pursuant to subdivision*
14 *(a).*

15 *(2) The adoption of guidelines by the department pursuant to*
16 *this subdivision is exempt from the Administrative Procedure Act*
17 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*
18 *Division 3).*

19 *(e) Any use, by an applicant, of false certification made pursuant*
20 *to subparagraph (H) or (I) of paragraph (2) of subdivision (b) of*
21 *Section 8670.0.2 shall be punishable as a misdemeanor.*

22 ~~8670.0.4.~~

23 ~~8670.0.5.~~ (a) There is hereby created the Emergency Funeral
24 Expenses Fund for purposes of implementing this chapter. Moneys
25 in the fund shall be available to implement this chapter only upon
26 appropriation by the Legislature.

27 (b) The department shall allocate moneys for each region, as
28 described in paragraph (2) of subdivision (a) of Section 8670.0.2,
29 based on the percentage of low-income individuals in the region
30 and to achieve equitable distribution of funds for underserved
31 regions.

32 ~~8670.0.5.~~

33 ~~8670.0.6.~~ This chapter shall become operative when an
34 appropriation is made by the Legislature for purposes of carrying
35 out the provisions of this chapter. The department shall post notice
36 of the appropriation on the home page of its internet website and
37 send notice of the appropriation to the Legislative Counsel.

38 ~~SEC. 2.~~

39 ~~SEC. 3.~~ No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O