

**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 Regulated Industries

BILL: SB 370

INTRODUCER: Senator Sachs

SUBJECT: Disposition of Human Remains

DATE: March 5, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	<b>Pre-meeting</b>
2.	_____	_____	HP	_____
3.	_____	_____	JU	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

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

- Addresses technical issues such as adding the Department of Health as an authorized issuer of burial-transit permits, permitting electronic transfer of medical certification of cause of death, adding the appropriate district medical examiner as one of the persons who must file a death certificate, clarifying the obligations of primary and attending physicians;
- Defines several terms to have the same meaning as provided in ch. 497, F.S.;
- 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 effort that must be undertaken to identify deceased persons, veterans who may be eligible for burial in a national cemetery, and to dispose of unclaimed remains;
- Authorizes the board to embalm the human remains that it receives;
- Specifies the situations in which notification of the board is not required;
- Permits a funeral director licensed under ch. 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;
- Authorizes the board to pay or reimburse the reasonable expenses, as determined by the board, for the transportation, removal, or storage of unclaimed remains by licensed funeral establishments or removal services;
- 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 three years and provide DFS with the audit;
- Limits the conveyance of human remains by the board outside the state for educational or scientific purposes;
- 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 nontransplant anatomical donation organizations 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 must accompany human remains received by the board or a nontransplant anatomical donation organization;
- Requires that a nontransplant anatomical donation organization must obtain written consent to dissect, segment, or disarticulate the remains, with such consent conspicuously describing each part of the remains that may be dissected, segmented or disarticulated; and
- Prohibits the giving of any monetary inducement or other valuable consideration to the donor's estate, or other third party, but permits the payment or reimbursement of the reasonable costs associated with the removal, storage, and transportation of human remains, including payment or reimbursement to a funeral establishment or removal service, or the reasonable costs after use, including the disposition of human remains.

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 transportation, handling and disposition of dead human beings is addressed in multiple Florida laws regulating various departments and persons:

- The Department of Health 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); 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.)

There are multiple definitions and terms for dead human bodies and disposition methods. 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.

Pursuant to s. 382.008, F.S., 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 is to be completed by the physician in charge of the decedent’s care for the illness or condition which resulted in death, the physician in attendance at the time of death (or immediately before or after death), or the medical examiner.<sup>1</sup>

Medical examiners must investigate and determine the cause of death in certain conditions (“violent or suspect circumstances”) where:

- Death is due to unlawful act or neglect, by violence, by accident, by suicide, that are sudden when the deceased was in apparent good health, in prison, in police custody, in a suspicious or unusual circumstance, unattended by a physician, by criminal abortion, by poison, by disease constituting a public health threat, or by disease, injury, or toxic agent resulting from employment;
- The dead body is brought into the state without proper medical certification; or
- When a body is to be cremated, dissected, or buried at sea.<sup>2</sup>

There are 24 medical examiner districts in Florida and 22 Chief Medical Examiners. Some of the medical examiners serve more than one district.<sup>3</sup>

The legal disposition of dead human bodies or human remains is further regulated in s. 406.50 to s. 406.61, F.S. Anyone (typically public officers and employees of governmental entities, and those in charge of prisons, morgues, hospitals, funeral parlors or mortuaries) coming into possession of bodies and 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 located at the University of Florida Health Science Center in Gainesville (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.<sup>4</sup>

There are special requirements for the identification and handling of veterans or others entitled to burial in a national cemetery, including the contacting of certain county and federal offices,

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<sup>1</sup> Section 382.008(3), F.S.

<sup>2</sup> Section 406.11, F.S.

<sup>3</sup> See <http://myfloridamedicalexaminer.com/> (Last visited March 4, 2013).

<sup>4</sup> Section 406.50, F.S.

including required contractual provisions with providers handling unclaimed bodies.<sup>5</sup> Similar provisions exist for the handling of unclaimed bodies of indigent persons.<sup>6</sup>

The stated mission of the board is to supply anatomical materials for teaching and research programs in the State of Florida.<sup>7</sup> The program provides donated bodies for the training of physicians, dentists, physician assistants, and other health workers.<sup>8</sup>

Bodies received by the board may not be used for medical science purposes for 48 hours after receipt.<sup>9</sup> If there is a surfeit of bodies, or if the board deems a body unfit for anatomical purposes, the board may notify the appropriate person in the county for identification and contact of relatives, if any.

Even after delivery of a body to the board, upon payment for expenses incurred, friends and representatives of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization, may claim a body.<sup>10</sup>

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 death.<sup>11</sup> 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.<sup>12</sup>

The board or its duly authorized agent shall distribute those bodies delivered to it “equitably to and among the 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 at the discretion of the anatomical board.”<sup>13</sup>

Fees may be charged by the board to the institutions to which the bodies are distributed or loaned, 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, and a report of the audit made annually to the University of Florida.<sup>14</sup>

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<sup>5</sup> *Id.*

<sup>6</sup> Section 406.53, F.S.

<sup>7</sup> 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.

<sup>8</sup> See [www.old.med.ufl.edu/anatbd/](http://www.old.med.ufl.edu/anatbd/) (Last visited March 5, 2013).

<sup>9</sup> Section 406.52, F.S.

<sup>10</sup> Section 406.54, F.S.

<sup>11</sup> Section 406.55, F.S.

<sup>12</sup> Section 406.56, F.S.

<sup>13</sup> Section 406.57, F.S.

<sup>14</sup> Section 406.58, F.S.

The buying or conveying of bodies or parts of bodies (except transmittal or conveyances by “recognized Florida medical or dental schools”) is prohibited in the state of Florida, punishable as a misdemeanor of the first degree.<sup>15</sup>

The law now permits human “specimens” to be conveyed by the board outside the state, for educational or scientific purposes, as well as in cases involving investigation of deaths in violent or suspicious circumstances as described above.

There is also a provision allowing persons, institutions, or organizations to convey bodies or parts of bodies into or out of the state for medical education or research purposes, provided that notice of such intent is provided to the board, and approval granted by it.<sup>16</sup>

Another exception to the conveyance prohibition allows an entity accredited by the American Association of Museums (AAM) which intends to convey plastinated anatomical remains into and out of the state for exhibition purposes. Such entities are not required to obtain consent from the board so long as they provide (1) notification to the board of the duration and location of the proposed exhibition at least 30 days before the intended conveyance, (2) a description of the bodies or parts of bodies and the name of the company providing them, and (3) documentation that each body was donated by the deceased or his or her next of kin for purposes of plastination and public exhibition, or in lieu thereof, an affidavit stating that (i) each body was donated directly by the deceased or his or her next of kin for such purposes to the company providing it and (ii) that such company has a donation form on file for the body.<sup>17</sup>

There is no reference in s. 406.61, F.S., to the transmittal or conveyance of bodies or parts strictly within the state.

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.

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.”

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 that engages in the retrieval, screening, testing, processing, storage, or distribution (hereafter collectively the “evaluation and conveyance”) of human organs.<sup>18</sup> The United Network for

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<sup>15</sup> Section 406.61(1), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 406.61(2), F.S.

<sup>18</sup> Section 765.511(15), F.S.

Organ Sharing is currently the organ procurement organization under contract with the U.S. Department of Health and Human Services. The contract was initially awarded in 1986.<sup>19</sup> The more general term “procurement organizations” includes organ procurement organizations, eye banks or tissue banks.<sup>20</sup>

In turn, “eye bank” is defined as an entity accredited by the Eye Bank Association of America or otherwise regulated under federal or state law to engage in the evaluation and conveyance of human eye tissue.<sup>21</sup> As of November 2012, there were three accredited eye banks in Florida.<sup>22</sup> “Tissue bank” is defined as an entity accredited by the American Association of Tissue Banks or otherwise regulated under federal or state law to engage in the evaluation and conveyance of human tissue. According to the American Association of Tissue Banks, there are a total of 14 banks in Florida that are accredited for various activities.<sup>23</sup> Each bank can be accredited to perform certain activities. Banks are accredited as Transplant Tissue Banks and as Nontransplant Anatomical Donation Organizations (NADOs).<sup>24</sup>

Section 765.514, F.S., describes the methods for making anatomical gifts as signing an organ and tissue donor card, registering online with the donor registry, or expressing the wish to donate in a will, living will, advance directive or other properly executed document.<sup>25</sup>

### 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 donation is considered final disposition (similar to cremation being considered final disposition, notwithstanding any subsequent dispersion of ashes that may occur). The term “funeral director” is amended to delete a reference to “or other person” as the individual who may first assume custody of, or who “effects the final disposition of” a dead body.

**Section 2** amends s. 382.006(2), F.S., concerning burial-transit permits, which are required to be obtained prior to final disposition within 5 days after death.<sup>26</sup> The bill adds the Department of Health as an authorized issuer of such permits, along with the local registrar or sub-registrar in the registration districts.<sup>27</sup>

**Section 3** amends s. 382.008, F.S., concerning the registration of deaths. It provides that in the absence of the 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 is included as a person who can file a death certificate. Electronic transfer of the medical certification of cause of

<sup>19</sup> See the United Network for Organ Sharing website at: <http://www.unos.org/donation/index.php?topic=optn> (Last visited March 4, 2013).

<sup>20</sup> Section 765.511(19), F.S.

<sup>21</sup> Section 765.511(11), F.S.

<sup>22</sup> See the Eye Bank Association list of accredited eye banks at: <http://www.restore sight.org/wp-content/uploads/2012/11/Accreditation-Status-List-November-2012.pdf> (Last visited March 4, 2013).

<sup>23</sup> See search of accredited banks at: <http://www.aatb.org/Accredited-Bank-Search> (Last visited March 4, 2013).

<sup>24</sup> See <http://www.aatb.org/Accreditation> (Last visited March 4, 2013).

<sup>25</sup> Section 765.514, F.S.

<sup>26</sup> See Section 382.006(1), F.S.

<sup>27</sup> The county health departments appoint the registrars and deputy registrars.

death is permitted. The certification may now be provided by the decedent's primary or attending physician (rather than limited to 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) or the local district medical examiner in the event of a death in violent or suspicious circumstances. Primary or attending physician is defined to mean a physician who treated the deceased through examination, medical advice, or medication during the 12 months preceding the date of death.<sup>28</sup> Additional references to physicians and medical examiners are conformed to this definition and to accurately refer to the status of the appropriate medical examiner.

**Section 4** amends s. 382.011, F.S., regarding the determination of cause of death by medical examiners. In addition to deaths in violent or suspicious circumstances, such determination is mandated where death occurred more than 12 months after last treatment by a primary or attending physician (rather than only 30 days after last treatment by a physician). There is also an expansion of the choice of medical examiners for cases requiring an investigation of death. Funeral directors or other persons to whose attention the death may come may continue to refer the case to the district medical examiner of the county in which the death occurred, or may instead refer the case to the examiner of the county in which the body was found.

**Section 5** creates s. 406.49, F.S., to define the terms "cremated remains," "final disposition," "human remains or remains," and "legally authorized person" to have the same meaning as provided in s. 497.005, F.S., regulating funeral, cemetery, and consumer services. The bill transfers the definition of "anatomical board" from s. 406.50, F.S., to this section. It also transfers the definition of "indigent person" from s. 406.53, F.S., to this section. It defines 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.

The bill changes the term "body" and "dead human body" to "remains," and "disposal" to "final disposition" wherever used in Part II of Chapter 406 – Disposition of Dead Bodies (but no amendment was made to the title of Part II).

**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. 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. The duty of notification is not required when:

- 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

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<sup>28</sup> Section 382.008(3), F.S.

- 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 has removed the notification exception for death caused by crushing injury.

In current law, s. 406.50(2), F.S., requires the person or entity in charge of the remains to make a reasonable effort to identify the person, contact relatives, determine if the deceased person is eligible for burial in a national cemetery and if so, to make those arrangements in accordance with federal regulations. The bill amends this provision to require that the effort occur before final disposition, and include contacting the National Cemetery Scheduling Office in addition to contacting the county veterans' service office, or the regional office of the United States Department of Veterans Affairs. If the deceased is eligible for burial in a national cemetery, the person or entity in charge of the remains must also make a reasonable effort to cause the remains or cremated remains to be delivered to a national cemetery.

The bill clarifies s. 406.50(2)(b), F.S., concerning eligibility for burial in a national cemetery by correcting the reference to 38 C.F.R. 38.620.

Section 406.50(3), F.S., directs that unclaimed remains be delivered to the board as soon as possible after death. The bill provides that a funeral director licensed under ch. 497, F.S., may assume the responsibility of a legally authorized person (defined in s. 406.49(6), F.S.) when no family exists or is available, and, 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. The bill provides that the funeral director is released from liability for damages under the subsection.

Section 406.50(4), F.S., 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 repeals the current s. 406.54, F.S., 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., which describes rights to property of a deceased that is not otherwise devised by will and appears to be inapplicable to unclaimed remains.

The issue of priority of authorization for anatomical gifts for identified persons is addressed in s. 765.512, F.S., with the classes of persons described in priority order. In the absence of actual notice of contrary indications by the deceased or actual notice of opposition by a member of a prior class, a member of a class may give all or any part of the deceased's body for the following purposes specified in s. 765.513, F.S., to:

- Any procurement organization or accredited medical or dental school, college, or university for education, research, therapy, or transplantation; or



- Any individual specified by name for therapy or transplantation needed by him or her.

Section 406.50(5), F.S., is created to provide that, if the board does not accept unclaimed remains, the board of county commissioners, or its designated department, of the county in which the remains were found or the death occurred, may authorize and arrange for the burial or cremation of the entire 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 replace the term “disposal” with the term “final disposition” and references the entire applicable Code of Federal Regulations citation of 38 C.F.R. 38.620, concerning eligibility for burial in a national cemetery.

**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 provides the following changes to current law:

- Subsection (1) authorizes the board to embalm human remains upon receipt and to refuse to accept unclaimed remains or the remains of an indigent person; and
- Subsection (2) 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.

The bill deletes the provisions in s. 406.52, F.S., which:

- Deem county commissioners of the county where the death occurred to be considered a legally authorized person under s. 497.005, F.S.;
- Allow the board to provide written notice to the appropriate county commissioners 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 order to cause the unclaimed body to be buried or cremated in compliance with rules, laws and practices for disposing of unclaimed bodies; and
- Require the county to take 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.

While licensees under ch. 497, F.S., have no liability for any damages resulting from cremating or burying human remains at the direction of the county, the bill requires such action be based upon written notification.

**Section 9** substantially rewords s. 406.53, F.S., as to unclaimed remains of indigent persons. The bill specifies the following circumstances, notwithstanding the provisions of s. 406.50(1), F.S.,<sup>29</sup> when a county is not required to notify the board:

- The indigent’s remains are decomposed or mutilated by wounds or if an autopsy is performed;

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<sup>29</sup> This section deals with unclaimed human remains generally.

- A legally authorized person or a relative by blood or marriage claims the remains for final disposition at his or her expense (or if such person or relative is also an indigent person, in a manner consistent with policies of the county in which the death occurred or the remains were found);
- The deceased indigent 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 such an eligible veteran); or
- A licensed funeral director certifies that the board has been notified and either accepted or declined the remains.

The bill deletes the exceptions from board notification 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 Department of Health 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., concerning contracts for delivery of human remains after death. The term “body” is replaced with “human remains” and “person’s remains.” The board may not enter into any contract that provides for any sum of money to be paid to a living person in exchange for the “delivery of that person’s remains” to the board.

**Section 11** amends s. 406.56, F.S., concerning acceptance of human remains left by execution of a will, to replace the term “bodies” with the term “remains” and “person’s remains.” It also replaces the term “medical science” with the term “medical education or research.”

**Section 12** amends s. 406.57, F.S., to replace the term “bodies” with “human remains” and to require the board to loan remains to accredited colleges of mortuary science for education or research purposes. The bill deletes the board’s authority to loan remains to “recognized associations of licensed embalmers or funeral directors.” It deletes the discretion previously enjoyed by the board regarding the loans of remains.

**Section 13** amends s. 406.58, F.S., to replace the term “bodies” with “human remains” or “remains” and deletes the reference to “associations” to conform to the revision in section 12. The bill also specifies 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) keep records of all fees and other financial transactions. The bill directs the University of Florida to audit these records at least once every three 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 replace the terms “body” and “bodies” with “human remains” and deletes the reference to “associations” to conform to the revision in section 12. 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 ch. 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., concerning the selling, buying or conveying of remains outside the state. The terms “bodies” and “parts of bodies” are replaced with the term “human remains or any part thereof.” The bill amends s. 406.61(1)(b), F.S., to affirmatively state that the 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 also do so for dental education or research purposes (in addition to medical education or research purposes), but only upon the required notification to, and approval from, the board.

The bill creates s. 406.61(1)(b), F.S., as an exception to the notification and approval requirement. A nontransplant anatomical donation organization (NADO), which is not defined, that is accredited by the American Association of Tissue Banks (AATB) may 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.

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,<sup>30</sup> a NADO is a tissue bank or other organization that facilitates nontransplant anatomical donation including 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.<sup>31</sup>

The bill requires that a NADO be accredited by the AATB “effective October 1, 2014.” There is no other provision regarding verification or enforcement of this requirement, or basis for distinguishing among NADOs accredited before or after that date. The AATB developed accreditation standards for NADOs in 2012, and there are currently four NADOs accredited by AATB, including one in Florida.<sup>32</sup>

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<sup>30</sup> 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](http://www.aatb.org/About-AATB) (Last visited March 1, 2013).

<sup>31</sup> See <http://www.aatb.org/index.asp?bid=271#> for accreditation requirements (Last visited March 1, 2013).

<sup>32</sup> See *supra* n. 21.

The bill requires in s. 406.61(2), F.S., that the original burial-transit permit issued pursuant to s. 382.007, F.S., must 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 has granted approval pursuant to s. 406.11, F.S.

The bill requires that a NADO must 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 “conspicuously describe each part of the remains that may be dissected, segmented, or disarticulated.”

The bill prohibits any person 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 s. 406.61(3), F.S., which 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 disposal by cremation after use, as required by s. 406.60, F.S., (rather than “responsibility for disposal”).

**Section 18** amends s. 497.382, F.S., concerning reports of embalming or other handling of dead bodies. Such information is to 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 Department of Financial Services. The bill deletes the requirement that the reports be submitted to or filed with the division. The bill revises the reporting procedure for funeral directors performing disinterments.

**Section 19** amends s. 497.607, F.S., regarding cremated remains that have not been claimed within 120 days after cremation, to require a reasonable effort must be made to determine whether the remains are those of a veteran of the United States Armed Forces, United States Reserve Forces, or National Guard eligible for burial in a national cemetery (or the spouse or

dependent child of an eligible veteran). If so, the establishment “shall arrange for” interment in a national cemetery. Use of a veterans’ service organization is permitted, and 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.

However, 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” as 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., regarding those persons or entities that may become donees of anatomical gifts of bodies or parts of them, to include that the anatomical board may be a donee of the whole body for medical or dental education or research.

**Section 21** 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, nontransplant anatomical donation organizations will be required to be accredited by the American Association of Tissue Banks to convey human remains outside and into the state. Staff at the AATB reports 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.<sup>33</sup>

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

There is no definition for a nontransplant anatomical donation organization in Florida law.

While the title of Part II of 406 remains as “Disposition of Dead Bodies,” although all references therein will refer to human remains or remains, the Division of Law Revision and Information in the Office of Legislative Services will 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.)

None.

**B. Amendments:**

None.

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

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<sup>33</sup> Teleconference with D. Newman at AATB March 5, 2013.