

BURIAL ASSOCIATION RATE BOARD

Staff Report

to the

Sunset Advisory Commission

January 9, 1978

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Introduction

This report is submitted pursuant to Section 1.06, Subsection (3) of the Texas Sunset Act and contains a review of the operations of the Burial Association Rate Board. Termination of the Burial Association Rate Board has been scheduled for September 1, 1979 unless it is continued by law.

The material contained in the report is divided into four sections: background, review of operations, conclusions, and recommendations. The Background section contains a brief history of legislative intent and a discussion of the original need for the Burial Association Rate Board. The Review of Operations section contains a review of the operation of the agency, and uses the self-evaluation report submitted by the agency as the basis of review unless noted. The information contained in the self-evaluation report was verified, and additional data were obtained through interviews and review of agency files and other data sources.

The Conclusions section discusses the agency's response to the present need for its existence, and an overall determination is made as to whether or not Sunset criteria are being met. The final section presents staff recommendations to the Sunset Commission.

This report is designed to provide an objective view of agency operations, based on the evaluation techniques utilized to date. Together with pertinent information obtained from public hearings, a factual base for the final recommendations to the Legislature will be provided.

Background

Burial associations are examples of one of the oldest types of insurance, mutual assessment insurance. As first developed, mutual assessment associations

collected assessments on an "as needed" basis. Later, premium rates or assessments began to be collected on a regular basis. These, however, were unscientific, and after a number of years would be found to be inadequate. The principle of mutuality would be violated because the burdens of the associations were inequitably distributed--the younger members bearing more and the older members less than their just share. Therefore, it became necessary to insure that these associations were actuarially solvent in order to protect the members.

The earliest of the mutual assessment associations were the fraternal orders. Originally they occupied the position of organized charity. Each member contributed whatever he deemed was his share in aiding a deceased member's family. Next fraternal orders adopted a post mortem assessment system, and later an ante mortem monthly contribution to be placed in a common fund for the benefit of its membership. Fraternal orders failed from the beginning to fix rates necessary to insure permanency and to give protection to contracts made with its members. A 1913 statute regulated fraternal orders offering death benefits in excess of \$500.00 and a requirement was made that reserves, approved by the Board of Insurance, be maintained.

A second type of mutual assessment association that emerged was the mutual aid association. Like fraternal societies these associations offered insurance on the mutual assessment plan. Mutual aid associations offered death benefits of up to \$5,000 payable in cash only. As their numbers grew and as reserves were found to be inadequate, it was finally deemed necessary in 1929 to bring them under the supervision of the Board of Insurance.

A third type of mutual assessment association emerged in Texas, burial associations. These associations were developed as a business mechanism by which

funeral directors sought to assure control of business in an area. The associations provided death benefits of not more than \$150 payable in merchandise and services only. Prior to their regulation, burial associations were exempted from fraternal law by reason of paying death benefits of no more than \$150. Their "merchandise and services" policies exempted them from the mutual aid law as well.

By 1938, according to the Board of Insurance Annual Report, burial associations had become very numerous--numbering over 200. In 1939 the Forty-sixth Legislature authorized the Board of Insurance to supervise burial associations and administer the laws regulating them and their business. Thus, the gap left by the laws regulating fraternal societies and mutual aid associations was filled.

Eight years later, in 1947, the Fiftieth Legislature expanded the burial association law to include provision for a Burial Association Rate Board. Burial associations and their insurance policies, unique to Texas, made the creation of a rate board necessary. Most states did not have burial associations, therefore no standard source existed from which to determine adequate rates. The Legislature felt that a board composed of members of the industry could best determine "reasonable and adequate rates" in order to equalize assessments among policyholders.

The new statute created a rate board composed of seven members, six appointed by the governor from among burial association officers and directors. The seventh member was the Commissioner of Insurance, serving as an ex-officio member and as chairman. The Rate Board was empowered to 1) develop a schedule, of adequate minimum and maximum rates which could be charged by burial associations and 2) to gather data of benefit in fixing rates.

The Rate Board held its first meeting in Austin in July 1947 and by September the Board had, with the assistance of the Insurance Commission staff, proposed rates, held a public hearing, and promulgated rates (effective in October 1948) for new burial association policies. With time, these rates were found to be inadequate in accumulating sufficient reserves for all members.

Therefore, in September 1955 the Rate Board authorized an actuary to calculate a table of rates applicable to new burial insurance policies. Since burial association policies do not provide a forfeiture value if a member withdraws from an association, ordinary reserve tables, assuming forfeiture values, were not proper to establish reserve requirements corresponding to the actual risk of the associations. It was thus essential that a proper table be constructed providing the necessary reserve accumulations based on industry mortality and rate of withdrawal. The necessary reserves, based on a 2½ percent rate of interest on investments, were calculated for a 20-year period.

In December 1961 the Rate Board authorized the calculation of reserves for all durations, based upon three different rates of interest: 2½ , 3, and 3½ percent. The extended tables were completed and accepted by the Rate Board in June 1962. Hearings were held in August on the proposed rates which were based on the new (Chamberlain) tables, and these rates were adopted in September, effective December for all new policies.

In 1964, the Rate Board undertook to answer the problem of policies written before 1947. In July 1964, the Rate Board was briefed by staff of the Board of Insurance on the inadequacy of the mortuary fund reserves for most burial associations. Many burial policies had been written by associations prior to the first adoption of rates by the Rate Board, and statutes provided that the rates for

these older policies did not have to change with the schedules adopted by the Rate Board. The result was that rates on many policies were inadequate to accumulate the necessary funds to pay claims when they matured. Therefore, the Rate Board on July 8, 1964 passed a resolution that by July 1, 1965 all burial associations would have to adopt a program to provide actuarial solvency by no later than 1975. The meeting at which this resolution was adopted was the last that the Burial Association Rate Board has had to date.

Even with the creation of the Rate Board, the Board of Insurance has remained a major force in the regulation of the burial association industry. It has retained responsibilities given it by the Forty-sixth and Fiftieth Legislatures in regulating burial associations. Annual assessments levied on burial associations are paid to the Board of Insurance. Annual statements from burial associations are filed with the Board of Insurance. Whenever the Rate Board adopts new rates, it is the responsibility of the Board of Insurance to mail these rate schedules to burial associations. Each burial association is required to file with the Board of Insurance the rate schedule it has adopted (within limits set by the Rate Board).

A burial association must obtain the consent of the Board of Insurance to change its rates (within limits set by the Rate Board). It is the responsibility of the Board of Insurance to monitor each burial association to insure that it is actuarially solvent. In case of a violation of the law, the Board of Insurance is authorized to cancel a burial association's permit. Thus, the Board of Insurance plays the major role in regulating the burial association industry. Because of the nature of the Rate Board and because of the tasks assigned to the Board of Insurance, the Rate Board does not have any employees. Since it has not met in 14 years, no expenditures directly related to the Rate Board have been made during that period of time, and at present only one person on the board is qualified to serve.

Review of Operations

A self-evaluation report to the Sunset Commission was not submitted by the Rate Board. The Board of Insurance, however, did respond in letter form to a request for information concerning the Rate Board. In addition, a letter was received from the board member currently eligible to serve on the board.

When the Burial Association Rate Board was created in 1947, there was a compelling need to establish adequate schedules for burial insurance premiums; in most cases rates were not sufficient to cover policy requirements. The solution to the dilemma of deficits in burial associations' reserves was a rate increase for all policies, even those in force, and was perhaps a difficult decision for the Rate Board to make, being composed with one exception only of representatives of the industry. It was not until 1964 that the Rate Board passed a resolution requiring burial associations to begin collecting adequate premiums from all policyholders. Seventeen years had elapsed between the creation of the Rate Board and its action to adequately promulgate rates.

The Rate Board developed a completely new set of reserve tables applicable to Texas without which they could not have properly performed their responsibility of setting rates. The Chamberlain tables were of such quality that they have been accepted by the Legislature and the Board of Insurance for other types of insurance. Yet, it required fifteen years for the Rate Board to develop a working reserve table and, thus, fulfill one of its major responsibilities to the public. Furthermore, despite its statutory mandate to continue to study the statistics, rates, and experience of burial associations, the Rate Board has not met in fourteen years.

The target population for the Burial Association Rate Board has been decreasing since the year that it was created. Board of Insurance annual reports show that in 1947 there were 424 burial associations in Texas. By 1964, the year of

Board's last meeting, the number of associations had dropped to 218. Presently only 55 burial associations are still active. Furthermore, this number can only grow smaller; in 1961 the Fifty-seventh Legislature prohibited the formation of any new burial associations. The following table indicates changes in the number of burial associations since they were brought under the jurisdiction of the Board of Insurance.

TABLE 1
Number of Burial Associations, 1940-1975

Fiscal Year	No. of Assoc.	Fiscal Year	No. of Assoc.
1940	262	1960	270
1945	362	1965	197
1950	416	1970	91
1955	368	1975	66

The decrease in burial associations in recent years has been largely due to combination with other more progressive types of insurance companies. The most frequent combination in the past decade has been with stipulated premium insurance companies, an organizational form with reserve requirements higher than those of mutual assessment companies. As an incentive to such combinations, the Fifty-seventh Legislature enacted a requirement that no stipulated premium company could write policies until agreeing to absorb at least one burial association or other mutual assessment company. The following table shows the number of burial associations that have changed organizational form since the last meeting of the Rate Board and indicates the type of companies with which they have combined.

The decreasing popularity of burial associations has been due to the limitation of burial association policies to no more than \$150.00 deliverable in services and merchandise. Many policy holders have converted to companies

TABLE 2
Burial Associations Reinsured by Other Companies
1964-1977

Year	Stipulated Premium	Local Mutual Aid	Stock Life	Statewide Mutual Aid	Burial	Dissolved	Total
1964		5		1		2	8
1965	9	5	2	4			20
1966	17	3		2		1	23
1967	33	9	5	1			48
1968	10	2		1	3		16
1969	1						1
1970	3	1	2				6
1971	2	1	1				4
1972	4	1	2				7
1973	1						1
1974	2						2
1975	6	2	1				9
1976	4		1				5
1977	3	1	1	1			6
	95	30	15	10	3	3	156

offering cash policies payable in larger amounts. The movement away from burial association policies is shown by the decrease in the average size of burial associations. When the Burial Association Rate Board last met in 1964, an average association contained 3,200 members. At the present time average membership is less than 2,000 per burial association.

As a result of the declining number of burial associations and their decreasing membership, the revenue from assessments on association membership is rapidly declining. The rate of assessment is one-half of one cent per member annually, as required by statute, with a minimum of \$5.00 per association. This rate has not changed since the board was created in 1947. All assessments collected are deposited in the State Treasury in a special fund known as the Burial Association Rate Fund. According to statute, revenues from this fund are to be used first, for the per diem and expenses of the Burial Association Rate Board and secondly, for obtaining advice and information concerning adequate and reasonable rates charged by burial associations. The following table shows actual revenues to the fund for the past six years and projections for the next six years.

TABLE 3
Assessment Revenue, Burial Association Rate Fund, 1972-1983

Actual		Projected	
Fiscal Year	Revenue	Fiscal Year	Revenue
1972	\$1,047	1978	\$ 532
1973	878	1979	464
1974	787	1980	397
1975	737	1981	330
1976	667	1982	262
1977	601	1983	195

Expenditure of burial association assessments is accomplished by a simple accounting device which transfers necessary amounts between the Burial Association Rate Fund, No. 180 and the Insurance Board Operating Fund, No. 36. Limited funds, as authorized by the Legislature and designated by the Commissioner of Insurance, are transferred from Fund 180 to Fund 36. In recent years these transfers have not exceeded \$3,000. Expenditures of approximately \$1,000 per year are made from Fund 36 to defray the cost of processing assessments, maintaining records, and auditing financial statements of burial associations. At the end of the fiscal year most of the unexpended balance is transferred back to Fund 180. Annual transfers are also made from Fund 180 directly to General Revenue to pay for services provided by administrative agencies. The balance in Fund 180 at the end of fiscal year 1977 was \$11,059.46. The following table displays revenues, transfers, and balances of the Burial Association Rate Fund for the past three fiscal years.

TABLE 4

Burial Association Rate Fund
Revenues, Transfers, and Balances -- FY 1975-1977

	<u>FY 1975</u>	<u>FY 1976</u>	<u>FY 1977</u>
Beginning of Year Balance	16,106.12	15,293.28	13,063.11
Assessment Revenues	737.16	667.33	601.35
Transfers from Insurance Board Operating Fund	<u>2,000.00</u>	<u>2,000.00</u>	<u>1,000.00</u>
Total Available	<u>18,843.28</u>	<u>17,960.61</u>	<u>14,664.46</u>
Transfers to Insurance Board Operating Fund	3,000.00	3,000.00	3,000.00
Transfers to General Revenue for Services	550.00	578.00	605.00
Transfer to Building Commission	<u>-0-</u>	<u>1,319.50</u>	<u>-0-</u>
Total Transfers	3,550.00	4,897.50	3,605.00
End of Year Balance	<u><u>15,293.28</u></u>	<u><u>13,063.11</u></u>	<u><u>11,059.46</u></u>

The Board of Insurance performs, with one exception, regulating functions for burial associations as it does for most other types of insurance companies: collecting annual assessments, examining annual financial statements, and auditing association records. The one exception is that, although the Board of Insurance must approve every burial association rate change, it must do so within the minimum and maximum rates determined by the Burial Association Rate Board. Since the Board of Insurance uses the Chamberlain Tables to set rates for other types of insurance companies, if a revision of these were ever needed, the Board could hire an actuary to do so, just as the Rate Board did in 1955. Therefore, the Board of Insurance would not incur any additional cost in assuming total regulation of burial associations.

Conclusions

The past fourteen years, during which the Burial Association Rate Board has not met, testifies to the lack of need for the board.

Even during those years when it was meeting (1947-1964), the length of time required by the Rate Board to resolve the problem of major reserve deficits among burial associations indicates a need for an organizational form not dominated by members of the regulated associations.

In the fourteen years since the Rate Board last met, association membership has declined to a point that a separate board is not needed.

In the period during which the Rate Board has been inactive, the Board of Insurance has performed all necessary functions and can continue to do so as it does with other similar forms of insurance.

Recommendation

IT IS THE RECOMMENDATION OF THE STAFF THAT THE BURIAL ASSOCIATION RATE BOARD NOT BE CONTINUED AND THAT ITS STATUTORY FUNCTIONS BE CONTINUED BY THE BOARD OF INSURANCE.