

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 404

(Delegate Rosenberg, *et al.*)

Health and Government Operations

Finance

Department of Health and Mental Hygiene - State Facilities - Cemeteries

This bill requires the State to maintain State-owned cemeteries that are located on the grounds of a State facility, including the former Crownsville Hospital Center and the former Rosewood Center, in accordance with “perpetual care,” as defined in the bill. Activities performed as a result of the bill must be undertaken in consultation with the Maryland Historical Trust. The bill also specifies that the public thoroughfare provisions specified in § 5-502 of the Business Regulation Article apply to State-owned cemeteries. Finally, beginning January 1, 2015, the Department of Health and Mental Hygiene (DHMH) must annually report to specified committees on the implementation of the bill.

Fiscal Summary

State Effect: DHMH advises that the Mental Hygiene Administration (MHA) and the Developmental Disabilities Administration (DDA) already maintain State-owned cemeteries in accordance with the definition of perpetual care. DHMH can handle the reporting requirements with existing resources. The bill does not affect State revenues.

Local Effect: The bill does not materially affect Anne Arundel County operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: “Perpetual care” means the maintenance, including the cutting of grass abutting memorials or monuments as well as the administration, supervision, and embellishment of a cemetery and its grounds, roads, and paths. Additionally, “perpetual

care” includes the repair and renewal of buildings, including columbaria and mausoleums, and the property of the cemetery. The bill expands the definition of “State facility” to include the former Crownsville Hospital Center and the former Rosewood Center. A cemetery owned by the State and located on the grounds of a State facility must be maintained by the State in accordance with the bill’s definition of perpetual care.

Perpetual care and required commemorative activities must be undertaken in consultation with the Maryland Historical Trust, in accordance with established consultation provisions in the State Finance and Procurement Article.

The bill explicitly states that § 5-502 of the Business Regulation Article, which addresses public thoroughfares in cemeteries, applies to a cemetery owned by the State and located on the grounds of a State facility. This provision prohibits the opening of a road through the property of a cemetery. It also prohibits the obstruction of a public road (or the site of a future public road) that was in use when the cemetery was formed.

Finally, the bill establishes a reporting requirement for DHMH. Beginning January 1, 2015, and by January 1 annually thereafter, DHMH must report to the Senate Finance Committee and the House Health and Government Operations Committee on the implementation of the bill.

Two known cemeteries fall under the scope of the bill – one each at the former Crownsville Hospital Center and the former Rosewood Center. Both centers are now closed.

Current Law: Chapter 414 of 2004 established maintenance and disposition requirements for State-owned cemeteries. “State facility” means a facility maintained by MHA or DDA of DHMH. The State is prohibited from selling a cemetery owned by the State if the facility is downsized, consolidated, closed, or sold. If there is an easement that was recorded before October 1, 2004, that easement or right of entry may not be transferred or sold unless the deed for the property includes a restrictive covenant requiring the owner and any future owner to maintain the cemetery in the same manner as required when it was owned by the State. Chapter 414 was targeted at the former Crownsville Hospital Center, which closed in 2004.

Currently, State-owned cemeteries must be maintained by the State and marked with a monument commemorating the individuals interred in the cemetery. Monuments have been installed at both the Crownsville Hospital Cemetery and the Rosewood Cemetery. The State does not have to maintain these cemeteries in accordance with the definition of “perpetual care” under the bill, but two known State-owned cemeteries use this definition (which mirrors an existing definition under the Business Regulation Article) as their maintenance standard.

Background: The Crownsville Hospital Center campus has an area known as the Crownsville Hospital Cemetery. In 1926, the first person was laid to rest, and in 1958, the last known burial took place. It is estimated that approximately 3,000 individuals were buried during the intervening years. Many individuals (both children and adults) who died at the hospital and had no relatives or friends were buried in this area.

When DHMH closed the Crownsville Hospital Center (located in Anne Arundel County), it provided the Maryland Department of Planning (MDP) with appropriate notification regarding excess property. MDP initially offered the property to Anne Arundel County, but the county declined the offer. Subsequently, MDP issued a request for expressions of interest in the property and received 12 proposals. The Department of General Services has assumed responsibility for negotiations, which are still ongoing. DHMH contracts with Anne Arundel County for maintenance of the cemetery area.

The Legislative Black Caucus held a hearing in September 2013 to discuss concerns about the Crownsville Hospital Cemetery and the treatment of African Americans at State hospitals. Concerned local residents expressed interest in having the cemetery history researched and publicized. Some hope that the site can serve as a memorial to honor former patients.

The former Rosewood Center was established in 1888 as the “Asylum and Training Center for the Feeble Minded,” and operated as a State mental health facility for more than 120 years in Baltimore County. DDA operated the facility, which closed in 2009. The center was the subject of a U.S. Department of Justice (DOJ) civil rights investigation in 2008. DOJ published a report of its investigation on October 7, 2009, which concluded that certain conditions and practices at the center violated the constitutional and federal statutory rights of its residents. There is also a Rosewood Cemetery, which is owned by DDA, and maintained by St. Thomas Episcopal Church through an agreement. Although the cemetery is landlocked by the church’s cemetery, there is a perpetual easement for access.

Additional Information

Prior Introductions: None.

Cross File: SB 577 (Senator Astle) - Finance.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; U.S. Department of Justice; Department of Legislative Services

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