

Department of Legislative Services  
 Maryland General Assembly  
 2016 Session

FISCAL AND POLICY NOTE  
 First Reader

Senate Bill 535 (Senator Klausmeier)  
 Finance

Office of Cemetery Oversight - Cemetery Financial Statement - Requirements

This bill removes the requirement that a financial statement filed with the Director of the Office of Cemetery Oversight by an existing cemetery that sells burial goods contain (1) a statement by a certified public accountant retained by the business detailing the assets and liabilities of the cemetery for the last fiscal year and (2) a review by the certified public accountant as to the financial stability of the cemetery. Instead, the statement must contain a balance sheet (1) from the most recent federal tax return filed by the business or (2) on a form that the director requires.

Fiscal Summary

**State Effect:** Special fund expenditures for the Department of Labor, Licensing, and Regulation (DLLR) increase by \$73,200 in FY 2017, under the assumptions discussed below. Future year expenditures reflect annualization and the elimination of one-time costs. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	73,200	92,200	95,700	99,300	103,000
Net Effect	(\$73,200)	(\$92,200)	(\$95,700)	(\$99,300)	(\$103,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** An individual must register with the Office of Cemetery Oversight before engaging in the operation of a cemetery or crematory or providing burial goods in Maryland. As part of the registration process, each applicant designated as the responsible party must demonstrate the financial stability of the business with which the applicant is affiliated by providing the Director of the Office of Cemetery Oversight with a financial statement or other required reports.

The director must make a determination of the financial stability of each applicant based on criteria that the director adopts for each class of business. The director must adopt separate criteria to determine the financial stability of applicants that are new businesses or existing businesses.

Each financial statement must be on the form that the director requires. If the business is a cemetery that sells burial goods and is an existing business, the financial statement must:

- contain a statement by a certified public accountant retained by the business, detailing the assets and liabilities of the cemetery for the last fiscal year; and
- contain a review by the certified public accountant as to the financial stability of the cemetery.

If the business is an existing cemetery that does *not* sell burial goods or an existing burial goods business *not* affiliated with a cemetery, the applicant must complete a form that the director requires and satisfy criteria that the director adopts as authorized under current law.

If the business is a new business, the applicant must satisfy criteria that the director adopts as authorized under current law; however, the director must require that all financial statements submitted by a new cemetery be prepared by a certified public accountant retained by the business.

**Background:** The Office of Cemetery Oversight was established by Chapter 675 of 1997. The office registers and regulates the cemetery and burial goods industry in the State under the leadership of a director. An advisory council serves as a source of expertise for the director and provides insight into the needs of the business community and the consumers served by the industry. The Cemetery Oversight Fund was established as a continuing, nonlapsing special fund to cover the documented direct and indirect costs of fulfilling the statutory and regulatory duties of the office.

**State Expenditures:** The bill removes the requirement that an existing cemetery business that sells burial goods, when registering with the office, must file a financial statement with the director that (1) includes a statement by a certified public accountant retained by the business detailing the assets and liabilities of the cemetery for the last fiscal year and (2) contains a review by the certified public accountant as to the financial stability of the cemetery.

However, the bill does *not* remove the requirement that the director make a determination of the financial stability of each applicant based on criteria that the director adopts for each class of business. DLLR advises that review by a certified public accountant of the financial statements submitted to the office is necessary to ensure the viability of a cemetery in perpetuity. The stringent standards imposed regarding fiscal data review are critical to determining the veracity of the information provided on the financial statements submitted to the office. The mere submission of tax returns is insufficient financial information, because tax filings may be amended after the financial information has been submitted. Therefore, the office requires one full-time certified public accountant to extract information from each cemetery's tax returns and integrate that information into an analysis of the financial viability of the cemetery. DLLR advises that the certified public accountant must review approximately 1,000 tax returns annually.

Special fund expenditures by the Office of Cemetery Oversight in DLLR increase by \$73,186 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one certified public accountant to review tax returns and determine the financial viability of cemeteries. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$65,877
Other Operating Expenses	<u>7,309</u>
<b>Total FY 2017 State Expenditures</b>	<b>\$73,186</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 553 (Delegate Kipke) - Health and Government Operations.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2016  
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