

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE  
Revised

Senate Bill 465 (Senator Madden, et al.)  
Finance

Referred to Economic Matters

State Board of Cemeteries - Licensing and Regulation

This amended bill establishes the State Board of Cemeteries within the Department of Labor, Licensing, and Regulation and defines the board’s responsibilities for conducting a cemetery licensing and regulation program. This bill does not apply to a person operating a cemetery that has less than one acre available for burial or a county, municipal corporation, church, synagogue, religious organization; or not-for-profit organization created before 1900 by an act of the General Assembly.

In addition, the bill provides that the board is responsible for regulating preneed burial contracts and perpetual care arrangements. Under current law, the Secretary of State is responsible for regulating preneed burial contracts and perpetual care arrangements.

Fiscal Summary

**State Effect:** General fund revenues would increase by an estimated \$58,000 in FY 1997. Future year revenue projections reflect the biennial renewal fees and annual growth. General fund expenditures would increase by about \$36,600 in FY 1997. Future year expenditure projections reflect a reduction in staff and inflation adjustments. In addition, general fund revenues and expenditures could increase by an indeterminate amount due to the bill’s penalty provisions.

(in dollars)	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
GF Revenues	\$58,000	\$2,000	\$61,500	\$2,100	\$62,500
GF Expenditures	36,600	24,200	25,000	25,900	26,900
Net Effect	\$21,400	(\$22,200)	\$36,500	(\$23,800)	\$35,600

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

**Local Effect:** Local expenditures and revenues could increase by an indeterminate amount due to the bill’s penalty provisions.

## **Fiscal Analysis**

**Bill Summary:** Major provisions of the bill include:

- The board is to be comprised of seven members, who are entitled to reimbursement for expenses in accordance with standard State travel regulations.
- The board may employ a staff to conduct licensing activity and investigate violations and may charge a fee for the application, issuance, and renewal of a license. Fees collected by the board will be deposited in the State's general fund and must support the direct and indirect costs of the program.
- An initial license will be issued for a two-year term and is renewable biennially.
- The board has the power to deny a license to any applicant, reprimand a licensee, issue a cease and desist order, and suspend or revoke a license. The board may petition a court to appoint a receiver or trustee to take charge of the assets and operate the business of a person whose license is suspended or revoked.
- In addition, the board may impose civil penalties of up to \$10,000 for certain violations of the cemetery licensing regulations or laws impacting preneed burial contracts and perpetual care agreements. Any funds collected must be deposited into the State's general fund.
- Unless a criminal penalty is otherwise provided, a person violating a provision of this bill is guilty of a misdemeanor and subject to a fine of not more than \$5,000 or imprisonment of not more than one year, or both.

**Background:** The American Cemetery Association advises that there are approximately 50 large cemeteries in the State and numerous small cemeteries. It is uncertain what percentage of these cemeteries operate as a for-profit business.

**State Revenues:** The board may establish a fee for the application, issuance, and renewal of a cemetery license. These fees must cover the direct and indirect costs of the program. Since licenses are issued for a two-year term, it is assumed that the board would establish a fee schedule which would reflect the costs for operating the program for two years.

The program is estimated to cost about \$60,000 for each two-year term. In order to fund this expense and to reflect the biennial licensing requirement, it is assumed that general fund revenues would increase by about \$58,000 in the first year and \$2,000 in the second year. Future year revenue projections reflect a 3% annual increase due to growth and inflation.

Revenues could also increase under the bill's monetary penalty provisions for those cases

heard in the District Court, depending on the number of convictions and the fines imposed.

**State Expenditures:** It is estimated that the Department of Labor, Licensing, and Regulation would need to hire a clerical worker and a part-time administrator to set-up the program, perform licensing requirements, and conduct investigations. As a result, general fund expenditures would increase by an estimated \$36,600 in fiscal 1997. This figure reflects salaries of \$23,750, fringe benefits, ongoing operating expenses, and a 90-day start-up delay.

The bill establishes a seven-member board. While board members would not be entitled to compensation, they would be eligible for expense reimbursements according to standard State travel regulations. Assuming that the board meets monthly, the annual cost for reimbursing eligible expenses would be about \$3,000.

General fund expenditures could increase as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and fines imposed. However, since the maximum penalty is one year and violators are not usually incarcerated for noncompliance with business regulations, the Department of Fiscal Services (DFS) does not anticipate an increase in inmate costs as a result of this bill.

Currently, the Secretary of State is responsible for regulating preneed burial contracts and perpetual care agreements. Transferring these responsibilities to the State Board of Cemeteries would not substantially impact the activities of the Secretary's office and would not reduce expenditures.

In sum, general fund expenditures would increase by an estimated \$36,600 in fiscal 1997. After the initial start-up of the program, the department would not require a full-time clerical worker. The cost of operating the program in fiscal 1998 is estimated to be about \$24,200 which reflects expenses for a part-time clerical worker, a part-time administrator, and a 2% increase in operating expenses. Future year expenditures are adjusted to reflect 3% turnover, 3.5% annual salary increases, and 2% annual increases in ongoing operating expenses.

**Local Revenues:** Revenues could increase under the bill's monetary penalty provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

**Local Expenditures:** Expenditures could increase as a result of the bill's incarceration penalty depending upon the number of convictions and sentences imposed. However, since the maximum penalty is one year and violators are not usually incarcerated for noncompliance with business regulations, DFS does not anticipate an increase in inmate costs as a result of this bill.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Secretary of State; American Cemetery Association; National Funeral Directors Association; Maryland Free State Association; Department of Fiscal Services

**Fiscal Note History:** First Reader - February 6, 1996

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Revised - Senate Third Reader - March 25, 1996

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