

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 577 (Senator Della)
Finance

State Board of Cemeteries - Licensing - Cemetery Guaranty Fund

This bill establishes a State Board of Cemeteries within the Department of Labor, Licensing, and Regulation and provides the board with certain powers and responsibilities for licensing individuals who own, operate, or develop cemeteries in the State. In addition, the board is responsible for regulating persons who sell perpetual care and preneed burial contracts. Under current law, the Secretary of State is responsible for regulating persons who sell perpetual care and preneed burial contracts.

Fiscal Summary

State Effect: In FY 1997, general fund revenues would decrease by \$2,500 and special fund revenues would increase by about \$373,800 (\$337,500 for the State Board of Cemeteries Fund and \$36,300 for the Cemetery Guaranty Fund). Future year revenues reflect an assumption that cemetery licenses will be issued biennially. Special fund expenditures would increase by about \$132,000 in FY 1997. Future year expenditures include full salaries with adjustments to eliminate one-time costs and reflect inflation.

(in dollars)	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
GF Revenues	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)
SF Revenues	373,750	36,250	373,750	36,250	373,750
SF Expenditures	131,756	136,761	141,557	146,537	151,707
Net Effect	\$239,494	(\$103,011)	\$229,693	(\$112,787)	\$219,543

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

Local Effect: Potential negligible increase in revenue to the extent that the State Board of Cemeteries files liens on real property and pays the required filing fees.

Fiscal Analysis

Bill Summary: Major provisions of the bill include:

- The board will be comprised of 12 members appointed by the Governor with the advice and consent of the Senate. Board members are entitled to compensation and expense reimbursements at a rate determined by the board.
- Any person who owns, operates, or develops a cemetery must obtain a license from the State Board of Cemeteries. However, a person who owns, operates, or develops a cemetery on or before October 1, 1996 is not required to obtain license until April 1, 1997.
- The board may establish service fees which will be deposited into a State Board of Cemeteries Fund and used to fund the licensing and regulation of cemeteries. This is a non-lapsing fund. Any balance in the fund at the end of the fiscal year may not convert to general funds. No other State funds may be used to license and regulate cemeteries.
- The bill creates a Cemetery Guaranty Fund with a required minimum balance of \$250,000. To obtain a license, any applicant must pay \$100 to the guaranty fund and the board may assess each cemetery owner a \$50 fee if the fund falls below the required balance. However, the board may not assess a cemetery owner more than \$150 in any calendar year.
- The guaranty fund will be used to protect individuals against the failure of a licensee to provide contracted perpetual care or preneed burial services. The licensee must reimburse the fund for payments made on behalf of the licensee. If the licensee fails to repay the fund, the board may pursue the matter in court and may place a lien against the licensee's real property.

State Revenues: Based on information obtained from the Maryland Department of Assessments and Taxation, it is estimated that there are about 225 cemeteries in the State, including about 60 for-profit cemeteries. It is assumed that the board will issue licenses for a two-year term and establish a fee of \$1,500. Thus, the State will collect \$337,500 in fiscal 1997, 1999, and 2001. This amount must be deposited into the State Board of Cemeteries Fund.

In addition, an applicant must pay a \$100 fee into the Cemetery Guaranty Fund before a license is issued. Therefore, special funds would increase by \$22,500 in fiscal 1997.

The bill provides that the board may assess each cemetery owner a \$50 fee if the Cemetery Guarantee Fund falls below a minimum required balance of \$250,000. However, the board may not assess a cemetery owner more than \$150 in a year. Since, the guaranty fund will be below the required balance in fiscal 1997 and all applicants will have already paid a \$100 fee, it is assumed that the board will assess each cemetery owner a \$50 fee and collect \$11,250.

Even if the Cemetery Guaranty Fund pays out no money in fiscal 1997 through 2001, the fund will not reach its required balance. Therefore, it is assumed that the board will assess each cemetery owner a fee of \$150 in fiscal 1998 through 2001. The assessment will generate revenue of \$36,250 each year.

A person who sells perpetual care contracts or preneed burial contracts must file a report annually and pay a \$25 fee. At the current time, these reports are filed with the Secretary of State and the funds are deposited into the general fund. The Secretary collects about \$2,500 from 50 persons who deal in perpetual care and preneed burial contracts. The bill provides that these reports must be filed with the State Board of Cemeteries and that the fees collected must be deposited into the State Board of Cemeteries Fund. As a result, general fund expenditures will decrease by \$2,500 annually and special fund revenues will increase by \$2,500 annually.

The board may assess a fine of up to \$5,000 against a licensee who commits certain acts or violates provisions of this bill. Any fines collected must be deposited into the general fund. Therefore, general fund revenue could increase by an indeterminate amount depending on the number of violations and the fines assessed.

State Expenditures: The bill establishes a 12-member State Board of Cemeteries for licensing and regulating cemeteries, investigating complaints, administering special fund accounts, and holding hearings concerning the failure of a licensee to meet contractual obligations relating to preneed burial contracts and perpetual care contracts. The board may hire a staff, including investigators. All costs associated with the board must be paid through the State Board of Cemeteries Fund.

It is estimated that the board would hire one Administrator, one Office Secretary, one Investigator, and a part-time Attorney General. As a result, special fund expenditures will increase by \$117,356 in fiscal 1997. This figure includes salaries of \$65,318, fringe benefits, ongoing operating costs, one-time start-up costs, and reflects the October 1, 1996 effective date. Future year expenditures include (1) full salaries with 3.5% annual increases and 3% turnover; and (2) 2% annual increases in ongoing operating costs.

The board is entitled to compensation and expense reimbursements at a rate determined by the board. It is assumed that the board will meet at least 12 times in fiscal 1997 and four times annually thereafter. If compensation is set at \$100 per meeting, special fund

expenditures will increase by \$14,400 in fiscal 1997 and \$4,800 annually thereafter.

In addition, the board will be entitled to expense reimbursements which will depend on the location and frequency of the task force's meetings and the reimbursement schedule established by the board. It is expected that any reimbursements can be handled with the existing resources of the Department of Labor, Licensing, and Regulation.

Removing duties relating to perpetual care and preneed burial contracts from the office of the Secretary of State will not substantively alter the operations of that office and will not reduce expenditures.

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

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