

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 222 (Senator Madden)
Finance

State Board of Cemeteries - Licensing and Regulation

This 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 \$68,000 in FY 1998. Future year projections reflect the biennial renewal fees and annual growth. General fund expenditures would increase by about \$30,000 in FY 1998. Future year expenditures reflect the elimination of one-time costs and adjustments for inflation. In addition, general fund revenues and expenditures could increase by an indeterminate amount due to the bill's penalty provisions.

(in dollars)	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
GF Revenues	\$68,000	\$2,000	\$72,000	\$2,000	\$76,000
GF Expenditures	30,000	35,000	37,000	38,000	39,000
Net Effect	\$38,000	(\$33,000)	\$35,000	(\$36,000)	\$37,000

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.

Small Business Effect: Meaningful impact on small business as discussed below.

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.

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 which are estimated to be \$70,000 for each two-year licensing term. The bill requires the fees be assessed on a sliding scale based on the size, revenues, and annual number of burials of each licensed cemetery. If the fees were assessed equally among the approximately 60 for-profit cemeteries, the average fee would be approximately \$1,170. It is assumed, based on program costs and the biennial licensing term, that general fund revenues would increase by about \$68,000 in the first year and \$2,000 in the second year. Future year 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 fines imposed.

State Expenditures: The bill establishes a seven-member board which is responsible for licensing individuals and firms, regulating the cemetery industry, investigating violations, and conducting hearings. The board may hire a staff. It is estimated that the board will hire one part-time Administrator and one full-time Office Secretary. It is also estimated that the board will hold 15 hearings annually at \$500 per hearing. As a result, general fund expenditures will increase by \$30,000 in fiscal 1998. This figure includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses and reflects the October 1, 1997 effective date.

The seven board members would not be entitled to compensation, but 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.

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.

Small Business Effect: The majority of the approximately 60 for-profit cemeteries affected by this bill are small businesses. This bill would have a meaningful impact on these businesses because it would assess a biennial licensing fee on each cemetery to generate sufficient revenue to cover the cost of regulating the industry. Direct and indirect program costs are estimated to be \$68,000 in fiscal 1998. Because the fees will be determined on a sliding scale based on size, revenues, and annual number of burials there is no standard

licensing cost per cemetery. Small cemeteries should not be disproportionately affected because of the sliding scale system. If the fees were assessed equally among the affected cemeteries, the average fee would be approximately \$1,170.

In addition to licensure fees, small cemeteries may experience increased administrative costs associated with regulation and licensure. Also, to the extent that a small cemetery violates the provisions of this bill, increased and additional fines and/or imprisonment terms may be assessed. Civil penalties of up to \$10,000 may be assessed for violating certain licensing regulations or laws on preneed burial contracts and perpetual care agreements. In addition to penalties in current law, a person violating the requirements of this bill is guilty of a misdemeanor and subject to a fine of up to \$5,000 and/or imprisonment of not more than one year.

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

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