

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 196 (The Speaker) (By Request – Department of Legislative Services)  
Health and Government Operations Education, Health, and Environmental Affairs

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**State Board of Morticians - Sunset Extension and Program Evaluation**

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This bill extends the termination date for the State Board of Morticians from July 1, 2008 to July 1, 2013 and requires another program evaluation by July 1, 2012. The bill specifies items to be included in that program evaluation.

The bill takes effect July 1, 2006.

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**Fiscal Summary**

**State Effect:** Special fund expenditures and revenues would be maintained for the board beyond FY 2008. The board's FY 2007 budget allowance is \$424,408.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** By December 31, 2006, the board must report to specified legislative committees on:

- implementing a complaint tracking system and its effectiveness;
- the progress made in reducing the complaint backlog;
- recommendations concerning the resources the board needs to continue reducing the complaint backlog in a timely manner and the resources the board needs to conduct timely inspections and audits;

- a plan to monitor licensees that receive pre-need funds, place pre-need funds in a trust, or enter into pre-need contracts and respond to the rising number of complaints concerning pre-need contracts by implementing uniform procedures, forms, and penalties and any other means;
- a recommendation on the appropriate number of working hours an applicant should be required to complete to satisfy the apprenticeship qualification for licensure as a mortician;
- proposed legislation that provides for the regulation of crematories in collaboration with the Office of Cemetery Oversight, the Advisory Council on Cemetery Operations, and the Maryland Department of the Environment; and
- the average cost charged by a licensee for providing funeral and mortuary science services and the reasonableness of the cost.

The legislative program evaluation due by July 1, 2012 must include a review of the board's pre-need contract recommendations and plan to assess whether the recommendations and plan have been implemented and assess their effectiveness. The evaluation also must consider whether the recommendations the board did not implement would enhance the pre-need process.

**Current Law:** The State Board of Morticians terminates July 1, 2008. Established in 1902 as the State Board of Undertakers, the State Board of Morticians is one of the oldest health occupations boards in Maryland. In 1937 and 1981, respectively, the board was renamed the State Board of Funeral Directors and Embalmers and then the State Board of Morticians. Charged with the mission of protecting public health and consumer interests and promoting quality funeral service practices in the field of mortuary science, the board serves the following five major functions:

- licensing and regulating funeral service providers;
- licensing, inspecting, and regulating funeral establishments;
- receiving and resolving complaints regarding licensees and funeral establishments;
- establishing standards for the practice of mortuary science; and
- providing education to consumers regarding the funeral service industry.

The board consists of 12 members: 8 licensed morticians or licensed funeral home directors and 4 consumers.

Chapter 156 of 2002 codified announced inspections of licensees by the investigator under certain circumstances and extended the termination date of the board to July 1, 2008. Chapter 220 of 2005 authorized the board to conduct an audit of a licensee that receives preneed funds, places preneed funds in a trust, or enters into a preneed contract.

**Background:** The Maryland Morticians Act expressly prohibits the practice of mortuary science by an unlicensed individual and further limits the operation of funeral establishments by corporations. The board issues licenses for: apprentices; morticians; funeral directors; the surviving spouse of a mortician or funeral director who will continue operating the funeral establishment in the event of the mortician's or funeral director's death; funeral establishments; corporations; and individuals who practice mortuary science in another state or country and apply for a courtesy card authorizing them to transport dead human bodies into or out of Maryland to the other state or country of licensure. All licenses are issued on a biennial basis except apprentice licenses which are issued annually.

In fiscal 2005, the board issued a total of 616 licenses: 37 mortician (original and renewal); 25 funeral director and surviving spouse (renewal); 11 surviving spouse (original); 81 apprentice (original and renewal); 298 funeral establishment (original and renewal); 58 corporation (renewal); and 106 courtesy card (original and renewal).

The Department of Legislative Services (DLS) sunset review made various recommendations. In addition to extending the board's termination date by 10 years to July 1, 2018, the DLS sunset evaluation report recommends the board:

- submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee by October 1, 2006, that details the steps that have been or will be taken to fully implement the board's complaint tracking system and addresses its backlog of complaints;
- address the rising number of complaints related to preneed contracts;
- determine the appropriate length of an apprenticeship; and
- propose legislation that provides for the regulation of crematories, developed in collaboration with the Office of Cemetery Oversight, the Advisory Council on Cemetery Operations, and the Maryland Department of the Environment.

### *Board's Fiscal Status*

The DLS sunset review also analyzed the board's revenues, expenditures, and fund balance. The board became self-supporting in 1992 when the General Assembly established special funds for most of the health occupations boards. The board's special fund is supported entirely by fees collected from licensees and continuing education vendors. As shown in **Appendix 1**, the board's fiscal 2005 year-end fund balance was \$171,854, nearly two and a half times the 25% target amount of \$72,378 established by

the Department of Health and Mental Hygiene (DHMH). By year-end fiscal 2006, the balance is expected to increase to about \$266,043.

According to the report, a 25% surplus is sufficient to fund any unforeseen revenue shortfalls or other unexpected expenditures and is a normal cushion for a board of this size. Because this board's licensure activity occurs on a biennial basis and most licensees (morticians) now renew in even-numbered fiscal years, revenues have been higher in even-numbered years than in odd-numbered years. The ability to carry over a fund balance allows the board to cover its direct costs as well as the indirect costs charged by DHMH in both years of the licensing cycle. Maintaining a fund balance also allows the board to keep fees at the same level for several years.

At the time of the 2000 full evaluation, the board was experiencing serious financial difficulties. To avoid a negative fund balance in future years, at the end of 1999, the board borrowed \$57,688 from the State Board of Physical Therapy Examiners. Facing a similar situation in fiscal 2001, the board received an additional loan for \$83,542 from the State Board of Pharmacy. Repayments on those loans were made in fiscal 2000 through 2005. The board's loan repayment obligations are now complete.

The 2000 full evaluation as well as the subsequent DLS analysis of the board's budget recommended that the board limit fiscal 2002 spending to align expenditures with available revenues and create a reasonable fund balance level for use in future years. At the end of fiscal 2001, the board increased nearly all of its fees (with the exception of continuing education vendor, duplicate wall certificate, duplicate license, and licensure verification fees) and established late fees and reinstatement fees in accordance with those recommendations. The majority of those fees were subsequently increased again during fiscal 2004.

By the end of fiscal 2002, the board's fund balance had increased to \$97,923 from a beginning balance of \$319. Although the board's fund balance during fiscal 2001 and 2003 fell below the 25% target, during fiscal 2002, 2004, and 2005, the board surpassed its fund balance target. The vacancies in the investigator and executive director positions resulted in a reduction in expenditures during fiscal 2004 and 2005; absent the turnover in those positions, board expenditures would have been significantly higher and the fund balance would have been closer to the 25% target. The board now has a full staffing complement and, as shown in Appendix 1, fiscal 2006 expenditures are expected to rebound and should increase each year. In addition, the board anticipates some one-time expenditures, primarily related to relocation, which would spend down the balance. In any event, expenditure levels should remain higher than the expenditure levels recorded in fiscal 2004 and 2005. Due to the relative stability in the number of licensees, revenues are expected to continue at just under \$800,000 on a biennial basis. Consequently the

increased expenditures will likely result in a fund balance that closely approximates the 25% target in future fiscal years, the DLS report states.

**State Fiscal Effect:** Special fund revenues for the board will be maintained beyond fiscal 2008 because the bill proposes to continue the board. By year-end fiscal 2006, the board's fund balance is expected to be \$266,043. The board's annual revenues have fluctuated since fiscal 2001 but doubled over a six-year period, increasing 102% from \$323,141 in fiscal 2001 to an estimated \$651,854 in fiscal 2006. Special fund revenues to the board from assessments on licensees are dependent on the number of licensing professionals.

Special fund expenditures will be maintained beyond fiscal 2008 because the bill proposes to continue the board. Board expenditures have increased at a much lower pace, from \$322,822 in fiscal 2001 to an estimated \$385,811 in fiscal 2006, a 20% increase. The fiscal 2007 budget allowance for the board is \$424,408.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 152 (The President) (By Request – Department of Legislative Services) – Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2006  
nas/ljm Revised - House Third Reader - March 24, 2006

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**Appendix 1**  
**State Board of Morticians Fund History**  
**Fiscal 2001 through 2006**

|  | <u>FY 2001</u>          | <u>FY 2002</u>          | <u>FY 2003</u>          | <u>FY 2004</u>          | <u>FY 2005</u>          | <u>Estimated<br/>FY 2006</u> |
|--|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|------------------------------|
| Beginning Balance                                | \$80,828                | \$319                   | \$97,923                | \$50,508                | \$148,495               | \$171,854                    |
| Revenues   | 242,313                 | 455,164                 | 326,648                 | 461,608                 | 312,871                 | 480,000                      |
| <b><i>Total Revenues Available</i></b>           | <b><i>\$323,141</i></b> | <b><i>\$455,483</i></b> | <b><i>\$424,571</i></b> | <b><i>\$512,116</i></b> | <b><i>\$461,366</i></b> | <b><i>\$651,854</i></b>      |
| Direct Costs                                     | \$159,859               | \$290,270               | \$314,763               | \$293,880               | \$216,861               | \$314,739                    |
| Indirect Costs                                   | 162,963                 | 67,290                  | 59,300                  | 69,741                  | 72,651                  | 71,072                       |
| <b><i>Total Expenditures</i></b>                 | <b><i>\$322,822</i></b> | <b><i>\$357,560</i></b> | <b><i>\$374,063</i></b> | <b><i>\$363,621</i></b> | <b><i>\$289,512</i></b> | <b><i>\$385,811</i></b>      |
| Annual Surplus/(Deficit)                         | (80,509)                | 97,604                  | (47,415)                | 97,987                  | 23,359                  | 94,189                       |
| Biennial Surplus/(Deficit)                       |                         | 17,095                  |                         | 50,572                  |                         | 117,548                      |
| <b>Ending Balance</b>                            | <b>\$319</b>            | <b>\$97,923</b>         | <b>\$50,508</b>         | <b>\$148,495</b>        | <b>\$171,854</b>        | <b>\$266,043</b>             |
| Ending Balance as a<br>Percentage of Total Costs | 0%                      | 27%                     | 14%                     | 41%                     | 59%                     | 69%                          |

Note: Revenue and expenditure figures include receipt and repayment of loans.

Source: State Board of Morticians

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