

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 910 (Senator Conway)  
 Education, Health, and Environmental Affairs Health and Government Operations

**Health Occupations - Morticians and Funeral Directors - Crematory License**

This bill requires the Board of Morticians and Funeral Directors to license and regulate crematories in the State, and requires one member of the board to be an owner or operator of a crematory.

**Fiscal Summary**

**State Effect:** No effect in FY 2010 as the board develops regulations. Special fund revenues increase by \$15,000 in FY 2011 to issue licenses to 28 crematories in the State at the following *biannual* fee levels: \$250 collected from 23 crematories and \$350 collected from 5 crematories. Future years reflect biannual renewal of licenses at the same fee levels. The board can license and inspect crematories with existing resources. Potential minimal increase in general fund revenues and expenditures due to imposition of existing criminal penalty provisions under the bill.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$0	-	-	-	-
SF Revenue	\$0	\$15,000	\$15,000	\$15,000	\$15,000
GF Expenditure	\$0	-	-	-	-
Net Effect	\$0	\$15,000	\$15,000	\$15,000	\$15,000

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

**Local Effect:** Potential minimal increase in expenditures due to imposition of existing criminal penalty provisions.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** On or after November 30, 2010, an individual, sole proprietorship, partnership, professional association, or corporation must be licensed by the board to establish, own, or operate a crematory in the State. To apply for a license, an applicant has to submit an application to the board with information specified in the bill along with the required fee. A crematory may not be required to contribute any funds to the Family Security Trust Fund.

The bill sets biannual licensure fees of \$250 if the crematory is in or on the immediate premises of a licensed funeral establishment or \$350 if the crematory is not in or on the immediate premises of a licensed funeral establishment.

The bill also authorizes the board to conduct unannounced inspections of the records, premises, equipment, and physical operations of licensees.

**Current Law:** The State Board of Morticians and Funeral Directors is responsible for 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.

A person who violates any provision of the Maryland Morticians and Funeral Directors Act is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500 and/or imprisonment of up to one year.

All crematories – those located on cemetery grounds, funeral establishment grounds, and freestanding independent crematories – are subject to emissions regulations enforced by the Maryland Department of the Environment (MDE). However, only crematories operated by a person or entity licensed by the board (essentially those on funeral establishment grounds) are subject to statutory provisions under the Maryland Morticians and Funeral Directors Act. Limited recordation requirements imposed on such licensees under the Act mandate the placement of a metal or plastic identification tag in a container holding the cremains (cremated remains) and require that a complete file of a cremation be maintained. A licensee or agent of a licensee is also prohibited from indicating that a burial or funeral casket is required for cremation. The board also informally inspects,

with permission from the funeral establishment operators, a licensee's onsite crematory during the regularly scheduled annual inspection of the establishment.

All other crematories, including those located on cemetery grounds and independent crematories, are subject to only MDE regulatory authority. To operate any crematory in Maryland, the owner must procure separate permits to construct and operate the facility. A valid permit to construct a crematory facility is good for the life of the facility; however, a permit to operate a crematory is subject to a five-year limitation and conditioned on the satisfactory completion of an annual inspection. The MDE inspector witnesses a cremation during the annual inspection, thereby ensuring that each facility operates with a functioning retort, more commonly known as a crematorium furnace.

When a complaint regarding crematory emissions is received by MDE, a follow-up inspection is conducted. If necessary, a notice of violation is issued to the crematory operator, and if the violation is not corrected, a corrective order from the Office of the Attorney General is issued.

**Background:** Nationwide, as well as in Maryland, cremation is growing in popularity. According to the Cremation Association of North America, the percentage of cremations performed nationally and within the State is expected to be almost 33% and 39%, respectively, by 2010.

In a 2007 program evaluation of the board, Legislative Services recommended that statute be amended to require the board to inspect all Maryland crematories annually under a uniform crematory statute that imposes the same inspection requirements on all crematories regardless of location.

**State Revenues:** An individual, sole proprietorship, partnership, professional association, or corporation must be licensed by the board to establish, own, or operate a crematory in the State on or after November 30, 2010. The bill does not authorize licensure before that date. The bill as introduced requires crematories to pay *biannual* licensure fees. Therefore, special fund revenues increase by \$15,000 in fiscal 2011 to issue licenses to 28 crematories in the State, and collect fees twice a year. The board advises that 23 crematories are in or on the immediate premises of a licensed funeral establishment and therefore subject to the biannual \$250 fee, and 5 crematories are not on or in the immediate premises of a licensed funeral establishment and therefore subject to the biannual \$350 fee. Future years reflect biannual renewal of all crematory licenses at the same fee level.

However, Legislative Services advises that boards typically operate on a *biennial* renewal cycle, which would subject crematories to a licensure fee every other year. If biennial renewal were applied, special fund revenues would increase by \$7,500 in fiscal 2011 to

issue licenses to 28 crematories in the State at the following fee levels: \$250 collected from 23 crematories and \$350 collected from 5 crematories. Future years would reflect biennial renewal of all crematory licenses at the same fee level.

**State Expenditures:** The board can develop regulations and license and inspect the 28 crematories in the State with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Secretary of State; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2009  
ncs/mcr

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