

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 332

(Senator Edwards)

Budget and Taxation

Health and Government Operations

Family Security Trust Fund - Requirement to Transfer Interest to the General Fund - Exemption

This bill requires the Maryland State Board of Morticians and Funeral Directors to build the Family Security Trust Fund to a balance of \$1 million and maintain the trust fund at that level. The bill exempts the trust fund from the requirement that all interest earned on special funds of the State be credited to the general fund until the trust fund's balance reaches \$1 million.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: General fund revenues decrease by \$6,100 in FY 2013 and by \$9,000 in FY 2015; special fund revenues increase by amounts that offset general fund decreases from FY 2013 to 2015. Expenditures are not affected.

| (in dollars) | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|--------------|-----------|-----------|-----------|---------|---------|
| GF Revenue | (\$6,100) | (\$7,500) | (\$9,000) | \$0 | \$0 |
| SF Revenue | \$6,100 | \$7,500 | \$9,000 | \$0 | \$0 |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | \$0 | \$0 | \$0 | \$0 | \$0 |

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

Local Effect: None.

Small Business Effect: Fee payments by funeral establishments that are small businesses are not materially affected.

Analysis

Current Law: A provision of Chapter 397 of 2011 (Budget Reconciliation and Financing Act) credited all interest earned on special funds of the State to the general fund except for special funds and accounts that are specifically identified and exempted from the requirement or where doing so would be inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, beginning in fiscal 2012. A similar provision in Chapter 484 of 2010 captured special fund interest for the general fund for fiscal 2010 and 2011 only.

Chapter 532 of 2008 created the Family Security Trust Fund within the Maryland State Board of Morticians and Funeral Directors (the board) to reimburse consumers for losses that occur on or after January 1, 2010, related to the provision of preneed contract services. To capitalize the fund, the board must charge an annual fee of \$375 to all funeral establishments; this fee is a condition of licensure and licensure renewal for these establishments. Chapter 532 also established a Family Security Trust Fund Advisory Committee as well as a process for reviewing and handling notification of claims, conducting hearings, and making any payments from the trust fund.

The Family Security Trust Fund is a special, nonlapsing fund and not liable to any other expenses or obligations of the board. Over a reasonable period of time, the fund must be built to at least \$1.0 million and then maintained at or above that level. Once the fund has a \$1.0 million balance, the annual assessment against funeral establishment licensees is discontinued. However, if, after the fund has accumulated a balance of \$1 million, the amount in the fund falls below \$1 million, the board must assess each funeral establishment a fee in the appropriate amount to return the fund to the \$1 million level over a reasonable time period.

Background: Consumers often purchase what are called “preneed” burial contracts well in advance of ill health or death to ease funeral preparations when the time comes for burial. The Family Security Trust Fund is intended to provide some recourse to consumers who find that a funeral establishment has mishandled their funds and does not provide the refund with interest as required by law.

The Department of Health and Mental Hygiene advises that no payouts have been made from the trust fund since its inception. Fees collected totaled \$126,400 in fiscal 2011 and \$129,400 in fiscal 2012. Based on these collection totals, the number of establishments assessed the \$375 fee increased from 337 in fiscal 2011 to 345 in fiscal 2012.

State Revenues: The Family Security Trust Fund will receive approximately \$130,875 in assessment fee revenue from funeral establishments in fiscal 2013, resulting in a

projected fund balance of \$610,000 in fiscal 2013. Assuming no payouts from the fund to consumers and modest growth in the number of funeral establishments, the balance in the trust fund will grow to approximately \$1 million by the beginning of fiscal 2016. The fund balance will remain at this level in subsequent years.

Pursuant to the bill, interest earnings attributable to the trust fund will no longer accrue to the general fund until the trust fund reaches a level of \$1 million; instead the interest earnings will be added to the balance of the trust fund (a special fund). Assuming interest rates near 1% through fiscal 2015, general fund revenues will decrease by approximately \$6,100 in fiscal 2013 and by approximately \$9,000 in fiscal 2015. Special fund revenues increase by amounts equal to the decrease in general funds. Beginning in fiscal 2016, as under current law, interest earnings attributable to the trust fund accrue to the general fund.

Small Business Effect: Both under current law and under the bill, assuming no payouts to consumers, the trust fund balance is projected to reach \$1.0 million by fiscal 2016. Therefore, the bill will have minimal or no impact on fees assessed to funeral establishments, including those that are small businesses.

Additional Information

Prior Introductions: None.

Cross File: HB 71 (Delegate Morhaim) - Health and Government Operations.

Information Source(s): Department of Budget and Management, Department of Health and Mental Hygiene, Comptroller's Office, Maryland State Treasurer's Office, Department of Legislative Services

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