

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 824 (Chair, Health and Government Operations Committee)
Health and Government Operations Education, Health, and Environmental Affairs

State Board of Morticians and Funeral Directors - Sunset Extension and
Program Evaluation

This bill extends the termination date for the State Board of Morticians and Funeral Directors by 10 years to July 1, 2028, and requires a full sunset evaluation of the board by December 1, 2026. The board must submit three reports to specified committees of the General Assembly regarding required board actions and analyses by November 1, 2017; January 1, 2018; and October 1, 2019.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: Special fund revenues and expenditures for the board are maintained beyond FY 2018. The FY 2018 budget includes a \$629,569 special fund appropriation for the board; estimated special fund revenues are \$374,425. The board can undertake the required actions and submit the required reports with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By November 1, 2017, the board must report to the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations committees regarding the comparability of the Maryland law – that requires an out-of-state facility to enter into a written agreement with the board to allow unannounced inspections

of the out-of-state facility in the event that the body of a decedent is transported to an out-of-state facility – to the laws and regulations in other states. The report must include a survey of other states, if any, which conduct inspections of out-of-state facilities to which the body of a decedent may be transported.

By January 1, 2018, the board must conduct (1) a workload analysis to determine whether fees collected from each group regulated by the board adequately reflect the costs associated with regulating that group and (2) an internal fiscal analysis, including reassessment of the board’s fee schedule. The report, which must be submitted to the Department of Legislative Services (DLS), must include the board’s findings; any proposed changes to the board’s fee schedule; the status of filling the vacant staff position; and if filled, the impact of filling the position on the board’s expenditures, fund balance, and number of overtime hours worked by board staff.

By October 1, 2019, the board must report to the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations committees on board action taken in response to the findings of the workload analysis and internal fiscal analysis and board efforts to (1) ensure sufficient staff resources; (2) work with the Department of Health and Mental Hygiene (DHMH) to facilitate board recordkeeping and improve the board’s website; (3) work to improve the negative perception of the board by some licensees; and (4) further enhance communications with the industry.

Current Law/Background:

State Board of Morticians and Funeral Directors

The board was established as the State Board of Undertakers of Maryland in 1902 (Chapter 160, Acts of 1902). The primary purpose of the board is the protection of the public’s health and welfare through proper credentialing; examination; licensure; and discipline of morticians, funeral directors, corporations, crematory operators, apprentices, surviving spouses, mortuary transport services, transporters, courtesy card holders, and holders of an executor license in Maryland. The board also licenses, permits, and inspects funeral establishments and specified crematories for compliance with all applicable federal, State, and local laws and takes disciplinary action against such establishments where warranted. Additionally, the board audits pre-need contracts. The board oversees licensing and inspection of 1,790 licenses, permits, and registrations.

Maryland Program Evaluation Act

The board is among approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). The Act establishes a process better known as “sunset review”

because most of the agencies subject to review are also subject to termination, including the board, which is scheduled to terminate July 1, 2018.

DLS conducted a full evaluation of the board in 2016, [Sunset Review: Evaluation of the State Board of Morticians and Funeral Directors](#). This bill implements most of DLS's recommendations stemming from the full sunset evaluation report.

DLS found that the board complies with its statutory mandate to regulate the funeral industry in the State and functions well despite resource limitations. The board fulfills its licensing, inspection, complaint, disciplinary, and other regulatory duties and accomplishes this in large part due to the dedication of its staff, who frequently log additional uncompensated hours to ensure that work is completed in a timely manner. Thus, DLS primarily recommended that the board's termination date be extended for 10 years.

DLS also recommended that DHMH assist the board (1) in conducting a workload analysis to determine whether fees collected from specific regulated groups adequately reflect the costs associated with regulating that group and (2) in filling a vacant compliance officer position and seeking an inspector/investigator position to assist with the board's expanded workload (to be done in conjunction with the Department of Budget and Management). DLS recommended that the board conduct an internal fiscal analysis and reassess its fee schedule based on findings from the workload analyses. Further, DLS recommended that the board work with DHMH's shared information technology unit to better facilitate board recordkeeping and improve the functionality and timely updating of the board's website. DLS recommended that the board submit two follow-up reports on the results of the analyses and actions taken to implement recommendations.

Finally, DLS found that, while survey responses from regulated individuals and board data indicate that the board handles inspections, investigations, and complaints appropriately, a perception of unfairness, heavy-handedness, and overreaching of authority persists among some licensees, which is a serious issue of concern that should be promptly addressed by the board. Ultimately, DLS found no evidence to indicate board impropriety, despite the negative perceptions of the board among some members of the regulated industry. However, DLS recommended that the board take concrete steps to address the perception among some licensees, including (1) clarifying board interpretation of mortuary transport service regulations; (2) documenting and communicating board complaint and investigation procedures to the regulated industry; (3) revising inspection forms and reports; and (4) continuing to communicate to the industry that current law and regulations do not allow grandfathering of establishments that are not compliant with statute and regulations.

Additional Information

Prior Introductions: None.

Cross File: SB 548 (Chair, Education, Health, and Environmental Affairs Committee) - Education, Health, and Environmental Affairs.

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

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Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510