

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 726
(Delegate Kipke)

Health and Government Operations

Office of Cemetery Oversight - Cemetery Financial Statement - Requirements

This bill removes the requirement that a financial statement filed with the Director of the Office of Cemetery Oversight by an existing cemetery that sells burial goods contain both (1) a statement by a certified public accountant retained by the business detailing the assets and liabilities of the cemetery for the last fiscal year and (2) a review by the certified public accountant as to the financial stability of the cemetery. Instead, the statement must contain a balance sheet, either from the most recent federal tax return filed by the business or on a form that the director requires.

Fiscal Summary

State Effect: Special fund expenditures for the Department of Labor, Licensing, and Regulation (DLLR) increase by \$43,500 in FY 2018, under the assumptions discussed below. Future year expenditures reflect annualization and the elimination of one-time costs. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	43,500	53,500	56,200	59,000	61,900
Net Effect	(\$43,500)	(\$53,500)	(\$56,200)	(\$59,000)	(\$61,900)

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

Local Effect: None.

Small Business Effect: Potential meaningful. Cemeteries that are small businesses may benefit from reduced costs associated with the review of their financial records by a certified public accountant. These businesses may also be at a greater risk of financial instability without the review. Small accountancy businesses may experience a minimal decrease in demand for their services.

Analysis

Current Law: An individual must register with the Office of Cemetery Oversight before engaging in the operation of a cemetery or crematory or providing burial goods in Maryland. As part of the registration process, each applicant designated as the responsible party must demonstrate the financial stability of the business with which the applicant is affiliated by providing the Director of the Office of Cemetery Oversight with a financial statement or other required reports.

The director must make a determination of the financial stability of each applicant based on criteria that the director adopts for each class of business. The director must adopt separate criteria to determine the financial stability of applicants that are new businesses or existing businesses.

Each financial statement must be on the form that the director requires. If the business is a cemetery that sells burial goods and is an existing business, the financial statement must:

- contain a statement by a certified public accountant retained by the business, detailing the assets and liabilities of the cemetery for the last fiscal year; and
- contain a review by the certified public accountant as to the financial stability of the cemetery.

If the business is an existing cemetery that does *not* sell burial goods or an existing burial goods business *not* affiliated with a cemetery, the applicant must complete a form that the director requires and satisfy criteria that the director adopts as authorized under current law.

If the business is a new business, the applicant must satisfy criteria that the director adopts as authorized under current law; however, the director must require that all financial statements submitted by a new cemetery be prepared by a certified public accountant retained by the business.

Background: The Office of Cemetery Oversight was established by Chapter 675 of 1997. The office registers and regulates the cemetery and burial goods industry in the State under the leadership of a director. An advisory council serves as a source of expertise for the director and provides insight into the needs of the business community and the consumers served by the industry. The Cemetery Oversight Fund was established as a continuing, nonlapsing special fund to cover the documented direct and indirect costs of fulfilling the statutory and regulatory duties of the office.

State Expenditures: The bill removes the requirement that an existing cemetery business that sells burial goods, when registering with the office, must file a financial statement with the director that (1) includes a statement by a certified public accountant retained by the business detailing the assets and liabilities of the cemetery for the last fiscal year and (2) contains a review by the certified public accountant as to the financial stability of the cemetery. Registrations must be renewed every two years.

However, the bill does *not* remove the requirement that the director make a determination of the financial stability of each applicant based on criteria that the director adopts for each class of business. DLLR advises that review by a certified public accountant of the financial statements submitted to the office is necessary to ensure the viability of a cemetery in perpetuity. The stringent standards imposed regarding fiscal data review are critical to determining the veracity of the information provided on the financial statements submitted to the office. The mere submission of a balance sheet included with tax returns is insufficient financial information, because tax filings may be amended after the financial information has been submitted.

DLLR advises that approximately 80 cemeteries registered with the Office of Cemetery Oversight must submit the required documentation from a certified public accountant under current law. This is a revised and updated estimate from a prior DLLR estimate for similar legislation in 2016 (Senate Bill 535/House Bill 553). Given the resulting change in scope, costs below reflect one half-time certified public accountant.

Accordingly, special fund expenditures by the Office of Cemetery Oversight in DLLR increase by \$43,531 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring one half-time certified public accountant to review approximately 80 tax returns annually and determine the financial viability of cemeteries. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$36,612
Other Operating Expenses	<u>6,919</u>
Total FY 2018 State Expenditures	\$43,531

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Prior Introductions: SB 535 of 2016 received a hearing from the Senate Finance Committee, but no further action was taken. Its cross file, HB 553, received a hearing from the House Health and Government Operations Committee but was withdrawn.

Cross File: Although not designated as a cross file, SB 192 (Senator Klausmeier – Finance) is identical.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mm/mcr

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