



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 4116 Introduced on March 9, 2023
Author: Sandifer
Subject: Funeral Contracts
Requestor: House Labor, Commerce, and Industry
RFA Analyst(s): Wren and Gardner
Impact Date: March 30, 2023

Fiscal Impact Summary

This bill makes various changes to the operations of the Board of Funeral Service to include changes to fines and fees and educational requirements, among other things.

The overall expenditure impact of this bill on the Department of Labor, Licensing and Regulation (LLR) is undetermined. However, LLR indicates that this bill will increase Other Funds expenses of the agency by at least \$75,800 in FY 2023-24 for 1.0 FTE (Investigator III), equipment for the new position, and for a special called board meeting of the Board of Funeral Service. Expenses will decrease to at least \$69,800 each year thereafter. Further, LLR indicates that the bill gives the board jurisdiction over unlicensed persons. This may lead to an unknown number of additional complaints, investigations, and potential disciplinary actions. However, any expenditure impact resulting from this provision of the bill is unknown at this time.

This bill will have no expenditure impact on the State Law Enforcement Division (SLED) since any expenses associated with conducting additional criminal background searches can be managed within existing appropriations and with existing staff. Further, the Revenue and Fiscal Affairs Office (RFA) anticipates that any revenue received from the criminal background search fee that is retained by SLED will be used to offset expenses.

This bill may increase the number of cases, or the duration of cases heard in court. Judicial intends to use existing resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

This bill will have no expenditure impact on the Prosecution Coordination Commission since any increase in expenses as a result of implementation of the bill can be managed within existing appropriations.

This bill will have no expenditure impact on the Commission on Indigent Defense since any increase in expenses as a result of implementation of the bill can be managed within existing appropriations.

This bill increases certain fines related to violations related to the Board of Funeral Service, which may result in an increase in the fines and fees collected in court. Court fines and fees are

distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in General Fund revenue, Other Funds revenue, and local revenue due to the increase in fines and fees collections in court.

This bill also changes civil fines relating to the Safe Cremation Act. These funds are used to defray administrative costs associated with investigations pursuant to Section 40-1-180. LLR indicates that the Board of Funeral Service collected approximately \$11,000 in fines in FY 2021-22. However, LLR nor the board has details on the individual penalties and fines by statute. Therefore, the impact on Other Funds revenue of LLR for the change in civil fines is undetermined.

This bill requires all cremations to be performed by a trained individual who has submitted a nationwide employment clearance. Based upon a three-year historical average from SLED, the agency was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, RFA anticipates that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks. There would be no increase to the General Fund for this portion of the bill.

The Board of Funeral Service falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill will increase General Fund revenue by at least \$7,580 in FY 2023-24 and by \$6,980 each year thereafter.

This bill will have no impact on Other Funds revenue of the Department of Health and Environmental Control (DHEC) since the civil fines collected pursuant to Section 4 of the bill are not retained by DHEC.

Explanation of Fiscal Impact

Introduced on March 9, 2023

State Expenditure

This bill requires that all cremations must be performed by a trained individual who meets all the following criteria:

- Successfully completed a crematory operator training course approved by the Board of Funeral Service of not less than eight hours instruction time;
- Has submitted an affidavit of good character from at least one crematory; and
- Has submitted a nationwide employment clearance indicating that he has not been convicted of or pled guilty to any felony crime in this state or any other jurisdiction in this country.

Additionally, this bill requires the Board of Funeral Service to employ at least two inspectors and at least one investigator. Currently the board must employ only one inspector. Additionally, the bill specifies that the inspectors and investigator must not have been disciplined during the time of their past or current licensure as a licensed embalmer or funeral director.

This bill also specifies that the Board of Funeral Service has jurisdiction over unlicensed persons related to funeral services.

This bill increases the fine for a person who practices funeral services without a license or uses false information to obtain licensure. The fine increases from not less than \$500 or more than \$2,500 to not less than \$10,000 or more than \$25,000. Additionally, the bill subjects persons who aid and abet unlicensed persons or entities in engaging in the practice of funeral service without licensure to the aforementioned fines.

Further, this bill increases the annual continuing education requirements for licensees under the Board of Funeral Service from three credit hours to four and specifies that one credit hour must be a course in funeral service ethics. Additionally, this portion of the bill specifies that the licensee must complete at least two of the credit hours in person.

Department of Labor, Licensing and Regulation. The overall expenditure impact of this bill on LLR is undetermined. However, LLR indicates that this bill will increase Other Funds expenses of the agency by at least \$75,800 in FY 2023-24. Of this amount, \$68,800 is for 1.0 FTE (Investigator III), \$1,000 is for recurring expenses for the new position, \$2,500 is for one-time miscellaneous costs for the new position, and \$3,500 is for a special called board meeting of the Board of Funeral Service to update training courses, update education requirements, and update ethical requirements. Expenses will decrease to at least \$69,800 each year thereafter. Further, LLR indicates that the bill gives the board jurisdiction over unlicensed persons. This may lead to an unknown number of additional complaints, investigations, and potential disciplinary actions. However, any expenditure impact resulting from this provision of the bill is unknown at this time.

State Law Enforcement Division. SLED indicates that any expenses associated with conducting additional criminal background searches can be managed within existing appropriations and with existing staff. We anticipate that any revenue received from the criminal background search fee that is retained by SLED will be used to offset expenses. Therefore, the bill will have no expenditure impact on the agency.

Judicial. This bill may increase the number of cases, or the duration of cases heard in court. Judicial intends to use existing resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

Prosecution Coordination Commission. This bill will have no expenditure impact on the Prosecution Coordination Commission since any increase in expenses as a result of implementation of the bill can be managed within existing appropriations.

Commission on Indigent Defense. The Commission on Indigent Defense indicates that any increase in expenses as a result of implementation of this bill can be managed within existing appropriations. Therefore, the bill will have no expenditure impact on the commission.

State Revenue

This bill increases the misdemeanor penalty when money obtained or sought to be obtained is \$10,000, instead of \$2,000 or less and increases the fine from \$1,000 to \$5,000 or imprisonment for not more than six months, instead of thirty days as related to preneed funeral contracts. The bill also increases the fine for a person who practices funeral services without a license or uses false information to obtain licensure. The fine increases from not less than \$500 or more than \$2,500 to not less than \$10,000 or more than \$25,000. The bill subjects persons who aid and abet unlicensed persons or entities in engaging in the practice of funeral service without licensure to the aforementioned fines. The bill will result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in General Fund revenue, Other Funds revenue, and local revenue due to the increase in fines and fees collections in court.

This bill also relates to penalties for violations of the Safe Cremation Act by increasing the violation of the civil fine from \$5,000 to no less than \$10,000 but no more than \$25,000. A licensed funeral director or embalmer who violates the provisions of the chapter must be reported to the State Board of Funeral Service for immediate investigation and disciplinary proceedings. These funds are used to defray administrative costs associated with investigations pursuant to Section 40-1-180. LLR indicates that the Board of Funeral Service collected approximately \$11,000 in fines in FY 2021-22. However, LLR nor the board has details on the individual penalties and fines by statute. Therefore, the impact on Other Funds revenue of LLR for the change in civil fines is undetermined.

Additionally, the bill requires all cremations to be performed by a trained individual who has submitted a nationwide employment clearance. Therefore, this portion of the bill may increase the number of criminal records searches that SLED is required to perform. SLED indicates that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. Based upon a three-year historical average from SLED, the agency was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, RFA anticipates that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks. There would be no increase to the General Fund for this portion of the bill.

Also, the Board of Funeral Service falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually

to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill will increase General Fund revenue by at least \$7,580 in FY 2023-24 and by \$6,980 each year thereafter.

Further, this bill will have no impact on Other Funds revenue of the Department of Health and Environmental Control (DHEC) since the civil fines collected pursuant to Section 4 of the bill are not retained by DHEC.

Local Expenditure

N/A

Local Revenue

This bill increases certain fines related to violations related to the Board of Funeral Service, which may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in local revenue due to the increase in fines and fees collections in court.



Frank A. Rainwater, Executive Director