

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 584

INTRODUCER: Senator Lee

SUBJECT: Medical Examiners

DATE: March 5, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Pre-meeting</b>
2.			CA	

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**I. Summary:**

SB 584 amends section 406.06 of the Florida Statutes to prevent a medical examiner or a county from charging a user fee for an examination, investigation, or autopsy performed pursuant to s. 406.11, F.S. The bill also amends s. 382.011, F.S.<sup>1</sup> to correctly cite only to ss. 406.11(1), F.S., rather than the entire section and to conform the language between the two sections of law that the death *involves* any of the enumerated circumstances rather than it is *due to* one of the enumerated circumstances.

**II. Present Situation:**

**Medical Examiners Act**

Part I of ch. 406 is titled the “Medical Examiners Act”<sup>2</sup> (act) and lays out minimum and uniform requirements for statewide medical examiner services. Among other things, the act establishes the Medical Examiners Commission<sup>3</sup> (commission) with duties including initiating cooperative policies with any agencies of the state; investigating, suspending, and removing medical examiners for violations of the act; overseeing the distribution of state funds for the medical examiner districts; and making any necessary agreements and contracts in order to effect the provisions of the act, subject to the approval of the executive director of the Florida Department of Law Enforcement (FDLE).<sup>4</sup> The act also requires the commission to establish medical

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<sup>1</sup> This section requires the district medical examiner to determine the cause of death or fetal death for decedents whose death was due to any of the circumstances listed in s. 406.11, F.S., and who had not seen their primary or attending physician for over a year or for which there is a reason to believe that the death may have been due to an unlawful act or neglect.

<sup>2</sup> s. 406.01, F.S.

<sup>3</sup> The Medical Examiners Commission consists of seven members appointed by the Governor, one member appointed by the State Attorney General, and one member appointed by the State Surgeon General.

<sup>4</sup> s. 406.02, F.S.

examiner districts each of which is served by a medical examiner who is appointed by the Governor.<sup>5</sup> Currently, there are 24 medical examiner districts.<sup>6</sup>

Section 406.11(1), F.S., requires district medical examiners to determine the cause of death of a decedent who died or was found dead in their district:

- If the person died:
  - Of criminal violence;
  - By accident;
  - By suicide;
  - Suddenly, when in apparent good health;
  - Unattended by a practicing physician or other recognized practitioner;
  - In any prison or penal institution;
  - In police custody;
  - In any suspicious or unusual circumstance;
  - By criminal abortion;
  - By poison;
  - By disease constituting a threat to public health; or
  - By disease, injury, or toxic agent resulting from employment.
- If the dead body was brought into the state without proper medical certification; or,
- If the dead body is to be cremated, dissected, or buried at sea.<sup>7,8</sup>

Subsections (1) and (2)(a) of s. 406.11, F.S., require and grant authority to the medical examiner to make or have performed any examinations, investigations, and autopsies they deem necessary or that are requested by the state attorney for the purpose of determining the cause of death. Subsection (2) also restricts the medical examiners from retaining or furnishing any body part for any purpose other than those authorized in statute<sup>9</sup> without notifying the next of kin and grant rulemaking authority to the Commission to adopt rules for such notifications. Subsection (3) grants the Commission rulemaking authority to incorporate practice parameters for medical examiners.

### **Medical Examiner Fees**

Section 406.06(3), F.S., entitles district and associate medical examiners to “compensation and such reasonable salary and fees as are established by the board of county commissioners in the respective districts.” Presently, as required in s. 406.08, F.S., district medical examiners submit

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<sup>5</sup> ss. 406.05 and 406.06, F.S.

<sup>6</sup> A map of the medical examiner districts can be found at <http://myfloridamedicalexaminer.com/>, last visited on Mar. 6, 2014.

<sup>7</sup> The medical examiner must approve the cremation of a dead body through a consent process that differs from one district to another. Some medical examiner districts require written consent while others may allow telephone approval. Approval will not be written in the death record margin or in such a way as to deface the record. See Vital Records Registration Handbook, 2012 revision, found at <http://www.floridahealth.gov/certificates-and-registries/certificates/EDRS/documents/HB2012Final.pdf>, last visited on Mar. 6, 2014, page 73.

<sup>8</sup> In 2012, 44,895 dead bodies were buried, 106,827 were cremated, 1,001 were donated, and 8 were buried at sea. See Florida Death Count Query System, found at <http://www.floridacharts.com/FLQUERY/Death/DeathCount.aspx>, last visited on Mar. 6, 2014.

<sup>9</sup> In ch. 406, F.S., relating to medical examiners and the disposition of human remains; Part V of ch. 765, F.S., relating to the granting of anatomical gifts; and ch. 873, F.S., relating to the sale of anatomical matter.

an annual budget to the board of county commissioners which includes fees, salaries, and expenses for their office. Medical examiner office budgets that are established through contract with county governments<sup>10</sup> are often based on a fee-for-service schedule.<sup>11</sup> Each specific fee is approved by the board of county commissioners in each county within the district, and the fee may vary from county to county. In some districts, fees for a specific type of service are paid directly to the medical examiner's office, while in other districts, such fees go directly to the county's general revenue fund.<sup>12</sup> The fees charged by district medical examiner's offices for the services provided pursuant to s. 406.11, F.S., vary from district to district and, occasionally, from county to county. For example, according to the Medical Examiners Commission, for cremation services ten counties charge no fee<sup>13</sup> while the other 57 counties' fees vary with Miami-Dade county charging the highest fee at \$63 and the average fee being approximately \$31.30. The total amount of revenue generated by cremation service fees in 2012 was approximately \$3.93 million.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 382.011, F.S., to correctly cite to s. 406.11(1), F.S., rather than the whole section. Only subsection (1) of section 406.11, F.S., relates to causes of death. In addition, the conditions when a funeral director or other person must refer the case to the district medical examiner are changed from when the death was "due to" the causes in s. 406.11, F.S., which is conclusive, to when the death "involves" any such circumstances.

**Section 2** of the bill amends s. 406.06, F.S., to restrict counties and medical examiners from charging user fees for examinations, investigations, and autopsies performed pursuant to s. 406.11, F.S.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, subsection 18(a) of the Florida Constitution, provides that a county or municipality may not be bound by any general law requiring the county or municipality to spend funds or to take an action requiring the expenditure of funds, unless the Legislature has determined that such law fulfills an important state interest and unless:

- Funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure;
- The Legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality;

<sup>10</sup> Medical examiner services are provided by private contract in districts 1, 2, 5, 6, 8, 10, 12, 14, 16, 21, and 22. See FDLE bill analysis for SB 584, on file with Health Policy Committee Staff.

<sup>11</sup> Id.

<sup>12</sup> Supra n. 10

<sup>13</sup> Hardee, Highlands, Bay, Calhoun, Gulf, Holmes, Jackson, Washington, Collier, and Charlotte counties.

<sup>14</sup> Supra n. 10

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the Legislature;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or
- The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Subsection 18(d) provides an exemption from this prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times 10 cents (which is \$1.93 million for 2012-2013 fiscal year), are exempt.

SB 584 may prevent counties and district medical examiners from charging fees which generated at least \$3.93 million in revenue in 2012. As such, the law may be unenforceable unless passed by a two-thirds majority in each house of the Legislature.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Cost savings may be generated for individuals in the private sector who would have been charged a fee for one of the specified medical examiner services, however, these individual cost savings may result in increased costs to the private sector as a whole if affected counties choose to increase local taxes to recoup the lost fee revenue.

**C. Government Sector Impact:**

Local governments may incur a loss in revenue if they currently charge fees to cover costs of operations which would be prohibited by the changes in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

There is no distinction drawn in the bill between the types of fees allowed to be charged by a medical examiner and the “user fees” that are prohibited by the bill. Since the term “user fee” is not defined, this may cause some confusion as to exactly which fees may and may not be charged.<sup>15</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 382.011 and 406.06.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>15</sup> Supra n. 10 at page 3