

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.)

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

BILL: CS/SB 620

INTRODUCER: Fiscal Policy Committee and Senator Grimsley

SUBJECT: Medical Examiners

DATE: February 18, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Favorable
2.	Cochran	Yeatman	CA	Favorable
3.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 620 prohibits counties and district medical examiners from charging members of the public a fee for an examination, investigation, or autopsy performed to determine the cause of death under certain circumstances. As long as the death is not under the jurisdiction of the medical examiner because the death involved circumstances listed in s. 406.11(1)(a), F.S., a county can charge a fee for the medical examiner's approval of the cremation, burial at sea, or dissection of a body of:

- \$50 if adopted by resolution or ordinance.
- An amount established by resolution or ordinance on or before February 17, 2016, if the county has issued 3,000 or more medical examiner approvals in the past calendar year.

The bill is not expected to have an impact on state funds.

II. Present Situation:

Medical Examiners Act

The "Medical Examiners Act" (act) establishes minimum and uniform requirements for statewide medical examiner services.¹ The act establishes the Medical Examiners Commission (commission) within the Florida Department of Law Enforcement (FDLE) and requires the

¹ Section 406.01, F.S.

commission to initiate cooperative policies with state agencies; investigate, suspend, and remove medical examiners for violations; establish medical examiner districts; oversee the distribution of state funds for the medical examiner districts; and make any necessary agreements and contracts.² Each medical examiner district is served by a medical examiner who is appointed by the Governor.³ Currently, there are 24 medical examiner districts.⁴

Medical examiners are required to determine the cause of death of a person and perform the necessary examinations, investigations, and autopsies if requested by the state attorney or when a person dies under the following circumstances:

- Due to 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.⁵

Medical examiners must also determine the cause of death when:

- A dead body is brought into the state without proper medical certification; or
- A dead body is to be cremated, dissected, or buried at sea.⁶

Currently, funeral directors must refer cases of death due to *the causes or conditions* listed above, or that occurred more than 12 months after the decedent was last treated by a primary care or attending physician, or for which there is reason to believe the death was caused by an unlawful act or neglect, to the district medical examiner of the county in which the death occurred or the body was found for a cause of death determination. Medical examiners must complete and sign a medical certification of cause of death for dead bodies that come under their jurisdictions.⁷

A dead human body cannot be cremated without the approval of the district medical examiner. The approval process differs from one district to another. Some medical examiner districts require written approval while others may allow approval by telephone. However, in no district

² See ss. 406.02 and 406.05, F.S. The commission consists of seven members appointed by the Governor, one member appointed by the Attorney General, and one member appointed by the State Surgeon General.

³ Section 406.06, F.S.

⁴ See Florida Medical Examiner Districts, available at <http://myfloridamedicalexaminer.com/> (last visited on February 10, 2016).

⁵ Section 406.11(1)(a), F.S. See also s. 382.011(1), F.S.

⁶ Section 406.11(1)(b) and (c), F.S.

⁷ Section 382.011, F.S.

is written approval allowed to be made in the death record margins or in such a way to deface the death record.⁸

Medical Examiner Fees

District and associate medical examiners are entitled to reasonable salary and fees as established by the board of county commissioners in the respective districts.⁹ District medical examiners must submit annual budget information to the board of county commissioners for approval.¹⁰ Each specific fee must be approved by the board of county commissioners in each county within the district. Fees vary from county to county and in some districts, fees are paid directly to the medical examiner's office, while in other districts, fees go directly to the county's general revenue fund.¹¹

Cremation Fees

Most medical examiner districts charge a user fee for the services related to the determination of the cause of death when a body is to be cremated. Fees charged by district medical examiner's offices for the services provided to determine the cause of death vary from district to district. According to the commission, of the 24 medical examiner districts, three districts (14, 20, and 22) do not charge cremation approval fees, while 21 districts charge varying fees. District 11 (Miami-Dade County) charges the highest fee at \$63 and district 17 (Broward County) charges \$54 for cremation approval.¹² In 2014, the total amount of revenue generated from these fees was approximately \$3.98 million.¹³

It is unclear whether medical examiners have statutory authority to collect a cremation authorization fee for a cause of death determination performed when a body is to be cremated, dissected, or buried at sea.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 382.011(1), F.S., to prohibit counties and district medical examiners from charging members of the public a fee for an examination, investigation, or autopsy performed to determine the cause of death involving circumstances listed in s. 406.11(1), F.S.

⁸ See DOH, Bureau of Vital Statistics, *Vital Records Registration Handbook*, (February 2015 Revision) p. 67, available at <http://www.floridahealth.gov/certificates/certificates/documents/HB2015v2.pdf> (last visited on February 10, 2016).

⁹ Section 406.06(3), F.S.

¹⁰ Section 406.08, F.S. Some medical examiner budgets are established through a fee-for-service contract with the county government. Medical examiner services are provided by private contract in districts 1, 2, 5, 6, 8, 10, 12, 14, 16, 20, 21, and 22. See *Infra* note 11.

¹¹ See FDLE, *2016 Legislative Bill Analysis HB 315/Revised* (December 14, 2015) (on file with the Senate Committee on Health Policy).

¹² *Id.*

¹³ *Id.*

¹⁴ See Op. Atty Gen. Fla. 2003-57 (2003). Medical examiners, like other public officers, have no legal claim for official services rendered, except when, and to the extent that, compensation is provided by law, and when no compensation is so provided rendition of such services is deemed to be gratuitous. [The Attorney General is]...aware of no authority in Chapter 406, or elsewhere in the statutes, for the medical examiner to charge a cremation authorization fee. In the absence of any such statutory authorization, it is my opinion that this service is to be provided without charge to the public as a service of the office.

As long as the death is not under the jurisdiction of the medical examiner because the death involved circumstances listed in s. 406.11(1)(a), F.S., a county can charge a fee for the medical examiner's approval of the cremation, burial at sea, or dissection of a body of:

- \$50 if adopted by resolution or ordinance.
- An amount established by resolution or ordinance on or before February 17, 2016, if the county has issued 3,000 or more medical examiner approvals in the past calendar year.

The bill also clarifies *the circumstances* under which a funeral director must refer a death case to the district medical examiner.

The bill is effective on October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection 18(b) of the Florida Constitution prohibits the legislature from enacting a general law that reduces the authority that municipalities or counties have to raise revenues in the aggregate, unless each chamber of the Legislature enacts such law by two-thirds vote or unless an exemption applies. Subsection 18(d) provides an exemption for laws determined to have an "insignificant fiscal impact." The fiscal impact of this bill is indeterminate, but it is likely to have an insignificant impact. If the insignificant threshold is exceeded, the bill will require a two-thirds vote of the membership of each house.

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:

The bill may have a positive fiscal impact on those in the private sector who would have been charged a user fee that is reduced or prohibited by the bill.

C. Government Sector Impact:

Local governments may incur a loss in revenue if they currently charge user fees to cover costs of operations that are reduced or prohibited by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 382.011 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on February 17, 2016:

The committee substitute allows counties that have issued 3,000 or more medical examiner approvals in the past year to continue to charge the medical examiner approval fee established by resolution or ordinance prior to February 17, 2016.

- B. **Amendments:**

None.