

**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 Community Affairs

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BILL: SB 620

INTRODUCER: Senator Grimsley

SUBJECT: Medical Examiners

DATE: February 8, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 620 restricts counties and district medical examiners from charging a fee for an examination, investigation, or autopsy to determine the cause of death of a decedent except that the bill allows counties, by resolution or ordinance, to charge a fee of up to \$50 for the medical examiner's approval of the cremation, burial at sea, or dissection of a body. The county may not charge this fee if the death falls under the jurisdiction of the medical examiner and involves certain suspicious circumstances.

**II. Present Situation:**

**Medical Examiners Act**

Part I of ch. 406, F.S., is titled the "Medical Examiners Act"<sup>1</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>2</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>3</sup> The act also requires the commission to establish medical examiner districts each of which is served by a medical examiner who is appointed by the Governor.<sup>4</sup> Currently, there are 24 medical examiner districts.<sup>5</sup>

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<sup>1</sup> Section 406.01, F.S.

<sup>2</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>3</sup> Section 406.02, F.S.

<sup>4</sup> Sections 406.05 and 406.06, F.S.

<sup>5</sup> Florida Medical Examiner Districts, available at <http://myfloridamedicalexaminer.com/> (last visited on February 3, 2016).

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>6,7</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 he or she deems 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>8</sup> without notifying the next of kin and grant rulemaking authority to the commission to adopt rules for such notifications.

### **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 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>9</sup> are often based on a fee-for-service schedule.<sup>10</sup> Each specific fee is approved by the board of county commissioners in each county within the district, and the fee

<sup>6</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, February 2015 Revision, p. 67, available at <http://www.floridahealth.gov/certificates/certificates/documents/HB2015v2.pdf> (last visited on February 3, 2016).

<sup>7</sup> In 2014, 44,540 dead bodies were buried, 116,642 were cremated, 1,547 were donated, and 11 were buried at sea. See Florida Death Count Query System, available at <http://www.floridacharts.com/FLQUERY/Death/DeathCount.aspx> (last visited on February 3, 2016).

<sup>8</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.

<sup>9</sup> Medical examiner services are provided by private contract in districts 1, 2, 5, 6, 8, 10, 12, 14, 16, 20, 21, and 22. See Revised FDLE bill analysis for HB 315 (2016), December 14, 2015, (on file with the Senate Committee on Health Policy).

<sup>10</sup> *Id.*

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>11</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. For example, according to the Medical Examiners Commission, for cremation services three districts (14, 20, and 22) charge no fee while the other 21 districts fees vary, with district 11 (Miami-Dade County) charging the highest fee at \$63. Other than district 11, only district 17 (Broward County with a \$54 charge) charges fees higher than \$50.<sup>12</sup> The total amount of revenue generated by cremation service fees in 2014 was approximately \$3.98 million.<sup>13</sup> It is unclear whether counties have statutory authority to collect a user fee for determination of cause of death performed when a body is to be cremated, dissected, or buried at sea pursuant to s. 406.11(1)(c), F.S.<sup>14</sup>

### III. Effect of Proposed Changes:

SB 620 amends s. 382.011, F.S., to restrict 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. Notwithstanding the restriction, the bill allows counties, by resolution or ordinance, to charge a fee of up to \$50 for medical examiner approval for the cremation, burial at sea, or dissection of a body so long as the death is not under the jurisdiction of the medical examiner involving circumstances listed in s. 406.11(1)(a), F.S. The bill also makes other technical and conforming changes to clarify that the list for when a medical examiner must determine a person's cause of death is based on the circumstances surrounding the death, rather than the causes or conditions of the death.

The bill establishes an effective date of 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.

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Op. Atty Gen. Fla. 2003-57 (2003).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 620 may have a positive fiscal impact on those in the private sector who would have been charged a 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 fees to cover costs of operations which would be reduced or prohibited by the changes in 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 Changes:

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

None.

B. Amendments:

None.