


Colorado Legislative Council Staff Fiscal Note
STATE
REVISED FISCAL IMPACT
(replaces fiscal note dated January 17, 2012)

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| Drafting Number: LLS 12-0524 | Date: February 23, 2012 |
| Prime Sponsor(s): Rep. McKinley Sen. Grantham | Bill Status: House Third Reading |
| | Fiscal Analyst: Harry Zeid (303-866-4753) |

TITLE: CONCERNING THE ADMINISTRATION OF A NONPROFIT CEMETERY CORPORATION BY PERSONS WHO OWN THE RIGHT TO BURY A DECEASED PERSON WITHIN THE CEMETERY.

| Fiscal Impact Summary | FY 2012-2013 | FY 2013-2014 |
|---|-------------------------------|--------------|
| State Revenue | | |
| Cash Funds | | |
| Attorney Fees and Costs Account | See the State Revenue section | |
| State Expenditures | | |
| General Fund | \$55,181 | \$55,181 |
| FTE Position Change | | |
| Effective Date: August 8, 2012, if the General Assembly adjourns on May 11, 2012, as scheduled, and no referendum petition is filed. | | |
| Appropriation Summary for FY 2012-2013: See the State Appropriations section. | | |
| Local Government Impact: None. | | |

This fiscal note is revised to reflect a Second Reading amendment.

Summary of Legislation

As amended on Second Reading, the bill affects the administration of a nonprofit cemetery corporation by persons who own the right to bury a deceased person within the cemetery. The bill requires that the board of directors of a nonprofit cemetery include at least one owner of a lot, grave, space, niche, or crypt. Owners are granted the right to inspect the bylaws, financial records, and board meeting records of the cemetery, and are authorized to attend any meeting of the corporation's board of directors.

If information is provided to the Attorney General that a cemetery corporation is not fulfilling the duties required by Article 47 of Title 7, C.R.S., the Attorney General must hold a hearing after 60 days notice to the cemetery and the person providing the information. If the Attorney General finds probable cause to believe that a cemetery corporation has not fulfilled its obligations under the Article, the Attorney General shall enforce the article in district court to require corrective action. The court shall require the corporation to pay the Attorney General reasonable attorney fees if the court finds that a cemetery corporation has failed to fulfill its required duties.

State Revenue

The bill states that if the court finds that a cemetery corporation has failed to fulfill the duties required by Article 47 of Title 7, C.R.S., the court shall require the cemetery corporation to pay the Attorney General reasonable attorney fees. Any moneys received by the Attorney General as an award of attorney fees or costs that are not custodial moneys are to be placed in a separate attorney fees and costs account (Fund #13H). Moneys in the fund are subject to annual appropriation by the General Assembly for legal services provided by the Department of Law.

Although the bill does not provide for the award of costs other than attorney fees, it is reasonable to expect that if sufficient evidence exists to find that a cemetery corporation has failed to fulfill its duties, the cemetery corporation will be required to pay the Attorney General for the cost of reasonable attorney fees. These attorney fees are estimated to be \$24,096 per case that actually goes to trial. It is assumed, however, that most cases brought to the attention of the Attorney General will be resolved without the need for a trial.

State Expenditures

Generally, the fiscal note assumes that nonprofit cemetery corporations will comply with their duties under the bill. This fiscal note assumes that no more than one complaint per year will be filed with the Attorney General that leads to a mandatory action in district court. **The Department of Law will require up to \$55,181 per year General Fund** beginning in FY 2012-13 for 400 hours of an Assistant Attorney General (\$24,096) and 100 hours for a forensic accountant at the rate of \$300 per hour (\$30,000), plus related operating expenses (\$1,085).

State Appropriations

The Department of Law requires a General Fund appropriation of \$55,181 in FY 2012-13 to implement the bill.

Departments Contacted

Secretary of State

Judicial

Law