

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7395
BILL NUMBER: SB 357

NOTE PREPARED: Feb 22, 2021
BILL AMENDED: Feb 18, 2021

SUBJECT: Cemeteries.

FIRST AUTHOR: Sen. Mishler
FIRST SPONSOR: Rep. Teshka

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- It changes a township trustee's duty to remove certain weeds from a cemetery it maintains from "noxious" weeds to "rampant" weeds.
- It amends the duties of a township trustee to care for and maintain a public cemetery in the township to include:
 - (1) resetting and straightening all monuments;
 - (2) leveling and seeding the ground; and
 - (3) mowing the lawn.
- It provides that before entering into a sales contract with a consumer, an owner of a cemetery (excluding a county, city, town, or township cemetery) must provide a written description of available goods and services with a price list.
- It limits the fee charged by a cemetery owner for opening and closing a burial lot of a family member that is one of at least two burial lots purchased in the same transaction.
- It requires the State Board of Funeral and Cemetery Service to take at least the following actions as to a cemetery owner that charges an excessive opening and closing fee:
 - (1) Issue an appropriate order to correct the violation.
 - (2) Suspend the seller's certificate of authority.
 - (3) Censure the cemetery owner.
- It provides the following are commodities:
 - (1) A foundation.
 - (2) The marking of a lot in preparation for a foundation.
- It provides that a service fee for marking a lot must be included with the lot purchase price and

collected at the same time.

Effective Date: July 1, 2021.

Explanation of State Expenditures: This bill could increase the workload of the Professional Licensing Agency's (PLA) State Board of Funeral Cemetery Service to provide oversight of prepaid foundational services as well as prices assessed to family members for burial lots. Additionally, to the extent this bill increases the number of uncured deceptive acts in the state, the workload of the Attorney General could increase to prosecute violations.

Increases in workload are within the routine administrative function of each respective agency and are expected to be accomplished within existing resource and funding levels.

Explanation of State Revenues: *Summary* - The bill could increase General Fund and Common School Fund revenue from penalty provisions impacted by the bill. Total increases in revenue are indeterminable but expected to be small.

Additional Information -

Penalty Provisions: The bill expands the definition of prepaid services or merchandise to include foundations for monuments. This would apply current statutory protections and requirements to prepaid service providers. Violations by prepaid service providers are punishable as an uncured deceptive act and could also result in an increase in the number of Class A misdemeanor convictions in the state to the extent sellers are determined to have not obtained a certificate of authority to transact business from the PLA.

The PLA would be required to enforce penalties against cemeteries that charge burial lot fees to family members in excess of the amounts listed in the bill. Enforcement actions under the bill, at a minimum, would include issuing an order to correct the violation, suspending the seller's certificate of authority, and censuring the cemetery owner. However, current statute also allows the PLA to assess a civil penalty of up to \$1,000 per violation, which would be deposited in the General Fund.

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Public Cemeteries* - Townships that own public cemeteries could be subject to additional maintenance and landscaping costs to comply with the bill's requirements for cemetery upkeep.

Penalty Provisions: A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: PLA, Attorney General.

Local Agencies Affected: Public Cemeteries; Trial courts, local law enforcement agencies.

Information Sources:

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