

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3762** by Flynn (Relating to the regulation of prepaid funeral benefits; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3762, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>Insurance Maint Tax Fees</i> 8042	Probable (Cost) from <i>Insurance Maint Tax Fees</i> 8042
2010	\$222,293	(\$222,293)	\$388,925	(\$388,925)
2011	\$128,293	(\$128,293)	\$386,615	(\$386,615)
2012	\$167,348	(\$167,348)	\$386,615	(\$386,615)
2013	\$167,348	(\$167,348)	\$386,615	(\$386,615)
2014	\$198,059	(\$198,059)	\$386,615	(\$386,615)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	8.0
2011	8.0
2012	8.0
2013	8.0
2014	8.0

## **Fiscal Analysis**

The bill would amend the Occupations Code by adding Subchapter O, Prepaid Funeral Benefits, and would repeal sections of the Finance Code and the Occupations Code to transfer the licensing and regulatory authority of pre-paid funeral contract sellers from the Department of Banking (DoB) to the Funeral Services Commission (FSC).

The bill would provide authority to the FSC to adopt and enforce rules and perform examinations related to the regulation of prepaid funeral contract permit holders. The bill would allow the FSC to delegate the Texas Department of Insurance (TDI) to conduct examinations of certain permit holders that may sell prepaid funeral contracts that are backed by insurance funded products. The bill would also allow the FSC to delegate the examination of records and the allocation of examination fees to the DoB or TDI depending on a contract being trust-funded or insurance-funded.

A person holding a permit issued by the DoB to sell prepaid funeral benefits on the effective date of the bill would be issued a permit by the FSC without application. All provisions apply to the permit holder on and after the effective date, except that the permit holder has until the third anniversary of the effective date to meet financial responsibility requirements.

The bill would take effect September 1, 2009.

## **Methodology**

The analysis is based on information provided by the DoB, TFSC, and TDI and includes the following assumptions:

The transfer of regulatory authority over prepaid funeral contract sellers would result in a reduction in 5.0 FTE positions for the DoB, which would equate to a savings of \$482,324 in fiscal year 2010 and fiscal years 2012-2014. The savings for fiscal year 2011 would be \$492,324. The savings each year include salary, benefits, travel, operating expenses, and consumable supplies for each FTE. Since the DoB is a self-leveling agency and is statutorily required to generate revenues sufficient to cover all of the agency's direct and indirect costs, this analysis assumes the estimated savings would be offset by a similar reduction in revenues collected.

Implementing the provisions of the bill would require an additional 8.0 FTEs for the FSC to investigate new permit applicants, to audit the examination records, to develop rules and policies, and to provide administrative support for the program. Due to space limitations in FSC's current office, this analysis assumes that FSC would need to rent additional office space for the new FTEs. The additional FTEs would cost \$389,000 in salaries and wages with associated benefits of \$111,137, travel costs of \$50,000, and rent costs of \$40,480 in each fiscal year of 2010-11. Additionally to implement the new program, there would be one-time equipment costs of \$16,000 and one-time computer programming costs of \$40,000 in fiscal year 2010. This analysis also assumes that the FSC would generate additional revenue as necessary from licensing fees to cover the costs of duties and responsibilities associated with implementing the provisions of the bill.

Implementing the provisions of the bill would require an additional 5.0 FTEs for TDI to conduct permit holder examinations. It is assumed that the additional FTES would cost \$251,567 in salaries and wages with associated benefits of \$71,873, travel costs of \$34,800, and telephone, supplies, and other operating expenses of \$10,375 in each fiscal year of 2010-2011. Additionally, there is anticipated to be one-time equipment costs of \$20,310 in fiscal year 2010.

Based on the analysis by TDI, it is assumed that there would be a one-time revenue gain of \$40,000 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in additional filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year.

**Technology**

The table above includes \$8,640 in fiscal year 2010 for computer equipment at TDI and \$68,000 for programming changes and computer equipment at FSC.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance, 469 Credit Union Department, 513 Funeral Service Commission

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