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Final Fiscal Note

Drafting Number: LLS 24-0568 Date: June 24, 2024
Prime Sponsors: Rep. Soper; Titone Sen. Roberts; Gardner Bill Status: Signed into Law
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Bill Topic: SUNSET CONTINUE MORTUARY SCIENCE CODE REGULATION

Summary of Fiscal Impact: [X] State Revenue [ ] State Transfer [ ] Local Government
[X] State Expenditure [X] TABOR Refund [ ] Statutory Public Entity

Sunset bill. This bill continues the regulation of the Mortuary Science Code in the Department of Regulatory Agencies, which is scheduled to repeal on July 1, 2024. State fiscal impacts include both increased revenue and expenditures from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2029.

Appropriation Summary: For FY 2024-25, the bill includes an appropriation of \$339,196 to the Department of Regulatory Agencies.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24-1335^1

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue (Cash Funds), Expenditures (Cash Funds, New FTE), and Other Budget Impacts (TABOR Refund).

Continuing Impacts

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue (Cash Funds), Expenditures (Cash Funds, Continuing FTE), and Other Budget Impacts (TABOR Refund).

1 Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

## Summary of Legislation

The bill continues the regulation of portions of the Mortuary Science Code in the Department of Regulatory Agencies (DORA), which is scheduled to repeal on July 1, 2024, for five years, until September 1, 2029. The bill also makes the following changes to the program, including:

- requires inspection of funeral homes and crematories on a routine basis, including after businesses have ceased operations;
- allows inspections to occur outside business hours;
- expands rulemaking authority for DORA;
- conforms rulemaking requirements to the Administrative Procedure Act;
- adds failure to respond to complaints as a grounds for discipline; and
- authorizes suspension of registration for persons who do not comply with orders.

## Background

Under current law, the portions of the Mortuary Science Code regulated by DORA include provisions regarding the registration of funeral establishments and crematories, and title protection for certain mortuary science professions. The full sunset report can be found [here](#).

## Continuing Program Impacts

Based on recent appropriations, DORA is expected to have revenue of \$37,620 and expenditures of \$74,222 to administer the program. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2025-26. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on July 1, 2025, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2025-26 by the amounts shown in Table 1. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

## State Revenue

The bill increases revenue to the Division of Professions and Occupations Cash Fund in DORA by about \$393,700 in FY 2024-25, and by about \$363,000 in FY 2025-26.

**Fee impact on funeral homes and crematories.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, program costs, and the number of registrations subject to the fee. The current fee for initial registration is about \$300, and the renewal fee is about \$130. The table below identifies the fee impact of this bill.

**Table 2  
Fee Impact on Funeral Homes and Crematories**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Fee Increase</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2024-25</b>	Registration Fee	\$1,190	330	\$392,700
<b>FY 2025-26</b>	Registration Fee	\$1,100	330	\$363,000

**State Expenditures**

The bill increases expenditures in DORA by about \$392,000 in FY 2024-25, and by \$364,000 in FY 2025-26, paid from the Division of Professions and Occupations Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3  
Expenditures Under HB 24-1335**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$200,081	\$200,081
Operating Expenses	\$3,584	\$3,584
Capital Outlay Costs	\$20,010	-
Legal Services	\$44,807	\$38,406
Inspector Equipment	\$9,680	\$8,780
Vehicle Lease and Operating	\$42,684	\$42,684
Travel Costs	\$12,350	\$12,350
Contractor	\$6,000	\$6,000
Centrally Appropriated Costs <sup>1</sup>	\$52,319	\$52,319
FTE – Personal Services	2.8 FTE	2.8 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
<b>Total Cost</b>	<b>\$391,515</b>	<b>\$364,204</b>
<b>Total FTE</b>	<b>3.0 FTE</b>	<b>3.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Staff.** DORA requires an additional 2.8 FTE starting in FY 2024-25 to conduct routine inspections of funeral homes and crematories, which it currently does not do under the existing regulations. Two inspectors will be hired to conduct routine and other inspections required by the bill. Additional program support staff will be responsible for coordinating inspections, correspondence with registered facilities, processing complaints, and initiating enforcement actions. Staff costs are based on a July 1, 2024, start date and include standard operating and capital outlay costs.

**Legal services.** DORA requires 300 hours of legal services starting in FY 2024-25 to handle any complaint cases referred to the Office of the Attorney General. Additionally, 50 hours of legal services are required for rulemaking in FY 2024-25 only. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

**Inspector equipment.** \$9,680 is required in FY 2024-25 only for inspector equipment, which includes personal protective equipment, cell phones, computer tablets, and data plans for each inspector.

**Vehicle lease and operating.** \$42,684 is required for two vehicles, one for each inspector since they will work separately and travel across the state. Costs include an annual vehicle lease and operating costs.

**Travel costs.** \$12,350 is required for hotel and per diem costs during inspector travel. It is assumed that each inspector will perform 25 overnight trips per year. Hotel costs are estimated at \$174, and the per diem rate is \$73.

**Contractor.** \$6,000 is required for a contractor, who will conduct initial training of inspectors, develop program guidance, and assist with complex cases as needed.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

## Effective Date

This bill was signed into law by the Governor and took effect on May 24, 2024.

## State Appropriations

For FY 2024-25, the bill includes an appropriation of \$339,196 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies, and 2.8 FTE. Of this amount, \$44,807 is reappropriated to the Department of Law with an additional 0.2 FTE.

## **State and Local Government Contacts**

### Regulatory Agencies

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).