



**Colorado
Legislative
Council
Staff**

HB17-1096

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0361
Prime Sponsor(s): Rep. Liston
Sen. Smallwood

Date: June 22, 2017
Bill Status: Signed into Law
Fiscal Analyst: Anna Gerstle (303-866-4375)

BILL TOPIC: ENDOWMENT CARE CEMETERY AUTHORITY

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	Minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal workload increase.		

Summary of Legislation

The bill allows a cemetery authority (authority) to request that the fiduciary of a cemetery endowment care fund (fund) convert the fund into a unitrust. The request must be made to the fiduciary by November 5 of the year before the fund is converted and the terms on which the fiduciary and authority agree remain in effect until both parties agree to change them.

The bill specifies that if the fiduciary and the authority agree on the disbursement schedule, court approval or notification is not required. A cemetery authority may choose whether the net income of the fund or an amount set through a unitrust election is distributed. If the fiduciary does not receive written instructions from the authority as to the income distribution method, then the fiduciary must disburse the earned net income on a monthly basis. The bill specifies that the fiduciary cannot distribute principal from the fund, unless a unitrust election is in effect.

Background

A cemetery endowment care trust fund is intended to ensure that income will always be available for the maintenance and care of the cemetery. Generally, the principal of the fund cannot be utilized for maintenance purposes, only the ongoing income. Under a unitrust, the amount distributed for maintenance is based on a fixed percentage of the annual market value of the funds within a trust.

State Expenditures

Beginning in FY 2017-18, the bill may increase the workload in the Judicial Department to handle any additional court petitions related to the conversion of an endowment care fund to a unitrust, and the determination of distributions from the unitrust. The fiscal note assumes that any

additional petitions resulting from an increase in cemetery endowment funds being converted into unitrusts will be minimal. Any workload increase can be accomplished within existing appropriations.

Effective Date

The bill was signed into law by the Governor on March 20, 2017, and takes effect on August 9, 2017, assuming no referendum petition is filed.

State and Local Government Contacts

Judicial

Law

Military Affairs

Secretary of State