



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 168 of the 132nd G.A.

**Status:** As Passed by the Senate

**Sponsor:** Rep. Stein

**Local Impact Statement Procedure Required:** No

**Subject:** Modifies the Cemetery Law, establishes the Cemetery Grant Program, and makes other changes

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### State Fiscal Highlights

- The bill establishes the Cemetery Grant Program to be administered by the Division of Real Estate and Professional Licensing within the Department of Commerce. It also appropriates \$100,000 for the program under the Cemetery Grant Fund (Fund 5SE0), created by the bill.
- The bill requires that \$1 of each \$2.50 burial permit fee (40% of the total permit fee) be deposited into Fund 5SE0 to support the Cemetery Grant Program. Based on overall burial permit fee receipts of \$281,053 deposited into the Cemetery Registration Fund (Fund 4H90) in FY 2017, just over \$112,400 (40% of \$281,000) would have been deposited into Fund 5SE0 to support the new program.
- The bill allows the Superintendent of the Division or the Ohio Cemetery Dispute Resolution Commission to compel witnesses to testify during hearings and complaints and provides a daily amount and mileage reimbursement to those witnesses. Payments would be made from the Cemetery Registration Fund (Fund 4H90).

### Local Fiscal Highlights

- The bill requires cemeteries to provide reasonable maintenance of cemetery property. Consequently, political subdivisions that own cemeteries might incur some new costs in order to comply with the maintenance standards, to be overseen by the Division of Real Estate and Professional Licensing and the Ohio Cemetery Dispute Resolution Commission.

### Detailed Fiscal Analysis

#### Department of Commerce

##### Cemetery Grant Program

The bill establishes the Cemetery Grant Program and requires it to be administered by the Division of Real Estate and Professional Licensing within the Department of Commerce (COM). The grant is to be used to provide funds to

not-for-profit cemeteries to (1) defray the costs of exceptional maintenance or (2) train cemetery personnel in the maintenance and operation of cemeteries. The bill requires the Division to distribute grants based on rules adopted by the Ohio Cemetery Dispute Resolution Commission.

The bill establishes the Cemetery Grant Fund (Fund 5SE0) and appropriates \$100,000 in FY 2018 for the program. The bill requires the Division to deposit \$1 of each \$2.50 burial permit fee (40% of the total fee) it receives into Fund 5SE0. Currently, burial permit fees are deposited into the Cemetery Registration Fund (Fund 4H90). In FY 2017, burial permit fees deposited into Fund 4H90 amounted to approximately \$281,053. Based on FY 2017 permit fee receipts, this means that about \$112,400 (40% of \$281,000) would be available for the grant program. The bill allows the Division to provide grants each fiscal year totaling up to 80% of the amount appropriated to Fund 5SE0 in that fiscal year, allowing for the remaining 20% to be used to administer the program. However, the bill also gives the Director of COM authority to increase the percentage used for grants by rule if the total amount of funds generated exceeds the amount of funds the Division needs to administer the program.

### **Cemetery enforcement**

The bill elaborates upon the subpoena authority of the Superintendent of the Division and the Ohio Cemetery Dispute Resolution Commission. This includes compelling the attendance of witnesses to testify during hearings and complaints. The bill requires that witnesses who appear before the Superintendent or Commission receive a daily amount of \$6 (half day) or \$12 (full day) and mileage reimbursement at 50.5 cents per mile. As a result, this may minimally increase costs to reimburse witnesses. Any costs would be paid from Fund 4H90. In FY 2017, the Division closed 31 complaints against cemeteries.

### **Investigation and Audit Section**

The bill also requires the Superintendent of the Division to establish and maintain an Investigation and Audit Section to conduct investigations of cemeteries and audit financial records of a cemetery to ensure compliance for endowment care trusts and preneed cemetery merchandise and services trusts. Additionally, the bill allows the Division to investigate the status of a cemetery if the owner or person responsible for the operation of a registered cemetery has ceased operation of that cemetery. If the Division finds evidence that the cemetery has ceased operation and a municipal corporation or township has not assumed day-to-day management of the cemetery, the Division may apply to the court of common pleas for appointment of a temporary receiver or trustee. According to COM, no new staff or resources would be needed as a result of these provisions. There are two full-time employees in the Cemetery Registration Program of the Division and eight members on the Commission.

## **Ohio Board of Embalmers and Funeral Directors**

The bill makes changes to the law governing the Ohio Board of Embalmers and Funeral Directors that appear to have little, if any, fiscal effect. These changes include notwithstanding the Ohio Open Meetings Law to allow the Board to suspend a license or permit, in cases where the licensee or permit holder presents a danger of immediate and serious harm to the public by using a telephone conference call to review allegations and take a vote. The bill also prohibits any person from engaging in cremation unless the person holds an Ohio Crematory Operator Permit, and bars any person from engaging in the business or profession of funeral directing, engaging in embalming, or operating a crematory or performing a cremation with a lapsed license. Please see the LSC Bill Analysis for a list of additional provisions.

### **Local fiscal effects**

#### **Cemetery maintenance**

The bill requires cemeteries to provide reasonable maintenance of cemetery property and allows the Division and Commission to determine whether a cemetery is reasonably maintained by considering the (1) size and type of cemetery, (2) extent and use of available resources, (3) contractual obligations for care and maintenance of the cemetery, (4) standard of maintenance of similarly situated cemeteries, and (5) suggested maintenance guidelines the Commission publishes under continuing law. As a result, political subdivisions that own cemeteries could incur some additional maintenance costs to comply with these requirements. In FY 2017, COM oversaw 4,092 total active cemeteries owned by for-profit, nonprofit, religious, and local entities.