

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 440 (Proposed Committee Substitute)

**SHORT TITLE:** Embalmers and Funeral Directors

**SPONSOR(S):**

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>
<b>REVENUES</b>					
Board of Mortuary Science	<b>\$10,725</b>	<b>\$9,575</b>	<b>\$9,925</b>	<b>\$10,275</b>	<b>\$10,625</b>
Fines & Forfeitures Fund	<b>\$91,300</b>	<b>\$105,900</b>	<b>\$120,500</b>	<b>\$135,100</b>	<b>\$149,700</b>
<b>EXPENDITURES</b>					
Department of Correction—No fiscal impact					
Judicial Branch—No fiscal impact					
			<b>* See Assumptions and Methodology *</b>		
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> North Carolina Board of Mortuary Science, Crime Control and Public Safety.					
<b>EFFECTIVE DATE:</b> July 1, 2001.					

**BILL SUMMARY:** The bill makes numerous changes to the laws over mortuaries and associated services. Specifically the bill staggers the terms on the Mortuary Science Board, extends the definition of advertisement to include all electronic media and clarifies that funeral establishments are subject to any applicable public health laws. It also increases the frequency of resident trainee reports to the Board from once every three months to once a month. The bill removes the grandfather clause for continuing education waivers and prohibits the transportation of dead human bodies in open parts of a vehicle. Use of profanity in the presence of dead human bodies is also prohibited. The bill amplifies educational requirements for licensure and authorizes the Board to create rules for the transportation of dead human bodies. In addition, the bill defines the “transportation or removal of a dead body” and imposes permit requirements and fees for that act. A new fee of \$50 is levied when a trainee changes their supervisor and the existing late fee penalties are extended to funeral chapels. The bill lowers the fee cap on funeral home establishments

from \$175 to \$150. The legislation also establishes a Class 2 misdemeanor for transporting a body without a permit and increases Board imposed penalties from \$1,000 to \$5,000.

**ASSUMPTIONS AND METHODOLOGY:** There are several items in the bill that will have a fiscal impact on either the Board or the General Fund.

**Transportation Permit:** The bill creates a new permit for transportation and/or removal of dead human bodies. At least one person from a corporation or business that transports bodies must hold this permit. Employees of common carriers, state and local governments, funeral directors licensed in other states, and emergency medical and rescue organizations are exempt from this permit requirement. Volunteer and paid firemen, law enforcement officers, employees of hospitals, nursing homes, and long term care facilities, medical examiners and investigators and any individual transporting cremated remains are also exempt. Family members and others who have “exhibited special care and concern for the decedent” are also exempt.

As a result of the above exempts the permit requirement effectively only applies to organizations whose primary business is the transportation of bodies. While no formal study has been conducted by the industry staff for the Board of Mortuary Science estimate that approximately 30 individuals will apply for the permit. The bill includes a \$125 application fee and a \$75 annual renewal fee. Assuming this fee is levied on 30 individuals creates a first year revenue increase of \$3,750 and an increase of \$2,250 in the out years. This revenue goes to the Board.

**Change in Supervisor Fee:** This fee is levied on a trainee or home when there is a change in supervisor. The fee is set at \$50. The Board expects to levy less than 10 of these fees a year. Using 10 as the number of taxpayers suggests that this provision will result in a \$500 revenue increase for the Board.

**Late Fee for Funeral Chapels:** Currently a late fee applies to all late payments except those made by funeral chapels. At this time no late fee of any sort is levied on funeral chapels. This provision extends a late fee of \$75 to funeral chapels. Staff to the Board report that there are approximately 20 funeral chapels in North Carolina. They expect to charge a late fee less than five times a year. Using five as a proxy suggests that this item will raise \$375 per year.

**Create Inactive Statute Fee:** At present there is no fee for inactive statute. However the Board continues to send mailings and provide other services to these inactive members. The legislation creates a special inactive statute fee of \$50. The Board reports that, at present, approximately 122 inactive accounts. Using this as a proxy for 2001-02 suggests that this portion of the bill will raise \$6,100. The Board expects this number to grow by approximately seven accounts per year or \$350.

**Lower Establishment Annual Renewal Fee Cap:** Currently the cap on this fee is set by statute at \$175. However, the Board only charges \$150. The bill lowers the cap to the actual amount charged by the Board. As such, there is no fiscal impact.

**Lower Annual Renewal Fee Cap for Embalmers and Funeral Directors:** The cap is presently set at \$50. The Board is currently charging \$40. The legislation lowers the cap to the actual amount now being charged by the Board. Therefore, there is no fiscal impact associated with this portion of the bill.

**Lower the Annual Renewal Fee Cap for a Funeral Service License Holder:** By statute this renewal fee is set at \$100. The Board is currently charging \$60. The bill lowers the cap to the amount currently levied by the Board. As such, there is no fiscal impact associated with this portion of the bill.

All of the changes listed above will impact the General Fund. The total impact to the fund is as follows:

Type of Fee	Fee	Fiscal Impact	
		FY 2001-02	FY 2002-03+
Transportation Fee			
Application Fee	\$125	\$3,750	0
Renewal Fee	\$ 75	0	\$2,250
Change in Supervisor Fee	\$ 50	\$ 500	\$ 500
Late Fee for Funeral Chapels	\$ 75	\$ 375	\$ 375
Inactive Status Fee	\$ 50	\$6,100	\$6,450
Establishment Annual Fee	\$150	0	0
Embalmers and Directors Fee	\$ 40	0	0
Funeral Service License Fee	\$ 60	0	0
<b>TOTAL</b>		<b>\$10,725</b>	<b>\$9,575</b>

The bill has two additional potential fiscal impacts.

First the bill enacts a Class 2 misdemeanor penalty for engaging in the business of transporting dead human bodies without a permit, which will be addressed later in the note.

Second the bill increases the penalties the Board may impose from a maximum of \$1,000 to \$5,000. Between 1997 and 2000 the Board issued the following penalties:

Year	Penalties Levied	Penalty Income
1997	6	\$ 6,000
1998	10	\$10,000
1999	15	\$15,000
2000	17	\$16,500

The bill increases the penalty amounts five fold. Assuming the same growth trends continue, and making appropriate adjustments for fiscal years, this portion of the bill could result in the following increase in penalties:

<b>Fiscal Year</b>	<b>Penalties</b>	<b>Penalty Income (current)</b>	<b>Penalty Income (proposed)</b>	<b>Change</b>
2001-02	23	\$22,825	\$114,125	\$ 91,300
2002-03	26	\$26,475	\$132,375	\$105,900
2003-04	30	\$30,125	\$150,625	\$120,500
2004-05	34	\$33,775	\$168,875	\$135,100
2005-06	37	\$37,425	\$187,125	\$149,700

The Board hopes that by raising the penalty amounts fewer violations will occur. Such a change in behavior is not included in the fiscal analysis. Whatever penalties are levied flow to the Fines and Forfeitures Fund.

**Department of Correction and Judicial Branch:**

As mentioned previously, the legislation also establishes a Class 2 misdemeanor for transporting a body without a permit. Fiscal Research does not expect an impact on the prison population. In some cases though, local jails may be impacted. While we cannot project the number of new jail inmates due to this bill, we do know that in FY 1999-2000, 11% of all Class 2 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 24 days.

While there is some chance an offender could be sentenced to jail under this statute, because this statute would apply mostly to mortuary science professionals, most of which would comply with the law, Fiscal Research does not assume a fiscal impact on county jails as well.

Since data are not available on the number of defendants that might be charged with transporting a body without a permit, or how often the proscribed conduct might occur, AOC cannot estimate the impact on the court system. However, Fiscal Research believes there would not be an increased fiscal impact on the AOC.

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Linda Struyk Millsaps and Elisa Wolper

**APPROVED BY:** James D. Johnson

**DATE:** April 18, 2001



**Signed Copy Located in the NCGA Principal Clerk's Offices**