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BILL ANALYSIS

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Senate Bill 521 (Substitute S-2 as passed by the Senate)

Senate Bill 696 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Frederick Dillingham

First Committee: State Affairs, Tourism, and Transportation (Senate Bill 696)

Committee: Human Resources and Senior Citizens

Date Completed: 3-12-90

RATIONALE

The mortuary science profession, like many occupations, reportedly has become increasingly sophisticated--legally, financially, medically, and technologically. Some contend that rules promulgated by the Federal Trade Commission concerning the disclosure of certain information in financial arrangements for funerals, and legislation enacted in Michigan in 1986 to regulate the sale of funeral goods and services under prepaid funeral contracts have made it necessary for funeral directors to have a much broader knowledge and understanding of finance than was needed in the past. Further, they maintain that the AIDS epidemic and new developments in methods for handling medical waste and eliminating the risk of spreading contagious diseases make it imperative that mortuary science practitioners stay abreast of medical research.

To help ensure that the practitioners do have the financial, medical and legal knowledge and sophistication to serve and protect their customers today, it has been suggested that educational requirements for mortuary science graduates be increased and that funeral directors be required to take continuing education courses.

Another issue of concern to some is the Occupational Code's requirement that a funeral establishment contain a preparation room "equipped with tile, cement or composition floor and necessary drainage and ventilation, and ...

each necessary instrument or supply for the preparation and embalming of a dead human body ... ". Some religious faiths do not permit embalming and some contend that it is unnecessary, if not costly, for funeral establishments affiliated with such faiths to purchase and maintain specialized equipment, chemicals, and other supplies for which they have no use. It has been suggested, therefore, that these establishments be exempt from the "embalming room" requirements.

In a separate matter, some feel that the provisions in the State License Fee Act that pertain to application processing and license fees for handling controlled substances should more clearly state who is required to pay the fees and how much the fees are. Currently, the Act provides that a person licensed or seeking licensure to manufacture, distribute, prescribe, or dispense controlled substances must pay an application processing fee of \$10. Further, for a pharmacist, pharmacy, manufacturer, or wholesaler, or for research and instructional activities there is a \$50 annual license fee that will decrease to \$20 after September 30, 1993. Some contend that it is not clear that persons wishing to obtain a license to conduct research with controlled substances must pay the application fee as well as the annual license fee, and that persons wishing to be licensed to prescribe controlled substances must pay the annual license fee as well as the application fee. Further, some say that the \$50 annual

S.B. 521 & 696 (3-12-90)

license fee should decrease to \$30, the amount of the fee before it was increased to \$50 in 1988, rather than to \$20 as currently provided in the Act.

CONTENT

Senate Bill 521 (S-2) would amend the Occupational Code to increase the educational requirements for persons applying after July 1, 1995, for licensure as a mortuary science practitioner; require continuing education for all mortuary science practitioners; specify eligibility criteria for continuing education course sponsors; and exempt from the Code's embalming room requirements those funeral establishments affiliated with religious faiths that prohibit embalming.

Senate Bill 696 (S-2) would amend the State License Fee Act to:

- Increase from \$30 to \$45 the license fee for mortuary science practitioners.
- Create the Mortuary Science Education Fund.
- Set at \$30 the annual fee for a controlled substance license after September 30, 1993, and specify the persons to whom the annual license fee and the license application processing fee apply.

The bills are tie-barred to each other.

Senate Bill 521 (S-2)

Educational Requirements

The Code currently requires applicants for a license to practice mortuary science to meet the following criteria:

- Have served as a resident trainee for one year under the personal supervision and instruction of a licensed practitioner.
- Have graduated from a three-year course in mortuary science in an accredited school, college, or university approved by the Board of Examiners in Mortuary Science.
- Have passed satisfactorily the

examination approved by the Department of Licensing and Regulation and the Board.

- Be of good moral character.

The Code allows the applicant to take the requisite exam in two parts, and provides that a portion of the one-year residency requirement can be waived if the applicant has a bachelor's degree from an accredited school, college or university that the Department finds to be a satisfactory substitute for the residency.

The bill would apply these requirements only to persons who apply for licensure before July 1, 1995; delete the provision allowing the applicant to take the exam in two parts; and permit six months of the residency requirement to be waived. Persons who applied for licensure after July 1, 1995, in addition to being of good moral character and taking the requisite examination (in two parts if desired), would have to fulfill the following requirements:

- Have completed a four-year bachelor's degree from an accredited college or university approved by the Board.
- Have completed an accredited three-year college or university program in mortuary science approved by the Board, which could be part of the bachelor's degree earned by the applicant.
- Have served as a resident trainee for one year, although six months of this training requirement could be waived if the applicant completed an additional year of college or university instruction beyond the four-year degree.

Under the bill, a person who applied for relicensure as a mortuary science practitioner three or more years after the person's license last expired would have to pay the necessary fees and satisfy any penalties or conditions that were imposed by disciplinary action as required by the Code's general "reinstatement of license or registration" provisions. In addition to meeting these requirements, a person who had not held a license to practice mortuary science for less than five years after the license last expired would be required to complete the equivalent of two years of continuing education that conformed to the bill's standards. A person who had not held a license for five or

more years would have to complete the equivalent of three years of continuing education and pass the requisite examination.

Continuing Education

Beginning November 1, 1993, the Department of Licensing and Regulation could not renew the license of a mortuary science practitioner unless the person had completed successfully a total of eight clock hours of continuing education for each year since the license was last renewed. Also beginning November 1, 1993, the Department could not credit clock hours earned during a previous license period toward clock hour requirements of the current license period. "Clock hour" would be defined as a period of time not less than 50 minutes in duration.

When applying for renewal of a license, the licensee would have to submit a list of the continuing education courses completed during the license period.

The continuing education completed by a licensee would have to conform to the standards prescribed in the bill and pertain to the practice of funeral directing, embalming, mortuary science, or funeral home management. At least one-fourth of the clock hours submitted for each renewal license would have to pertain to health, safety, contagion, disposal of hazardous or medical waste, or embalming and the preservation of remains. Further, at least one-fourth of the clock hours would have to pertain to behavioral sciences relating to the practice of funeral directing. All courses would have to be designed to expand on and improve the knowledge of an individual holding a license for the practice of mortuary science beyond the knowledge required for initial licensure. No credit for continuing education could be granted to any course that was part of the educational requirements for initial licensure.

The continuing education requirements would not apply to a licensee who was 70 years of age or older, or who, within the preceding license period, became a mortuary science licensee in Michigan for the first time.

Course Sponsors

Under the bill, a person who offered, sponsored, or conducted a course represented to meet the bill's continuing education requirements first would have to obtain approval from the Department and abide by rules promulgated by the Board concerning curriculum, instructor qualification, attendance, method of certifying completion, and other related matters. The Board could suspend or revoke the approval of a course sponsor for a violation of the Code's provisions concerning the mortuary science occupation or rules promulgated under the Code. A sponsor would have to be an accredited college or university, a governmental department or agency or any of its subdivisions, a tax-exempt education trust, or a tax-exempt nonprofit professional or trade association whose membership was primarily limited to funeral directors or funeral homes.

A course sponsor would be prohibited from doing any of the following:

- Discriminating in its enrollment or requiring membership in any group or association as a condition of enrollment.
- Conducting any form of solicitation in conjunction with the course offered, including membership recruitment or the sale of a product or service.
- Certifying to the Department that any individual had completed a course when he or she was not physically present during the full time the course was conducted.
- Failing to provide the Department with the names and other information concerning licensees completing its course offerings in the manner and within the time period required by the Department.
- Representing that approval of the course by the Department was a recommendation or endorsement of the course sponsor or its content.
- Submitting credit for any of its instructors for more than one presentation on the same subject in any license period. (An instructor of a course of continuing education could receive continuing education clock hours of credit for the instruction limited to credit for only one presentation of the same or

similar material during each license period.)

Continuing education programs provided by a sponsor would have to be open to any mortuary science licensee. If the sponsor were a nonprofit trade or professional organization, fees charged for attendance by a course sponsor to nonmembers of that organization could not exceed three times the fee charged to members.

If a person took and passed a course at an accredited college or university approved by the Board, he or she, upon applying to and receiving approval from the Department, would receive two clock hours of continuing education credit for each academic credit received. The courses would have to be limited to physical or behavioral sciences related to the practice of funeral directing, mortuary science, or health and safety. The Department could not grant more than six continuing education clock hours of credit under these provisions during any license period.

Within 180 days after the bill's effective date, the Board would have to submit to the Legislative Service Bureau for publication in the Michigan Register a copy of the notice for public hearing concerning rules implementing the bill.

MCL 339.1806 et al.

Senate Bill 696 (S-2)

The bill specifies that the \$10 fee increase for mortuary science practitioners would have to be deposited in the Mortuary Science Education Fund that would be established in the State Treasury and administered by the Department of Licensing and Regulation. The Department could use the Fund only to administer the continuing education requirements that would be imposed by Senate Bill 521 on mortuary science practitioners. Any unspent balance in the Fund at the end of a fiscal year would be carried forward to the next fiscal year.

Currently, the Act provides that a person licensed or seeking licensure to manufacture, distribute, prescribe, or dispense controlled substances must pay an application processing fee of \$10. Further, for a pharmacist,

pharmacy, manufacturer, or wholesaler, or for research and instructional activities there is a \$50 annual license fee that will decrease to \$20 after September 30, 1993. The bill would increase from \$20 to \$30 the annual license fee that would be imposed after September 30, 1993, and provide that the application processing and license fees would apply to a person licensed or seeking licensure to manufacture, distribute, prescribe, dispense or conduct research with controlled substances.

MCL 338.2203 & 338.2243

FISCAL IMPACT

Senate Bill 521 (S-2)

The bill would have an annual cost to the State of approximately \$38,000. It would have no fiscal impact on local government. The bill would require the Department of Licensing and Regulation to hire a Secretary V to review the established courses, to confirm that the licensees were taking the correct courses, to review the number of course hours taken by each licensee, to redesign the forms, and to coordinate the computer programming required.

Senate Bill 696 (S-2)

The bill would increase annual State revenue by approximately \$31,110 and would have no fiscal impact on local government. Two-thirds of the revenue, or almost \$21,000, would have to be used to finance continuing education in mortuary science as proposed by Senate Bill 521.

In addition, after September 30, 1993, the bill would increase annual State revenue by approximately \$400,000 over the revenue that would be generated after September 30, 1993, due to the change in controlled substance license fees.

ARGUMENTS

Supporting Argument

By increasing the minimum educational requirements for mortuary science students and mandating continuing educational requirements for practitioners, Senate Bill 521 (S-2) would help ensure that they stay abreast of important medical, financial, and legal developments in

their field, and have the knowledge and expertise to serve and protect their clients.

Supporting Argument

Senate Bill 696 (S-2) would make it clear that persons wishing to be licensed to prescribe or conduct research with controlled substances are required to pay both the application processing fee and the annual license fee. Further, the bill provides that in 1993 the license fee would revert to its pre-1988 level of \$30, rather than decrease to \$20, which some claim was never the plan.

Supporting Argument

Senate Bill 521 (S-2) would save certain funeral establishments the unnecessary expense of purchasing and maintaining equipment and supplies to provide a service (embalming) that by religious tenent they are forbidden to perform, and that they consequently do not perform.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.