

Legislative Analysis



MANAGERS OF FUNERAL ESTABLISHMENTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 696 (H-1) as reported from House committee

Sponsor: Sen. Rick Outman

1st House Committee: Regulatory Reform

2nd House Committee: Ways and Means

Senate Committee: Regulatory Reform

Complete to 6-24-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 138 of 2020)

SUMMARY:

Senate Bill 696 would amend Article 18 (Mortuary Science) of the Occupational Code to establish a waiver process that would allow a mortuary science licensee to manage two funeral establishments under certain circumstances. (Departmental rules currently prohibit an individual from managing more than one such establishment.) The bill would also revise other provisions related to the management of funeral establishments, as described in detail below.

Currently under the act, a funeral establishment must be *operated* by a *person* who is the holder of a license for the practice of mortuary science. The bill would replace the italicized terms with “managed” and “individual.”

Manager of a funeral establishment

The act currently requires a funeral establishment to register the name of the owner with the Department of Licensing and Regulatory Affairs (LARA) and to conspicuously display at its entrance the name of the person licensed to conduct the establishment. Failure to make a full and complete disclosure of the owner is grounds for revocation of the establishment’s license.

The bill would remove the provisions described in the above paragraph and instead require a funeral establishment to notify LARA, in writing, of the name of the individual appointed as manager of the establishment and to conspicuously display that individual’s name at the entrance of the establishment. (Violation of the Occupational Code or its rules is generally grounds for revocation of a license under the code.) If a new manager were appointed for an establishment, LARA would have to be notified in writing of the new manager’s name no later than 30 days after the date of the appointment.

The bill would prohibit a funeral establishment manager from living more than 75 miles from the establishment. A manager also could not manage more than one funeral establishment, unless he or she received a waiver, described below, allowing him or her to manage two establishments. (Except for the waiver, these provisions would largely codify, with a minor change, existing administrative rules into statute. See **Background**, below.)

The bill would add a provision requiring the manager of a funeral establishment to ensure that the funeral establishment complies with all applicable laws.

Waiver to allow a manager to manage two establishments

The bill would require the director of LARA to receive and approve or deny requests for waivers to allow an individual to act as the manager of two funeral establishments. All of the following would apply to a waiver request:

- The waiver would have to be requested by the prospective manager.
- The request would have to include all of the following:
 - The prospective manager's name and mortuary science license number.
 - The name and license number of each affected funeral establishment.
 - Documentation supporting the existence of the factors described below.
- The director could not grant a waiver unless all of the following factors were met:
 - The funeral establishments are located in the same county or contiguous counties.
 - Based on data from the most recent decennial census, the population density of the county in which each of the funeral establishments is located is less than the population density of this state.
 - The funeral establishments are located within 90 miles of each other.

Branch establishments

The act requires a branch establishment to be managed by an individual who is the holder of a license for the practice of mortuary science. The bill would add that the manager must ensure that the branch establishment complies with all applicable laws.

The bill would take effect 90 days after its enactment.

MCL 339.1801 and 339.1809

BACKGROUND AND BRIEF DISCUSSION:

R 339.18937 of the Michigan Administrative Code currently requires each funeral establishment to have in its direct employment a mortuary science licensee who is designated as the establishment's manager. The manager is required to be employed full-time and to be available at all times for funeral-related purposes. The rule further requires that the manager live within one hour's normal commuting time from the funeral establishment, and it prohibits a mortuary science licensee from managing more than one establishment.

Senate Bill 696 would require a manager to live within 75 miles of the funeral establishment (rather than within an hour's commute) and would prohibit a manager from managing more than one establishment. However, the bill would also establish a process for a waiver that would allow one manager to manage two funeral establishments if certain conditions, described above, were met. The House Regulatory Reform committee adopted an amendment to the Senate-passed version of the bill that would require the director of LARA, rather than a panel established by the Board of Examiners of Mortuary Science, to approve or deny requests for a waiver for a funeral director to manage two funeral homes. Having the director review waiver applications, rather than a panel selected by the Board, seems to some to be a more objective process.

Funeral homes are unlike other businesses. Small towns often have only one funeral home or none at all. Especially in rural areas, funeral homes become cornerstones of their communities, not only serving residents during a time of loss, but also supporting many activities in the area.

According to industry members, funeral homes in rural areas have been hard hit by low population numbers and a growing interest in cremation. Many are finding it hard to make a living managing just one funeral home or hiring a full-time person to manage a branch facility in a nearby town. Reportedly, some older funeral directors would like to retire but cannot find anyone to take over the business because of the low profit margin.

Senate Bill 696 would enable funeral directors serving low-population areas to obtain a waiver allowing them to operate an additional funeral home. Service to customers should not suffer, as the second, or branch, funeral home would have to be close by and a part-time funeral director could assist the full-time director designated as the home's manager. Since the two funeral homes would still have oversight by a licensed professional, proper management and compliance with state laws should continue. The bill would enable funeral homes in small towns and rural areas to stay viable and prevent closures that would leave residents without access to funeral and memorial services.

FISCAL IMPACT:

Senate Bill 696 may increase administrative responsibilities for LARA. Existing department resources would likely be sufficient to accommodate any increase. The bill would not have an impact on any other unit of state or local government.

POSITIONS:

Representatives of the following entities testified in support of the bill (5-13-20):

- Michigan Funeral Directors Association
- Service Corporation International (SCI)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.