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Fiscal Note

Drafting Number: LLS 24-0082 Date: March 20, 2024
Prime Sponsors: Sen. Roberts; Gardner Bill Status: Senate Business, Labor, & Tech.
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Bill Topic: REGULATE MORTUARY SCIENCE OCCUPATIONS

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [] Local Government
[X] State Expenditure [X] TABOR Refund [] Statutory Public Entity

The bill requires the Department of Regulatory Agencies to regulate certain mortuary science occupations. Starting in FY 2024-25, the bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$121,166 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 24-173

Table with 5 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

Summary of Legislation

The bill requires that mortuary science professionals, including funeral directors, mortuary science practitioners, embalmers, cremationists, and natural reductionists, hold a valid state license, starting January 1, 2026. It also establishes a scope of practice for each profession. The Department of Regulatory Agencies (DORA) is responsible for administering the licensure program, including rule promulgation, fee setting, enforcement, and disciplinary proceedings.

The bill establishes requirements for licensure, including background checks and education requirements. Current practitioners may obtain a provisional license if they do not meet education requirements as long as they meet other specified criteria. A person who holds a provisional license for 24 months without disciplinary action qualifies for full licensure. License renewal requires completion of continuing education.

Finally, the bill requires that registered funeral establishments and crematories are operated by licensed professionals and clarifies civil penalties for registered facilities and professionals.

Background

DORA conducted a sunrise review in 2023, which recommended regulation of funeral service professionals. The full review can be found [here](#).

State Revenue

The bill increases state revenue by \$345,950 in FY 2025-26 to the Division of Professions and Occupations (DPO) Cash Fund in DORA and the Colorado Bureau of Investigation (CBI) Identification Unit Cash Fund in the Department of Public Safety (CDPS). Starting in FY 2026-27, the bill increases state revenue by about \$302,500 per year to the DPO Cash Fund. These impacts are shown in Table 2 and discussed below.

Table 2
Fee Impact on Mortuary Science Professionals

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2025-26	License Fee	\$275	1,100	\$302,500
	CBI Background Check	\$39.50	1,100	\$43,450
FY 2024-25 Total				\$345,950
FY 2026-27	License Fee	\$275	1,100	\$302,500
FY 2025-26 Total				\$302,500

Fee impact on mortuary science professionals. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill authorizes a license fee and requires a background check, which incurs a fee, for mortuary science professionals.

- **License fees – DORA.** This fiscal note assumes that DORA will start accepting applications for licensure in FY 2025-26, and that licenses must be received by January 1, 2026. It is further assumed that licenses are on an annual renewal cycle, and that the fee charged in FY 2025-26 and FY 2026-27 will be used to cover the first three years’ worth of costs from FY 2024-25 through FY 2026-27. In future years, fees will likely be lower (around \$225 per year) based on the program’s ongoing costs. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, program costs, and the number of licenses subject to the fee.
- **Fingerprint-based background checks – CDPS.** This bill increases state cash fund revenue from fingerprint-based criminal history background checks to the CBI Identification Unit Cash Fund in the CDPS by \$43,450 in FY 2025-26. This assumes 1,100 checks will be conducted in FY 2025-26. Revenue will minimally increase in future years to the extent new professionals apply for a license.

The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint-based check, which is passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit, meaning \$31,075 of this total is subject to TABOR. The background check is required only upon initial application for licensure.

State Expenditures

The bill increases state expenditures in DORA by about \$142,00 in FY 2024-25, by \$229,000 in FY 2025-26, and by \$223,000 in FY 2026-27, paid from the DPO Cash Fund. Expenditures increase in CDPS by about \$39,000 for FY 2025-26 only. Expenditures are shown in Table 2 and detailed below.

**Table 3
 Expenditures Under SB 24-173**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Regulatory Agencies			
Personal Services	\$94,013	\$137,249	\$136,711
Operating Expenses	\$1,280	\$2,304	\$2,304
Capital Outlay Costs	\$6,670	\$6,670	-
Legal Services	\$19,203	\$48,008	\$48,008
Complaint Consultant		\$600	\$1,200
Centrally Appropriated Costs ¹	\$20,800	\$34,443	\$34,392
FTE – Personal Services	1.0 FTE	1.8 FTE	1.8 FTE
FTE – Legal Services	0.1 FTE	0.2 FTE	0.2 FTE
DORA Subtotal	\$141,966	\$229,274	\$222,615

**Table 3
 Expenditures Under SB 24-173 (Cont.)**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Public Safety			
Personal Services	-	\$11,154	-
FBI Pass-through	-	\$12,375	-
Processing Costs	-	\$12,076	-
Centrally Appropriated Costs ¹	-	\$3,697	-
FTE – Personal Services	-	0.2 FTE	-
CDPS Subtotal	-	\$39,302	-
Total Cost	\$141,966	\$268,576	\$222,615
Total FTE	1.1 FTE	2.2 FTE	2.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. DORA will create and administer a licensure program for mortuary science professionals.

- **Staff.** DORA requires 1.8 FTE to administer the program when fully implemented. This staff level is phased in over three years. In FY 2024-25, 1.0 FTE is required to conduct rulemaking and establish program operations. Beginning in FY 2025-26 1.8 FTE is required to conduct outreach, processing applications, manage renewals and conduct enforcement. Start dates are staggered based on assumed start date for different positions. Standard operating and capital outlay costs included.
- **Legal services.** DORA requires 150 hours for rulemaking in FY 2024-25, with ongoing rulemaking support of 75 hours required in subsequent years. Additionally, 300 hours are required for enforcement once licensure is required beginning in FY 2025-26. Thus, 375 hours are required in FY 2025-26 and beyond. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.
- **Complaint consultant.** DORA anticipates that some complaints will require the services of an expert consultant to assist with investigations, estimated at \$600 in FY 2025-26 for a consultant for a half year of complaints, and \$1,200 required in FY 2026-27 and beyond.

Department of Public Safety. For FY 2025-26 only, the bill increases overall expenditures from the CBI Identification Unit Cash Fund in DPS by \$39,301, as described below

- **Staff.** For FY 2025-26 only, DPS will require 0.1 FTE Fingerprint Examiner II and 0.1 FTE Data Specialist to process an estimated 1,100 fingerprint background applications from mortuary science license applications. A Fingerprint Examiner II can process 8,250 requests per year, and a Data Specialist 16,500.

- **FBI pass-through.** The CDPS passes \$11.25 of every application on to the federal government. With 1,100 applications, this equates to \$12,375 for FY 2025-26.
- **Processing costs.** There are the following costs associated with each background check application: \$6.10 dedicated to equipment maintenance; \$1.55 for print digitization; \$0.88 to access the Colorado Crime Information Center for information pertinent to the background check; and \$0.63 printing and postage costs. This also includes training costs for FTE.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires an appropriation of \$121,166 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies, and 1.0 FTE. Of this amount, \$19,203 is reappropriated to the Department of Law, with an additional 0.1 FTE.

State and Local Government Contacts

Information Technology
Personnel

Judicial
Public Safety

Law
Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).