

**2009 Regular Legislative Session**  
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**  
**Prepared by the Oregon Legislative Fiscal Office**

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**MEASURE NUMBER:** SB 796

**STATUS:** A Engrossed

**SUBJECT:** Establishing licensing requirements for death care consultants and certification requirements for facilities for final disposition of human remains. Promoting environmentally sound death care practices. Imposing requirements relating to burials on private lands.

**GOVERNMENT UNIT AFFECTED:** State Mortuary and Cemetery Board, Department of Human Services, Oregon Health and Science University

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**REVIEWED BY:** Robin LaMonte, John Britton

**DATE:** May 1, 2009

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**2009-2011**

**2011-2013**

**EXPENDITURES:**

See Analysis

**EFFECTIVE DATE:** The bill includes an emergency clause and is effective on passage. The bill also includes an operative date of March 31, 2010 for certain sections, and also provides that the State Mortuary and Cemetery Board may take action on the provisions of certain sections before the operative date.

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**ANALYSIS:** Senate Bill 796 stipulates that regardless of any title used, an individual may not practice as a funeral service practitioner, an embalmer or a death care consultant unless licensed by the State Mortuary and Cemetery Board. The bill clarifies that a person may not operate a cemetery, a crematorium or a facility for final disposition of human remains unless certified by the State Mortuary and Cemetery Board. The bill mandates a person may not use any property for cemetery or burial park unless the person is the owner of the property, has written consent from the appropriate governing body, maintains records of disposition, and discloses the disposition of human remains upon sale of the property. This measure defines "final disposition," and amends the definition of "cemetery" to include scattering gardens and cenotaphs.

**State Mortuary and Cemetery Board**

Passage of this bill would have minimal fiscal impact on the State Mortuary and Cemetery Board. The bill allows the Board to establish new types of licensing and certification requirements to respond to the changing trends and technology in death care. The bill directs the Board to adopt rules promoting environmentally sound death care practices. Administrative rulemaking and modifications to licensing and certification requirements to comply with the provisions of this bill would be carried out with existing staff and resources.

**Department of Human Services (DHS)**

Passage of this bill would have minimal fiscal impact on DHS. Passage of this measure, would required the Department to adopt new administrative rules, and modify the death certificate system including changes in forms and instructions. The requirements of this bill are part of the ongoing work of the Department.

The bill specifies that if the deceased person is an indigent person, DHS shall reimburse the funeral service practitioner for the costs of disposition. The bill removes language regarding reimbursement cap and timeline, and directs the Department to adopt rules establishing the manner of disposition and the process for reimbursement if the deceased is an indigent person. Under current law, DHS is charged with reimbursing funeral service practitioners. Rulemaking regarding the manner of disposition and reimbursement for indigent persons will be carried out with existing staff and resources.

If the deceased is a child under the guardianship of DHS, the Department is required to promptly locate and notify the relatives and any other person who has an interest in the child. If no relatives or persons who have an interest in the child exist, the Department may transfer the body to an institution that is on the list maintained by the Demonstrator of Anatomy. This process is current practice for the Department.

**Oregon Health and Science University (OHSU)**

Passage of this bill would have no fiscal impact on the Oregon Health and Science University. The bill requires the University to maintain a list of institutions that may accept or process bodies for education or research purposes. The University currently maintains such a list.