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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 3/10/23

SPONSOR Stefanics

BILL

SHORT TITLE Natural Organic Reduction of Human Body **NUMBER** Senate Bill 407

ANALYST Helms

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
	Indeterminate but minimal	Indeterminate but minimal	Recurring	Funeral Services Fund (RLD)

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY24	FY25	2 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$0.00 - \$108.80	\$0.00 - \$108.80	\$0.00 - \$217.60	Recurring	Funeral Services Fund (RLD)
Total	(Minimal)	(Minimal)	(Minimal)	Recurring	Office of the Medical Investigator Operating Budget

Relates to House Bill 407, Senate Bill 285

Sources of Information

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

University of New Mexico / Office of the Medical Investigator (UNM, which houses the OMI)

Office of the Attorney General (NMAG)

Department of Health (DOH)

SUMMARY

Synopsis of Senate Bill 407

Senate Bill 407 (SB407) amends the Public Health Act and Funeral Services Act to allow for natural organic reduction of a dead human body, for unclaimed bodies to be reduced by natural organic reduction, and for licensing requirements and any disciplinary proceedings concerning natural organic reduction.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

Senate Bill 407 does not include an appropriation.

While analysis from RLD anticipates needed funding for an additional full-time inspector in the Board and Commissions Division at \$108.8 thousand, LFC analysis finds it unclear if demand for natural organic reduction would be at a high enough rate to require an additional FTE. Establishing licensure and disciplinary proceedings for natural organic reduction operators and natural organic reduction facilities could incur some revenue; the bill does not establish license fees and RLD notes it is unable to provide an estimate regarding anticipated licensing applicants.

Additionally, offering a licensed option of natural organic reduction could potentially divert revenue from cremation permits at the Office of the Medical Investigator (OMI); SB407 does not provide for a permit for organic reduction (see “Technical Issues,” below).

SB407 would maintain a limit of expense for burial, cremation, or natural organic reduction to \$600. Analysis from OMI notes OMI and various New Mexico counties have been working together over the past year to propose statutory changes aimed at increasing the county monetary limits to bury or cremate (or provide natural organic reduction, should SB407 pass) indigent or unclaimed decedents. The current limit of \$600 per decedent is not in line with current expense estimates, and is discussed in House Bill 407 (see “Technical Issues” and “Relationship” for discussion of expense limits).

SIGNIFICANT ISSUES

Natural organic reduction is an additional means of disposing of after-death human remains and has been adopted by legislation in some neighboring states, including Colorado. Through a method of accelerated composting with microbes and other processes, natural organic reduction converts a decedent into usable soil in roughly three to four months.

Throughout the Public Health Act and Funeral Services Act wherever cremation is mentioned, SB407 amends language to include “or natural organic reduction” or references to natural organic reduction facilities or operators. SB407 adds definitions pertaining to natural organic reduction including

- “Natural organic reduction” means the contained, accelerated conversion of human remains to soil;
- “Natural organic reduction facility” means the structure, room or other dedicated space in a building where natural organic reduction of a human body occurs; and
- “Reduced remains” means the soil that remains after a dead human body has gone through the natural organic reduction process.

SB407 also allows for unclaimed decedents or a deceased person considered indigent to undergo natural organic reduction in addition to burial or cremation, for required licensure of those operating natural organic reduction processes, for licensure related to natural organic reduction facilities, and the scope of practice allowable to said licenses.

Analysis from RLD reports the Board of Funeral Services was consulted regarding SB407. The Board of Funeral Services supports the legislation and understands that it would be its responsibility to develop rules consistent with changes made in the bill.

The office of the Attorney General finds no major constitutional or legal issues with this bill.

Analysis from the Office of the Medical Investigator notes several consequential technical issues below under “Technical Issues.”

ADMINISTRATIVE IMPLICATIONS

The Regulation and Licensing Department would have some administrative work to integrate an additional license and fee promulgation.

Should there be an amendment to have a permit and associated fees for natural organic reduction, the Office of the Medical Investigator would have some administrative work to establish the permit and fee process.

CONFLICT AND RELATIONSHIP

SB407 relates to and somewhat conflicts with House Bill 407 (HB407), which would amend payments amount for burial and cremation of unclaimed decedents from \$600 to \$1,000. HB407 also amends and updates various statute related to unclaimed decedents and would clarify limits on disposition of unclaimed decedents, statute on legal next of kin and attempts to locate legal next of kin, payment amounts for disposition, and expenses for opening and closing a grave. Additionally, HB407 removes “indigent persons” from the scope of the medical examiner’s purview concerning dispositions of a body, whereas SB407 would include “indigent persons” as appropriate for natural organic reduction.

The Office of the Attorney General analysis for SB407 notes:

SB285 (Expands Definition of Cremation) modifies the definition of cremation to include “alkaline hydrolysis” as a “means to reduce a dead human body... to a residue that may include bone fragments.” If both bills pass, it would likely create confusion unless one bill was amended to include the provisions of the other. It is possible the definition of cremation could include alkaline hydrolysis, but it is not clear if SB407 Natural Organic Reduction of Human Body already includes the alkaline hydrolysis method of reducing a human body and the state funeral services board may adopt in its board rules the different methods of “natural organic reduction” of a dead human body.

TECHNICAL ISSUES

There are several consequential technical issues notes from RLD, OMI, and DOH.

The Regulation and Licensing Department notes RLD has made efforts to move licensing and fee processes to on-line platforms, noting:

As boards transition to on-line applications, licensure requirements should remove references to completing “forms furnished by the board” and simply require an applicant to “file a completed application accompanied by the required fees.” This language for every license issued by the Board of Funeral Services should be updated to clearly support the on-line application processes.

The Office of the Medical Investigator notes technical issues including a lack of language for

permits for natural organic reduction, requirements for storage of remains and soil related to natural organic reduction, insufficient expense limits, and clarification around limits of permissible uses for soil produced from natural organic reduction:

- *Section 24-14-23, E* does not require the necessity of a permit (such as for cremations) for organic reduction. As the proposed changes are written, the Office of the Medical Investigator (OMI) would not be allowed to review the death, and remains would not be accessible for examination after organic reduction. In certain deaths, the OMI must review the case to ensure that examination has occurred in potential crimes that may go unreported to the OMI related to death. This ensures that organic reduction doesn't occur before the Office of the Medical Investigator is afforded the opportunity for an examination in jurisdictional cases, as well as for jurisdictional deaths that are unreported. To be congruent with current cremation practices, organic reduction would require a permit from the OMI.
- *Section 3, 24-13-1, (page 6, lines 1-5)* states that remains would be retained and stored for no less than two years, in a manner that allows for identification of the remains. With regard to human composting, the amount of soil generated is significant, such that storage would be an issue. The line item above would need clarification with regard to organic reduction.
- *Section 5, 24-13-3 (page 7, lines 7-12)* states that expenses would be covered up to \$600. Organic reduction costs far exceed the proposed reimbursement cost (ranging from \$1,800 to \$5,000). These changes must allow for more funding due to a more costly process. (Additionally, these changes may accompany the proposed changes in HB407 for unclaimed decedents with respect to reimbursement.)
- Lastly, the consideration of adding a clause that organic reduction material not be used for growth of food products for human consumption, should be considered, as in other states where such precedents exist.

The Department of Health notes Colorado Senate Bill 2021-066 notes several prohibitions that are not contained within SB407 but should nevertheless be considered:

- Selling or offering to sell the soil;
- Commingling the soil of more than one person without the consent of the person or persons with the right of final disposition unless the soil is abandoned;
- Commingling the human remains of more than one person without the consent of the person or persons with the right of final disposition within the container wherein natural reduction produces soil; or
- Using the soil to grow food for human consumption.

The Department of Health also supports an amendment to SB407 allowing OMI to have permitting authority for natural organic reductions.

Additionally, SB407 does not define permissible means for natural organic reduction.