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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13
 SPONSOR SPAC LAST UPDATED 03/01/13 HB _____
 SHORT TITLE Registration of Certain Fetal Deaths SB 305/SPACS
 ANALYST Esquibel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	\$0.3	\$1.0		General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

The Senate Public Affairs Committee substitute for Senate Bill 305 (SB305/SPACS) proposes to amend the Vital Statistics Act to register fetal deaths; change the reporting requirements from 500 grams to 20 weeks or 350 grams or greater if the gestational age is unknown; produce a “Certificate of Birth Resulting in Stillbirth” which would allow families the option of requesting this certificate or the Report of Fetal Death; allow for the creation of delayed certificates of birth resulting in stillbirth; and collect fees. A certified copy of the “Report of Spontaneous Fetal Death” or “Certificate of Birth Resulting in Stillbirth” would have a fee of \$5.00.

FISCAL IMPLICATIONS

SB 305 would allow for a \$5.00 fee to conduct a search and issue a “Report of Spontaneous Fetal Death” or “Certificate of Stillbirth.” Revenue from the collection of these fees would go to the general fund. According to Bureau of Vital Records statistics, between 80 and 100 reports of spontaneous fetal death are provided to the bureau each year, but with the adoption of this bill the number of certificates and reports is projected to increase. In 2012, three Certificates of Stillbirth (provided by regulation) were issued. In FY14, the provisions of the bill would be in effect for half the year so the revenue generated through issuance of reports or certificates would

be approximately $100 \times \$5/2 = \250 . For FY15, the estimates are for a full year and expect more issuance of reports and certificates, so $200 \times \$5 = \$1,000$.

SIGNIFICANT ISSUES

The Department of Health (DOH) indicates it recently modified its regulations (NMAC 7.2.2) to create a certificate of stillbirth from reports of spontaneous fetal death and to allow for: 1) the name of the fetus on the certificate; 2) the name of the parents on the certificate; 3) no charge to the parent for the Report of Fetal Death; 4) a certificate of stillbirth for stillbirth events that occurred from January 2004 forward if a report of spontaneous fetal death was filed with the DOH; and 5) the integrity of vital records such that records could not be altered or used for other purposes, i.e. to be used as evidence of a birth. The regulation provides the certificate of stillbirth only to the parent or parents listed on the corresponding report of spontaneous fetal death. This is consistent with laws of other states. There would be no rights or benefits conferred by this certificate.

The DOH writes SB305/SPACS may compromise the confidential nature and the integrity of vital records in that those with direct and tangible interest can request a certificate of birth resulting in stillbirth (which could be used for fraudulent purposes). Currently, NMAC 7.2.2.18E only allows the parents to access the certificate of stillbirth. The bill may also compromise the integrity of vital records in that affidavits may substantiate alleged spontaneous fetal deaths, when vital records are not currently established based on such limited proof. Further, the bill's language is not as strong as that of the rule, which clearly indicates that the certificate is not intended for identification or other legal purposes.

ADMINISTRATIVE IMPLICATIONS

The DOH's Bureau of Vital Records indicates it plans to implement a fetal death module in the E-Vitals system to begin with fetal deaths occurring on or after January 1, 2014. Beginning with 2012, the Report of Fetal Death was modified to be consistent with the U.S. 2008 Standard Report of Fetal Death. The changes specified in SB 305 could be included with this implementation. Training of staff in institutions would be necessary to inform women delivering stillbirths that they may request a certificate of birth resulting in stillbirth and individuals who complete the report will also need to be trained. It would be necessary to develop a patient and facility worksheet so that the information on the certificate is complete; procedures for verifying and correcting the certificate; and procedures for creating a delayed certificate of birth resulting in stillbirth.

TECHNICAL ISSUES

The DOH indicates SB305/SPACS may conflict with DOH rules and regulations (NMAC 7.2.2.18E) which only allow the parents to access the certificate of stillbirth. The bill may also compromise the integrity of vital records in that affidavits may substantiate alleged spontaneous fetal deaths, when vital records are not currently established based on such limited proof. Further, the language in the bill is not as strong as that of the rule, which clearly indicates that the certificate is not intended for identification or other legal purposes.

SB305/SPACS refers to the new type of certificate as a "certificate of birth resulting in stillbirth", which conflicts with the title in the existing administrative rule "certificate of still

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birth”. Enacting this bill would require amending the current rules which requires the filing of a fetal death report for any fetal death of 500 grams or more.

Section 2, page 4, item “I,” regarding the filing of a delayed registration would be open to fraud because there may or may not be any medical authority to complete registration.

Page 8, Item 2, line 20, adds a second parent which implies an adoption, which under present rule and statute, is not conducted for fetal deaths.

Page 8, line 7 includes the date of birth of the mother on the certificate resulting in stillbirth and is not consistent with other vital records certificates such as a certificate of live birth which only prints the mother’s place of birth.

ALTERNATIVES

Certificates of Stillbirth have already been established by the DOH administrative rule 7.2.2 NMAC.

RAE/blm