

medical information.¹ Before the EDRS, the process of registering and recording a death was a slow and laborious paper process, requiring travel to and from the local county health department along with the record having to pass through multiple units within the county and state offices.²

Once on file with the DOH's Bureau of Vital Statistics (Bureau), certified copies of registered death and fetal death records are issued by the Bureau upon request. These records may be needed for families to close out estates, to claim social security benefits, to be aware of any medical issues that need to be noted for future generations, or for tracing one's family roots, etc.³ Certified death records issued by the Bureau may also be delivered to the county clerk's office to be officially recorded.

In 2012, there were 405,600 requests received for certified death and fetal death records, but only a small percentage of certified death certificates issued were delivered to their respective county clerk's office by citizens who wished them recorded.⁴ The Bureau also transmits an electronic copy of all Florida death records to the Florida Association of Clerks of Court on a bi-weekly basis.⁵ However, the information in the electronic copy is not officially recorded by the clerks of court.⁶

Service Charges by Clerk of the Circuit Court

Section 28.222, F.S., instructs the clerk of the circuit court to record certified copies of death certificates authorized for issuance by the Department of Health which exclude the information that is confidential under s. 382.008, F.S.⁷ Clerk charges for services rendered in recording documents and instruments are outlined in s. 28.24, F.S. Charges for recording, indexing and filing instruments such as death certificates include \$5 for a first page, \$4 for each additional page, and an additional service charge of \$4 per page for each instrument listed in s. 28.222, F.S.⁸

¹ Electronic Death Registration System Brochure, found at:

http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/EDRSBrochure4web.pdf, last visited on Mar. 11, 2013.

² Electronic Death Registration System, found at:

http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/index.html, last visited Mar. 11, 2013.

³ The Bureau of Vital Statistics, found at: http://www.doh.state.fl.us/planning_eval/vital_statistics/index.html, last visited on Mar. 8, 2013.

⁴ Department of Health, *Bill Analysis for SB 462* (Jan. 25, 2013) on file with the Senate Committee on Community Affairs. According to the analysis, the clerk of courts record only a small percentage of Florida certified death certificates issued. In Miami-Dade County in 2011 only 4,300 of 18,723, or 23 percent, of death certificates issued were recorded.

⁵ The Association is a private, non-profit, member education association. The files received are delivered as a data stream (not an image) derived from death records from the Bureau. Clerks can use the data to check against the names provided from the Department of Highway Safety and Motor Vehicles on their jury lists and remove any names from those lists that appear on the death data. Email from Randy Long, Director of Research and Analysis, Florida Association of Court Clerks and Comptrollers (Mar. 26, 2013) (on file with the Senate committee on Community Affairs).

⁶ *Supra* at n. 4.

⁷ All information relating to cause of death in all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records are confidential and exempt from the public records provisions of s. 119.07(1), F.S.

⁸ Section 28.24(12), F.S.

III. Effect of Proposed Changes:

Section 1 amends 382.008, F.S., to require:

- The State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers (Association), Inc., twice a month.
- The Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- The clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- The clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.

Section 2 creates an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution, prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 or \$1.9 million for FY 2012-13.⁹

The extent of this bill’s fiscal impact related to the waived fees and service charges has not been determined; however, if the costs incurred by counties are greater than \$1.9 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf>.

B. Private Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 462.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 462.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A survey of 43 clerks of courts conducted by the Florida Association of Court Clerks and Comptrollers estimated a loss to reporting counties of approximately \$500,000 as a result of the waived fees.¹⁰ The Association also noted a potential additional negative indeterminate fiscal impact if confidential information such as cause of death must be redacted from files.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 14, 2013:

The CS substantially amends SB 462 to:

- Require the State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers, Inc., twice a month.
- Require the Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- Require the clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- Require the clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.
- Delete provisions requiring counties to pay fees associated with filing permanent death certificates.
- Delete provisions requiring the local registrar to record each issued permanent death certificate.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰Florida Association of Court Clerks and Comptrollers, *Fees Associated with Recording Death Certificates SB 462: Impact on Clerks of the Court* (on file with the Senate committee on Community Affairs).