

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1235 Fees
SPONSOR(S): Silvers
TIED BILLS: HB 1233 IDEN./SIM. BILLS: SB 1772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee		Morris	McElroy
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Genetic counselors provide individuals information about how genetic conditions might affect them or their families. Genetic counselors collect personal and family history and use such information to determine how likely it is that an individual or his or her family member has a genetic condition. Genetic counselors are not licensed or regulated in this state.

HB 1233 creates the "Genetic Counseling Patient Protection Act," requiring the Department of Health (DOH) to regulate and license genetic counselors.

HB 1235, which is linked to HB 1233, requires DOH to adopt rules relating to the issuance and annual renewal of genetic counselor licenses. The bill authorizes DOH to charge an application fee of \$25 for a genetic counselor license. The bill also authorizes an annual renewal fee not to exceed \$25. The bill allows DOH to waive the fee by rule. Proceeds from the collected fees must be deposited into the DOH Administrative Trust Fund and used for the administration of genetic counselor licensure.

The bill will have an indeterminate, positive fiscal impact on DOH.

The bill will be effective on the same date that HB 1233 or similar legislation takes effect.

This bill authorizes a new state fee, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Legislation Imposing or Raising State Fees or Taxes

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.¹ For purposes of this requirement, a “fee” is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to “raise” a fee or tax means to:²

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.³

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.⁴

Health Practitioner Licensure Fees

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.⁵ The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions.⁶ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA.

Under current law, the costs of regulation of health care practitioners must be borne by the licensees and licensure applicants.⁷ Regulatory boards, in consultation with DOH, must set renewal fees by rule that must be:⁸

- Based on revenue projections prepared using generally accepted accounting practices;
- Adequate to cover all expenses relating to that board;
- Reasonable, fair, and not serve as a barrier to licensure;
- Be based on potential earnings from working under the scope of the license;

¹ Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

² Fla. Const. art. VII, s. 19(d).

³ Fla. Const. art. VII, s. 19(e).

⁴ Fla. Const. art. VII s. 19(c).

⁵ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

⁶ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2019-2020*, http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/2019-2020-annual-report.pdf (last visited March 26, 2021).

⁷ Section 456.025(1), F.S.

⁸ Id.

- Similar to fees imposed on similar licensure types; and
- No more than 10 percent greater than the actual cost to regulate that profession for the previous biennium.

Genetic Counselors

Genetic counselors provide individuals information about how genetic conditions might affect them or their families. Genetic counselors collect personal and family history and use such information to determine how likely it is that an individual or his or her family member has a genetic condition. Based on such information, a genetic counselor helps an individual determine if a genetic test is suitable. Genetic counseling after genetic testing can help an individual better understand his or her test results and treatment options.⁹

Currently, genetic counselors are not licensed or regulated in this state and no fees are assessed for initial licensure or renewal.

Effect of the Bill

HB 1235, which is linked to HB 1233, authorizes DOH to adopt rules relating to the procedures for issuance and annual renewal of genetic counselor licenses, including an application and renewal fee not to exceed \$25. The bill authorizes DOH to waive such fees by rule. Proceeds from collected fees must be deposited in the Administrative Trust Fund within DOH and used for the regulation of genetic counselors.

The bill becomes effective on the same date as HB 1233 or similar legislation.

B. SECTION DIRECTORY:

Section 1: Creates s. 483.919, F.S., relating to licensure of genetic counselors.

Section 2: Provides an effective date of the same date that HB 1233 or similar legislation takes effect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Genetic counselor applicants for licensure will be assessed an application fee of up to \$25 for issuance and annual renewal of a license. The total amount of revenue DOH will receive from such fees is indeterminate because the number of genetic counselors who will apply for licensure is not predictable.

2. Expenditures:

DOH will incur costs associated with the regulation of licensees, rulemaking, and technology updates, the impact of which is indeterminate.¹⁰

⁹ Centers for Disease Control and Prevention, *Genetic Counseling*, https://www.cdc.gov/genomics/gtesting/genetic_counseling.htm (last visited March 26, 2021).

¹⁰ Department of Health, Agency Analysis of 2021 House Bill 1235 (March 22, 2021).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Genetic counselor license applicants will have to pay an application fee and annual renewal fee. The bill authorizes DOH to set the application and annual renewal fees, but neither fee may exceed \$25.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution because the bill authorizes a state fee.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking needed for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES