

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0832/P2dn
MDK:cmh:jf

April 22, 1999

Senator Shibilski:

Please review this draft very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The draft does not refer to a “unified trust” because I do not think that the meaning of that term is clear (“unified trust” does not appear in the statutes or the administrative code). Instead, under the proposed amendment of s. 445.125 (1) (a) 2., stats., a single trust agreement may be used for all of merchandise or services that are provided for a decedent. Is this okay?

2. I am not sure I understand your intent regarding a county’s use of a unified trust for purposes of medical assistance. However, note that s. 49.47 (4) (b) 3., stats., refers to “the amount in any irrevocable burial trust under s. 445.125 (1) (a)”. Under the draft, s. 445.125 (1) (a), stats., is amended to eliminate the cap on the amount of a trust that may be made irrevocable and to specify, as noted above, that a single trust may be used for all merchandise and services provided for a decedent. Therefore, it does not appear to me that any changes to the medical assistance statutes are necessary.

3. The amendment of s. 445.12 (3) (b), stats., is intended to clarify that the same persons that are allowed to sell burial agreements funded with insurance may also sell burial agreements funded with trusts. Is the amendment okay? Note that I could not find any administrative rule that allows only a funeral director to sell a burial agreement funded with a trust.

4. Are the penalties in the proposed amendment of s. 440.95 (3), stats., okay?

5. Note that the requirements in proposed s. 440.947 are intended to incorporate the provisions of the Federal Trade Commission (FTC) regulations that are described in the FTC’s summary that you provided to me.

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