

Rep. Loudenbeck: Bill on preservation of burial sites passes assembly

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Madison – Today, the Wisconsin State Assembly passed Assembly Bill 118 (AB 118) regarding the preservation of burial sites. AB 118 originated from work done by the Joint Legislative Council Study Committee on the Preservation of Burial Sites which was chaired by Rep. Amy Loudenbeck (R-Clinton).

During the summer and fall interim of each even-numbered year, the Legislative Council selects a number of subjects for study from suggestions submitted by members of the Legislature. Often these topics are issues that are difficult to resolve in the regular course of legislative business or that legislators feel require further consideration prior to the introduction of legislation. Each subject is appointed a study committee comprised of legislative and public members with expertise or interest in the issue.

The Legislative Council Study Committee on the Preservation of Burial Sites was directed to review and determine whether the state statutes adequately balance the interests of scientists, landowners, developers and others with an interest in a burial site including those with a kinship interest and those with a general cultural, tribal or religious affiliation with the burial site. The committee considered modifications to procedures regarding encounters with burial sites during ground-disturbing activities is necessary.

The Study Committee heard testimony from state agencies, professionals, and numerous other stakeholders throughout the course of its study. All members of the Study Committee were also encouraged to offer suggested changes to the current burial sites preservation law based on the testimony provided to the committee, as well as members' own professional experience.

"AB 118, is a consolidated bill that includes all proposals for which the study committee reached clear majority consensus. I am proud of the bill, and also of the level of engagement and respect demonstrated by committee members throughout the process," said Rep. Loudenbeck.

The bill's key provisions include the following:

Creating a new disclosure provision in the real estate condition report for certain residential properties, requiring sellers to disclose to potential buyers whether the seller is aware of one or more burial sites on the property.

Creating new evidentiary requirements for the historical society to consider when determining whether to record a burial site in a catalog of burial sites under the preservation law, as well as a new procedure for a landowner to contest decisions to record burial sites and surrounding land in the catalog.

Creating a new statutory procedure for removing burial sites and land from the catalog, including three types of evidence that the historical society's director may rely upon to determine that there is not sufficient evidence for cataloging the land.

Increasing the minimum width from five to 10 feet for the "sufficient contiguous land" that must be recorded in the catalog together with a burial site, as well as creating a new exception to the minimum width requirement for circumstances in which, based on the unique characteristics of the land, a shorter distance is sufficient to protect the burial site.

Modifying of the method for selecting tribal members of the Burial Sites Preservation Board to allow submissions of names from any federally-recognized tribe in the state.

Creating a new, optional role for the Wisconsin Inter-Tribal Repatriations Committee, or its designee, in decisions regarding the disposition of tribal remains and objects removed from a burial site.

Amending various aspects of current law to clarify statutory discrepancies or reflect current practice.

AB 118 will now be referred to a senate committee where it will await a public hearing.