



2013 ASSEMBLY BILL 508

November 14, 2013 - Introduced by Representatives KLEEFISCH and KAPENGA.
Referred to Committee on Consumer Protection.

1 **AN ACT to repeal** 157.067 (title), 157.067 (2) and (2m) and 445.12 (6); **to**
2 **renumber** 157.067 (1); **to renumber and amend** 157.635; **to amend** 70.11
3 (13); and **to create** 157.066, 157.635 (2) and 445.12 (6m) of the statutes;
4 **relating to:** permitting a funeral establishment to be located in a cemetery,
5 prohibiting discrimination against a funeral establishment that has no
6 relationship with a cemetery, prohibiting discrimination against a cemetery
7 that has no relationship with a funeral establishment, and eliminating a
8 property tax exemption for cemetery authority property.

Analysis by the Legislative Reference Bureau

Current law prohibits a licensed funeral director from operating a funeral establishment or mausoleum in a cemetery. Current law also prohibits a cemetery authority from permitting a funeral establishment to be located on cemetery property. With certain exceptions, current law prohibits a cemetery authority from receiving or accepting any commission, fee, remuneration, or benefit of any kind from a funeral establishment or from an owner, employee, or agent of a funeral establishment. This bill eliminates each of those prohibitions.

Under the bill, if a cemetery authority erects, maintains, owns, operates, or is financially connected to a funeral establishment, that cemetery authority may not

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prohibit the burial at the cemetery authority's cemetery of a deceased individual whose human remains were prepared for burial or transportation or whose funeral services were conducted at a funeral establishment other than a funeral establishment that the cemetery authority erects, maintains, owns, or operates, or to which the cemetery authority is financially connected. Also, a funeral establishment that has an ownership or other financial relationship with a cemetery authority may not require the human remains of a decedent to be buried in the cemetery authority's cemetery as a condition of those human remains being cared for or prepared for burial or transportation at that funeral establishment.

Current law authorizes the cemetery authority of a cemetery that is affiliated with a religious society to adopt regulations that prohibit the burial in the cemetery of the human remains of an individual who is not in the class of individuals identified by the religious society for burial in the cemetery. This bill retains that authorization. However, under the bill, a religiously affiliated cemetery authority may not adopt regulations that prohibit the human remains of an individual from being buried at the cemetery authority's cemetery because the human remains were prepared for burial or transportation or the funeral services were conducted at a funeral establishment other than a funeral establishment that the cemetery authority erects, maintains, owns, or operates, or to which the cemetery authority is financially connected.

Under current law, land owned by a cemetery authority that is used exclusively as public burial grounds, tombs, and monuments is exempt from the property tax. In addition, personal property owned by the cemetery authority that is necessary for the care and management of burial grounds and sites is exempt from the property tax. Under the bill, land physically occupied by a funeral establishment, if the land is located in a cemetery, is subject to the property tax.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 70.11 (13) of the statutes is amended to read:

2 70.11 (13) CEMETERIES. Land owned by cemetery authorities, as defined in s.
3 157.061 (2), and used exclusively as public burial grounds and tombs and
4 monuments therein, and privately owned burial lots; land adjoining such burial
5 grounds, owned and occupied exclusively by the cemetery authority for cemetery

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1 purposes; personal property owned by any cemetery authority and necessary for the
2 care and management of burial grounds; burial sites and contiguous lands which are
3 cataloged under s. 157.70 (2) (a). This subsection does not apply to land physically
4 occupied by a funeral establishment, if the land is located in a cemetery.

5 **SECTION 2.** 157.066 of the statutes is created to read:

6 **157.066 Discrimination against funeral establishments prohibited.**

7 (2) No cemetery authority that erects, maintains, owns, operates, or is
8 financially connected to a funeral establishment may prohibit the human remains
9 of an individual from being buried in the cemetery for any of the following reasons:

10 (a) The funeral services for the deceased individual were conducted at a funeral
11 establishment other than a funeral establishment erected, maintained, owned,
12 operated, or financially connected to the cemetery authority's cemetery.

13 (b) The human remains of the deceased individual were cared for or prepared
14 for burial or transportation at a funeral establishment other than a funeral
15 establishment erected, maintained, owned, operated, or financially connected to the
16 cemetery authority's cemetery.

17 **SECTION 3.** 157.067 (title) of the statutes is repealed.

18 **SECTION 4.** 157.067 (1) of the statutes is renumbered 157.066 (1).

19 **SECTION 5.** 157.067 (2) and (2m) of the statutes are repealed.

20 **SECTION 6.** 157.635 of the statutes is renumbered 157.635 (1) and amended to
21 read:

22 157.635 (1) ~~Nothing~~ Subject to sub. (2), nothing in this subchapter prohibits
23 a cemetery authority of a cemetery that is affiliated with a religious society organized
24 under ch. 187 from prohibiting the burial of the human remains of an individual in
25 the cemetery if the individual was in a class of individuals who are prohibited under

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1 regulations adopted by the cemetery authority or religious society from being buried
2 in the cemetery.

3 **SECTION 7.** 157.635 (2) of the statutes is created to read:

4 157.635 (2) A cemetery authority described in sub. (1) may not adopt a
5 regulation that prohibits the human remains of an individual from being buried in
6 the cemetery for any of the following reasons:

7 (a) The funeral services for the deceased individual were conducted at a funeral
8 establishment other than a funeral establishment erected, maintained, owned,
9 operated, or financially connected to the cemetery authority's cemetery.

10 (b) The human remains of the deceased individual were cared for or prepared
11 for burial or transportation at a funeral establishment other than a funeral
12 establishment erected, maintained, owned, operated, or financially connected to the
13 cemetery authority's cemetery.

14 **SECTION 8.** 445.12 (6) of the statutes is repealed.

15 **SECTION 9.** 445.12 (6m) of the statutes is created to read:

16 445.12 (6m) No licensed funeral director or operator of a funeral establishment
17 that is erected, maintained, owned, or operated by a cemetery authority or a financial
18 interest of which is held by a cemetery authority may require the human remains of
19 an individual to be buried in the cemetery authority's cemetery as a condition of
20 caring for or preparing for burial or transportation of the deceased individual or as
21 a condition of conducting funeral services for the deceased individual.

22 **SECTION 10. Initial applicability.**

23 (1) The treatment of section 70.11 (13) of the statutes first applies to the
24 property tax assessments as of January 1, 2014.

25

(END)