



2015 ASSEMBLY BILL 620

December 29, 2015 – Introduced by Representatives R. BROOKS, GANNON, ALLEN, BORN, CZAJA, KNODL, SWEARINGEN, VORPAGEL and SANFELIPPO, cosponsored by Senators KAPENGA and STROEBEL. Referred to Committee on Environment and Forestry.

- 1 **AN ACT** *to amend* 157.70 (2r) and 157.70 (5) (a); and *to create* 157.70 (5g) and
2 157.70 (5r) of the statutes; **relating to:** requirements for cataloged burial sites.

Analysis by the Legislative Reference Bureau

This bill establishes a procedure for owners of burial sites that are currently cataloged by the director of the State Historical Society and owners of certain land contiguous to cataloged burial sites to challenge the existence of human remains in the burial site. Current law requires the director to identify and record in a catalog burial sites and, for land not platted for use as a cemetery, sufficient contiguous land necessary to protect burial sites from disturbance. Subject to certain exceptions, the disturbance of burial sites and cataloged land contiguous to burial sites is prohibited.

Under the bill, the director must issue a permit for the investigation of a cataloged burial site to the owner of the burial site or to the owner of cataloged land contiguous to the burial site if the burial site was cataloged before the date the bill becomes law and the owner disputes the existence of human remains in the burial site and applies for a permit. An owner issued a permit under the bill may, at the owner's own expense, investigate the site for evidence of human remains using investigational methods set forth in the bill. If the investigation finds no evidence of human remains in the burial site, the director is required to remove the burial site and contiguous land from the catalog.

For land that is cataloged on or after the date on which the bill becomes law, the bill provides that no burial site on private property and no private land that is contiguous to a burial site may be cataloged unless the director establishes that human remains are present in the burial site based on investigational methods set forth in the bill.

ASSEMBLY BILL 620

For further information see the *state* 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.** 157.70 (2r) of the statutes is amended to read:

2 157.70 (2r) SITE DISTURBANCE PROHIBITED. Except as provided under subs. (4)
3 and, (5), (5g), and (5r) and ss. 157.111 and 157.112, no person may intentionally cause
4 or permit the disturbance of a burial site or cataloged land contiguous to a cataloged
5 burial site. This subsection does not prohibit normal agricultural or silvicultural
6 practices which do not disturb the human remains in a burial site or the surface
7 characteristics of a burial site.

8 **SECTION 2.** 157.70 (5) (a) of the statutes is amended to read:

9 157.70 (5) (a) ~~No~~ Except as provided under subs. (5g) and (5r), no person may
10 intentionally cause or permit the disturbance of a cataloged burial site or the
11 cataloged land contiguous to a cataloged burial site without a permit from the
12 director issued under this subsection.

13 **SECTION 3.** 157.70 (5g) of the statutes is created to read:

14 157.70 (5g) INVESTIGATIONS OF CERTAIN CATALOGED BURIAL SITES. (a) The director
15 shall issue a permit for the investigation of a cataloged burial site under par. (b) to
16 the owner of that burial site or to the owner of cataloged land contiguous to that
17 burial site within 30 days after receiving an application for a permit under this
18 subsection if all of the following conditions are satisfied:

19 1. The burial site was cataloged before the effective date of this paragraph
20 [LRB inserts date].

ASSEMBLY BILL 620

1 2. The owner disputes the existence of human remains in the burial site and
2 applies for a permit under this subsection.

3 (b) An owner issued a permit under par. (a) may, at the owner's own expense,
4 investigate the burial site for evidence of human remains using ground-penetrating
5 radar, other imaging technology, or archaeological excavation and examination. The
6 historical society shall provide the owner with a list of archaeologists and imaging
7 technicians approved by the historical society, and the investigation under this
8 paragraph shall be conducted by an archaeologist or imaging technician chosen by
9 the owner from that list.

10 (c) If an investigation under par. (b) finds no evidence of human remains in the
11 burial site, the director shall remove the burial site and the cataloged land
12 contiguous to the burial site from the catalog.

13 **SECTION 4.** 157.70 (5r) of the statutes is created to read:

14 157.70 (5r) EVIDENCE OF HUMAN REMAINS REQUIRED. No burial site on private
15 property and no private land that is contiguous to a burial site may be cataloged on
16 or after the effective date of this subsection [LRB inserts date], unless the director
17 establishes that human remains are present in the burial site through written
18 historical records corroborated by the results of ground-penetrating radar, other
19 imaging technology, or archaeological excavation and examination.

20

(END)