



DEVIN LEMAHIEU

STATE SENATOR

DATE: November 23, 2015
RE: **Testimony on 2015 Senate Bill 302**
TO: The Senate Committee on Elections and Local Government
FROM: Senator Devin LeMahieu

Committee members, thank you for joining me today to discuss Senate Bill 302, the Cemetery Modernization Act.

Our current state laws regarding cemeteries have remain unchanged for the better part of a century and have grown outdated and inconsistent with modern cemetery operations. SB 302 updates our laws to help ensure cemeteries can continue to provide an essential public service well into the 21st century. The bill streamlines regulatory requirements for cemeteries, eliminates outdated statutory provisions, and codifies current best practices of the cemetery business into state law.

Considering the emotional process of burying a loved one, it is important to ensure that our cemeteries are held to a high standard. SB 302 accomplishes that goal by enhancing consumer protection standards placed upon cemeteries. The bill holds cemeteries fiscally responsible by strengthening record keeping and audit requirements on cemeteries and increases penalties for theft and deliberate mismanagement of their funds. The bill also directs cemeteries to maintain detailed information about all burials. Lastly, SB 302 places stricter limits on licensing exemptions and clarifies that anybody who sells burial lots must do so under the proper license and framework.

SB 302 updates the regulatory requirements placed upon cemeteries in a fair manner. Under the bill, cemetery board powers will be largely consistent with those of other professional examining boards, such as the funeral directors board.

As you can see, this proposal has received bi-partisan support in both houses. In the Assembly the companion bill just passed the State Affairs Committee with a 13-1 vote. I hope you will join us in supporting this bill and help secure the viability of Wisconsin cemeteries.



TO: Chairman LeMahieu and members of the Senate Elections and Local Government Committee
FROM: Glen Porter, President – WI Cemetery and Cremation Association
DATE: November 23, 2015
RE: Please support Senate Bill 302 – *THE CEMETERY MODERNIZATION BILL*

On behalf of the Wisconsin Cemetery and Cremation Association, I would like to take this opportunity to encourage your support for Senate Bill 302 – the *Cemetery Modernization Bill*. This important legislation will update Wisconsin cemetery regulation and align state law with modern cemetery operations.

Much of Wisconsin cemetery law has remained unchanged for the better part of a century, if not longer. As a result, state cemetery regulation is outdated and inconsistent with current cemetery practices and industry trends. In many cases, current law lacks essential consumer protections, does not recognize recent technological advances and imposes unnecessary regulatory burdens for Wisconsin cemeteries.

Senate Bill 302 would address this growing concern for Wisconsin cemeteries and the families they serve through a long-overdue and wide-ranging update of Wisconsin cemetery law. The bill makes a number of changes that reduce bureaucratic red tape, eliminate redundant statutory provisions and refine cemetery regulations to reflect changes in consumer behavior and preference. Among a handful of other minor modifications to current statute, the *Cemetery Modernization Bill* includes the following provisions:

- ***Regulatory Reform:***
 - Consolidates most cemetery regulatory functions under one state regulatory body (the Wisconsin Cemetery Board).
 - Exempts cemeteries from the state's Diggers Hotline requirements.
 - Clarifies regulatory exemptions for religious cemeteries.

- ***Consumer Protection:***
 - Strengthens record keeping and audit requirements for cemetery funds.
 - Increases penalties for theft and deliberate mismanagement of cemetery funds.
 - Directs cemeteries to maintain detailed information of all burials.

- ***Cemetery Operations Improvements:***
 - Creates a simple formula for the inheritance of cemetery lots and mausoleum spaces.
 - Streamlines the process for abandoned cemetery lot and mausoleum reclamation.
 - Simplifies the cemetery platting process and authorizes the use of digital platting records.

In short, SB 302 would streamline the regulatory process and keep the state's cemetery industry viable well into the 21st century – while also strengthening consumer protections for Wisconsin families. With that in mind, I would ask you to support SB 302.

Thank you for your consideration.



WISCONSIN CATHOLIC CONFERENCE

TESTIMONY ON SENATE BILL 302: CEMETERY REGULATION

Presented to the Senate Committee on Elections and Local Government
By Kim Wadas, Associate Director
November 23, 2015

On behalf of the Wisconsin Catholic Conference (WCC), I thank you for the opportunity to provide testimony for information on Senate Bill 302.

Within the Catholic Church, cemeteries are a vital ministry by which we witness our reverence for the body. Traditionally, religious cemeteries have been treated differently than other cemetery sites because they are different. The Church operates cemeteries as a part of our pastoral activity, designed to serve our members. While others may be buried in our cemeteries, such as charitable burials and the burial of family members, we primarily serve those who share our faith tradition. This ministry should not be hampered nor its future viability compromised by laws that go farther than necessary to remedy problems that may exist within cemeteries statewide.

The WCC has considerable concerns with certain provisions of Senate Bill 302, as the bill would remove existing exemptions that recognize the unique nature of religious cemeteries. Provisions regarding the transfer of cemetery land, platting, and conveyances will now apply to religious cemeteries.

One of the most concerning provisions is the requirement regarding platting, which triggers the authority to sell or convey lots. Senate Bill 302 would require that a professional land surveyor plat all lands required for burial through a certified survey. The plat or map must be recorded with the office of the register of deeds. Traditionally, under Wisconsin Statutes s. 157.07(6), cemeteries operated by religious associations need not adhere to these requirements. Religious cemeteries have also been exempt from limitations on conveyance tied to platting under Wisconsin Statutes s. 157.08(5).

Catholic cemeteries have served parishes, families, and the faithful for decades. Many of our cemeteries have existed for over a hundred years and are administered by a parish pastor with volunteer assistance. Providing a full plat of long-standing, active Catholic cemeteries would be a costly endeavor that would garner little useful information. The cemetery may already retain a record of the lands that properly indicates the location of cemetery lots, drives, and walks, but may not be a certified survey, or a recent certified survey. To incur this kind of expense when these cemeteries are already non-profit endeavors designed to meet a ministerial need within the Church seems unnecessary.

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Senate Bill 302 would also alter provisions regarding the alienation, disposition, and use of cemetery lots and mausoleum spaces. Senate Bill 302 defines who may and may not own a lot upon the death of an existing owner. These limitations on disposition would not apply to a religious cemetery if the cemetery adopts a written policy that differs from these legal requirements. Within religious cemeteries, an individual is provided a right of burial rather than ownership in a specific lot. Generally, this right can be transferred to heirs, and even resold, but must be done so in a manner consistent with Church teaching. A general exemption from compliance with SB 302's disposition provisions, rather than requiring a religious cemetery to develop a written policy, would prevent any confusion regarding a religious cemetery's need for compliance with the statute. However, should the written policy requirement remain, the WCC seeks clarification that a religious cemetery policy which invokes compliance with Church teaching is sufficient and would not trigger objection under the provisions of this bill.

Finally, Senate Bill 302 would establish new record-keeping requirements for each deceased person buried in a cemetery, including "the name of the person authorizing the burial and his or her relationship to the deceased." There is a question as to how a cemetery that no longer has a means to obtain this information may achieve compliance with this requirement. Clarification that the new record-keeping requirement would apply solely to burial sales provided after the bill's effective date would prove helpful.

The WCC acknowledges and appreciates the changes made to the definition of "religious association" under SB 302, which would include religious cemeteries that are not administered under the typical congregation model. As parishes merge and change, it is helpful to have a definition that accommodates these emerging Church structures.

The WCC has worked with and continues to work with representatives of the Wisconsin Cemetery and Cremation Association to address these concerns. It is our hope that clarifications and corrections can be made regarding Senate Bill 302's effect on the operation of religious cemeteries.

Thank you again for the opportunity to raise these concerns regarding SB 302.