

Dewey Mathewson
504 N. Water Street
New London, WI 54961
March 5, 1998

Clifford Otte, Chairman
Consumer Affairs Committee
Room 109 West, State Capitol
PO Box 8953
Madison, WI 53708

Dear Chairman Otte,

I wish to thank you for the courteous welcome I received while testifying to your Committee this past Thursday, February 26th. I have great respect for my opponent, Dr. Leslie Eisenberg, of the Burial Site's Preservation Program. She is a very capable, sincere and a lovely person.

When I was appointed to the State Cemetery Advisory Committee in 1989, the State already had passed the "Cemetery Law" a few years earlier. Immediately after my very first meeting I contacted Representative Bill Lorge and told him the 3,000 not for profit cemeteries would never accept this law. They could not live with several points in that law. I called a meeting of the New London area cemeteries. About 200 area cemeterians, representing about 30 area cemeteries attended. They overwhelmingly rejected the law as written. I was very pleased that Representative Lorge convinced Secretary Marlene Cummings to attend and speak at my meeting. She is very bright, intelligent and a capable person. Representative Bill Lorge also attended and spoke to the group. He, of course, recognized many of the area cemeterians and he led them into voicing their main concerns. Secretary Marlene Cummings and Representative Bill Lorge saw the deep devotion the cemeteries have with their non-profit cemeteries. Honest, dedicated, law abiding citizens from every walk of life, fighting to save their cemeteries. Of course, all their work is gratis. My 200 cemeterians came from Waupaca County and the southern portion of Outagamie County, but the cemeterians in all the 72 counties of this State hold the same feeling.

My intent in this letter was to answer a few remarks made by Dr. Leslie Eisenberg at the hearing. Please refer to her testimony as enclosed.

1. She, as most Wisconsin citizens, do not phantom the scope of this situation. There are 3,000 non-profit cemeteries taking care of at least 90% of all burials in the State. These cemeteries cover the State from Milwaukee to Superior, Iron Mountain to Platteville and every city and township in between. Bones are found in at least 800 to 1,000 times each year. How could you possibly visit 1,000 cemeteries each and every year?

2. I am not surprised that they might have had 5 calls in the past 5 years. No one, not even myself, ever knew there was such a law! No one, not even Dr. Eisenberg seems to understand the magnitude of this situation. Three thousand non-profit cemeteries throughout the State; ran and operated by dedicated citizens of their community, for gratis.
3. The last 30", the sub-soil, is generally hauled away to allow for the space taken up by the burial vault. Then, using a backhoe you could have this last 30" put on your truck without even seeing a clue to an old, unmarked grave space. Beloit was not punished as the law states.
4. To expedite the present interment is of the greatest importance, but the 3,000 cemeteries that I speak of are equally concerned with the tremendous cost of moving family members in an affected gravesite to a new location. If mother's grave cannot be used, we would then have to move dad's grave also; dad has been buried 10 years. We would also have to build a new foundation and move the 1 ton monument and reset it. This would cost \$800 to \$2,000; our non-profit cemeteries could never handle this cost. Certainly, the family could not be expected to pay. The municipalities, townships and counties are not going to pay it. Will the State pay it, if so, will not I as a taxpayer object!

May I offer my personal opinion based on 50+ years in the burial vault business? All the citizens and townships in your districts operate non-profit cemeteries; usually, governed by a Cemetery Board, again gratis. They have been doing a perfect job for the past 200 years. There is no historical value to these cemeteries that is not already known. The American native burial grounds are found when highways and large construction projects are excavating. American natives would not use the town cemeteries. They set aside "happy hunting grounds" to bury their people. Of course, there is an exception to all of this; therefore, I will assume a very few cemeteries might have been laid out over "happy hunting grounds" and deserted burial grounds. Indian bones would never be found in the far majority of the 3,000 non-profit cemeteries. Should 3,000 cemeteries and the 15,000 cemetarians be injured by the 4 or 5 cemeteries that might be deserted Native American burial grounds!

I read your letter from the Badger Cemetery Association. Badger does not represent the cemeteries that I speak of. In fact, they supported many of the laws that we were able to exempt the non-profit cemeteries from!

Sincerely,



Dewey Mathewson

Enclosure

Assembly

Record of Committee Proceedings

Committee on Consumer Affairs

Assembly Bill 506

Relating to: the reburial of unknown human remains erroneously removed from a burial site by a cemetery authority.

By Representative Lorge; cosponsored by Senator Welch.

September 9, 1997 Referred to committee on Consumer Affairs.

February 26, 1998 **PUBLIC HEARING HELD**

Present: (8) Representatives Otte, Johnsrud, Ott, M.
Lehman, Urban, Williams, Hasenohrl and
Black.

Absent: (0) None.

Appearances for

- Representative Bill Lorge, author, 40th Assembly District
- Dewey Mathewson, New London, Floral Hill Cemetery

Appearances against

- Dr. Leslie Eisenberg, Madison, State Historical Society of Wisconsin

Appearances for Information Only

- None.

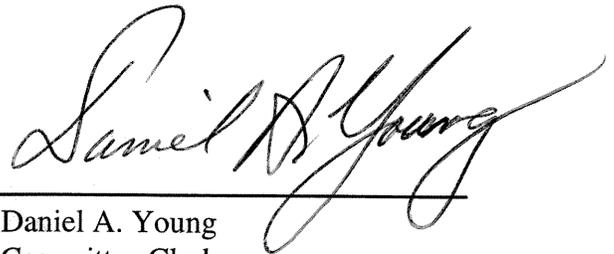
Registrations for

- None.

Registrations against

- None.

as of 2/27/98



Daniel A. Young
Committee Clerk

Assembly Hearing Slip

(Please print plainly)

Date: AB 506

Bill No. Or Subject: 2/26/98

(Name): Rep Bill Lorge

(Street Address or Route Number):

(City & Zip Code): FO 74 AD

(Representing):

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only; Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/26/98

Bill No. Or Subject: AB 506

(Name): Dewey Mathewson

(Street Address or Route Number): 504 N. Water

(City & Zip Code): New London, WI 54861

(Representing): Floral Hill Cemetery in near London

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only; Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/26/98

Bill No. Or Subject: AB 506

(Name): Dr. Leslie Eisenberg

(Street Address or Route Number): 816 Steh St

(City & Zip Code): Madison WI 53706

(Representing): Steh Historical Society of WI

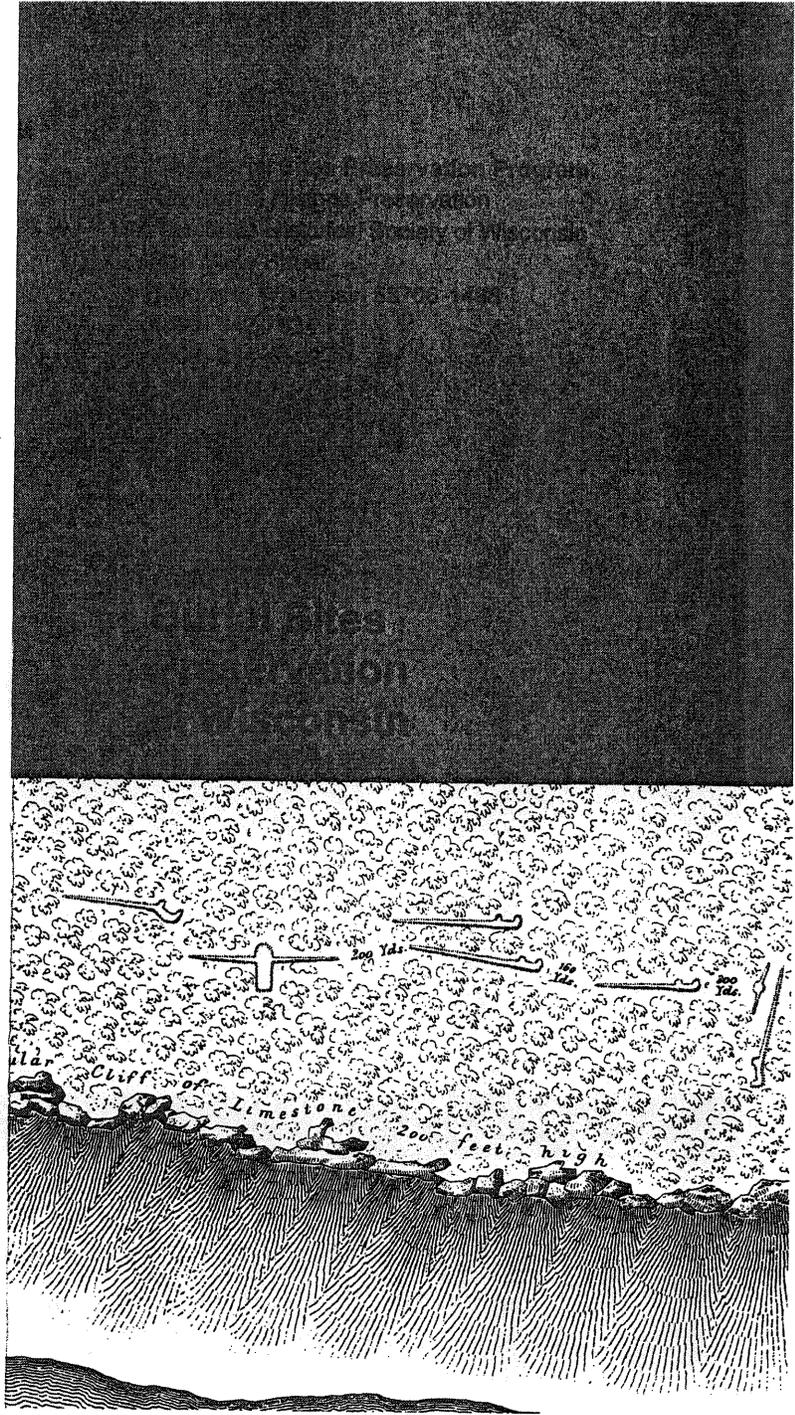
- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only; Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

The Burial Sites Preservation Program

Division of Historic Preservation
The State Historical Society of Wisconsin
816 State Street
Madison, Wisconsin 53706-1488



Burial sites preservation law s.157.70.

Wis. Stats. Wisconsin state law provides protection and property tax exemptions for all human burial sites in the state. Aside from exhumations authorized by coroners or by immediate family members, no one may disturb a human burial site without authorization from the Director of the State Historical Society of Wisconsin. Penalties for unauthorized disturbances or failure to report disturbances include fines and/or imprisonment.

Purpose The law is to assure that all human burials in this state are granted equal treatment without reference to ethnic origins, religious affiliation, or age of the burial site.

Why this law is necessary The State Legislature enacted the Burial Sites law because human burials located outside the boundaries of maintained, well-marked cemeteries were not protected. Large numbers of prehistoric and historic Native American cemeteries and burial mounds, as well as abandoned Euroamerican cemeteries and family burial plots, have been damaged or destroyed.

A catalog of burial sites The law has given the State Historical Society of Wisconsin the responsibility for inventorying and cataloging all prehistoric and historic burial sites in Wisconsin. Once a burial site has been documented, the staff records the site with the county Register of Deeds and the land containing the burial site becomes exempt from property taxes. This makes the property tax treatment of all human burial sites equal to the property tax treatment afforded to operating cemeteries.

Front: Example of effigy mounds as mapped in 1851 by Increase A. Lapham. High Cliff Mound Group, Calumet County. Right: Veterans' graves in Forest Hill Cemetery, surrounding a Native American effigy mound. Madison.

Reporting burial sites If you know the location

of prehistoric burial mounds or historic cemeteries, call or write the Burial Sites Office at (608) 264-6502 or (800) 342-7834. Please be as specific as possible about the location of the burial site. Township, range, and section numbers are most helpful.

Registering interest in a cataloged burial site

All persons with a registered interest in a cataloged burial site must be contacted in the event a site would need to be disturbed. To place your name in the registry for a particular burial site, you may apply to the governor-appointed Burial Sites Preservation Board and claim an interest based on one of the following categories:

1. Direct kinship
2. Cultural, tribal, or religious affiliation
3. Scientific, environmental or educational purpose

4. Land use

5. Commercial purpose not related to land use
6. Any other interest deemed to be in the public interest

Please call or write the Burial Sites Office at (608) 264-6502 or (800) 342-7834 for details on how to apply.

Discovering human remains If any activity inadvertently uncovers human remains, work must stop immediately. If there is any reason to suspect that the human remains may be part of a crime scene, notify the local police.

If it is *certain* that the remains are not part of a crime scene, notify the Burial Sites office at the State Historical Society of Wisconsin by calling our toll-free number: 1-800-342-7834.





State Historical Society of Wisconsin

816 State Street ♦ Madison, Wisconsin 53706-1488 ♦ 608/264-6400 ♦ Fax: 264-6504

Burial Sites Preservation Program
608/264-6502 or 264-6503
800/342-7834 (Wisconsin only)

26 February 1998

To members of the Consumer Affairs Committee, Clifford Otte, Chair:

Good morning Representative Otte and members of the Consumer Affairs Committee.

My name is Dr. Leslie Eisenberg and I am the Coordinator of the Burial Sites Preservation Program at the State Historical Society of Wisconsin. The Burial Sites Preservation Program was created in 1987 with the passage of *Wis. Stats.* 157.70, the Burial Sites Preservation law. The intent of the law was to identify, protect and preserve burial sites, including Indian mounds, in Wisconsin in recognition of our rich prehistoric and historic heritage and for the benefit of future generations. The law requires that if human bone (or bone believed to be human) is encountered in digging, work must stop, and my office notified; we have and publicize a toll-free number for this purpose. Sometimes these reports of discoveries require that I visit the discovery location; in other instances, coordination can occur by telephone and the go-ahead to continue work can be given verbally or by fax. The Burial Sites Preservation law indicates already provides a mechanism, created under State statute, to address accidental discoveries of human bone and to expedite their reburial.

The intent of Assembly Bill 506 is to effect the reburial of unknown human remains erroneously removed from a burial site by a cemetery authority. In the almost five years I have been with the Burial Sites office, there have been less than five calls from cemetery authorities reporting the accidental discovery of bone during the excavation for placement of a recently

deceased individual. There has, however, been one instance in the City of Beloit, Wisconsin, where backfill from the excavation of an older grave was knowingly being carted away, with human bone visible in the soil. This dirt came from older platted cemetery lots that were narrower than modern-day lots designed to accommodate burial vaults. I am concerned that Assembly Bill 506, if passed into law, might lead to similar events; and worse, that the Burial Sites office would not be contacted at all. The notion that all human remains inadvertently discovered in dedicated cemetery contexts do not merit the same consideration, respect and attempt at identification as those being buried today is problematic. Additionally, if those remains can be shown to be of Native American ancestry through anthropological analysis, other real, and no less ethical considerations come into play.

I understand that this bill has been proposed to effect and expedite interments and to minimize any additional emotional distress to the grieving families. The Burial Sites Preservation office is also sensitive to these issues and has done and will continue to do its utmost to work with cemetery authorities in cases where human bone is accidentally discovered. There is already a process already in place under Wisconsin law to handle these situations. If there is more than just a perceived problem here, we stand ready to cooperate to craft a workable solution.

IF YOU DISCOVER HUMAN BONE

If you discover human bone, or bone suspected to be human, immediately notify the Burial Sites Preservation Office in Madison, Wisconsin. The toll-free number is 1/800/342-7834. If there is no one in the office leave a detailed message on the telephone answering machine. Messages are monitored on a daily basis (except Sunday). After leaving your message, call the local police or Sheriff's Department, relate your findings, and request that the area be secured until the discovery can be evaluated by a trained archeologist.

**DO NOT disturb or investigate the discovery.
DO NOT collect the remains.
STOP all construction or excavation activities.**

Burial Sites Preservation Office
The State Historical Society of Wisconsin
816 State Street • Madison, Wisconsin 53706-1488
1/800/342-7834, or 608/264-6502

s. 157.70 (2r) . . . "no person may intentionally cause or permit the disturbance of a burial site."

s. 157.70 (3)(a) Unless of forensic interest, ". . . a person shall immediately notify the director if the person knows or has reasonable grounds to believe that a burial site . . . is being disturbed or may be disturbed . . ."

s. 157.70 (10) provides financial penalties for both failing to report a burial site disturbance and/or disturbing a burial without authorization from the State Historical Society of Wisconsin.

Burial Sites Preservation Office
The State Historical Society of Wisconsin
816 State Street • Madison, Wisconsin 53706-1488
1/800/342-7834, or 608/264-6502

There are approximately 40,000 burials a year in Wisconsin.

In the early settlement of our State, one of the first acts was to designate a site for a burial ground. These sites were not sectioned nor mapped. You would simply go out there and pick out a site to your liking and make the burial. Graves were generally marked by a wooden cross or a small pile of rocks. After a hundred years, it was realized that this would have to be changed. The Cemeteries around the State started to map and plot the cemeteries into sections, blocks, lots and grave spaces. They charged a small amount for each grave space you wanted. At this same time, someone would volunteer to keep a record of who was buried and where they were buried. The wooden crosses and stone piles have long been gone. The mapper and plotters realized that they might be creating new sections, new lots and grave sites where there may be some unknown graves. If while digging a grave in the newly plotted cemetery, the men with much respect would remove these bones, they would have the new committal and then replace these bones where they found them. This in 90% of the cases will occur when you are about to the right depth, just another 6" and you would be done!

By the late 1940's concrete and steel vaults became very popular and in a very short time 98% of all burials were made in these burial vaults. You can find them by probing. They are, at the most, 24" below the surface.

As time goes by, the old section of the cemeteries are being filled and they will move into new areas or sections; so this problem was much more common 50 years ago than it is today. Today I would guess that this happens some where between 800 and 1,000 times a year here in Wisconsin. This is not a problem for the huge private owned cemeteries. These cemeteries were established after 1940 and they all were mapped and plotted. They also used burial vaults. The cemeteries affected here are the 3,000 non-profit cemeteries throughout the State. Your parents, grandparents and possibly your family will be buried in your hometown cemetery. I would guess that of the 40,000 graves per year in Wisconsin that 30,000 are done in the non-profit cemeteries.

1. How large of a crew would the State need to look at 1,000 grave sites a year? From Milwaukee to Superior to Iron Mountain to Platteville, etc.?
2. The friends and families of these being oppressed by the State would be justifiable furious and distraught.
3. If the investigators would decide that to the best of their knowledge this bone came from an American Indian, with such slim proof, who would pay the expense of 2 new grave sites, moving Dad over to the new site, and now moving the 4 ton monument and putting a foundation for it; \$2,000? \$4,000?, whatever. Who do you think should be responsible! Actual burial put off for 8 weeks.
4. In my small area I have seen this happen at least 3 times this past year.
5. If you were to ask a Sexton if he has ever had this happen in his Cemetery, he would wisely say no.

Young, Dan

From: Joeun@aol.com[SMTP:Joeun@aol.com]
Sent: Tuesday, February 24, 1998 6:08 AM
To: Rep.Otte
Subject: AB506 Erroneously Removed Burials Bill

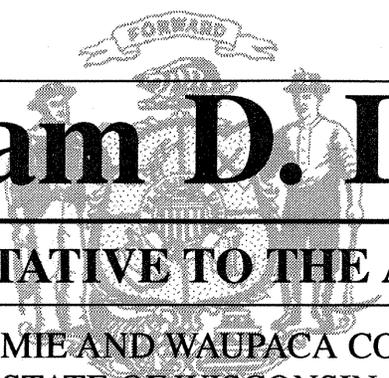
From: Marianne Anderson
General Manager
Arlington Park Cemetery
4001 S. 27th Street
Greenfield, WI 53221

As an active member of both the Badger State Cemetery Association and the Southeastern Cemetery Association I wish to go on record as strongly opposed to this bill.

Wisconsin Act 357 which covers the removal and reburial of identified remains is an excellent bill as it stands.

To allow the removal and reburial of unidentified remains is preposterous. I firmly support the Burial Sites Preservation Office of the State Historical Society in their strong stance against this change.

Thank you. Your support in this matter is appreciated.



William D. Lorge

REPRESENTATIVE TO THE ASSEMBLY

OUTAGAMIE AND WAUPACA COUNTIES
STATE OF WISCONSIN

February 5, 1998

Representative Clifford Otte, Chair
Assembly Consumer Affairs Committee
109 West, State Capitol
Madison, WI 53708

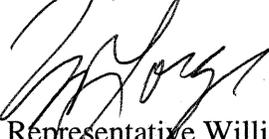
Dear Representative Otte:

I respectfully request that AB 506, which was referred to your committee on September 9, 1997, be scheduled for a public hearing.

The bill relates to the reburial of unknown human remains erroneously removed from a burial site by a cemetery authority.

I appreciate your consideration of my request. Please contact me if there are any questions or concerns that you would like to discuss.

Sincerely Yours,



Representative William D. Lorge
Representative to the 40th Assembly District

Dewey Mathewson
504B N. Water Street
New London, WI 54961
920-982-3995

While digging a grave on a lot owned by the family of the deceased, the men ran into an old, unmarked grave. This always seems to happen on the last 6 or 7 inches of the new grave. What are they to do? The funeral cortege is due in an hour. The deceased family wants their Mom to be buried next to her husband, they have a deed of 15 years giving them rights to that grave space. In this case, the men finished the grave placing the half dozen bone pieces and wood and metal pieces aside. After the current interment, they placed the bones and debris back in the grave. They did not realize they were in violation of a State Law (a ridiculous law). In my 50 years in the burial vault business, I have seen the above scenario, except for the lawsuit, hundreds of times. My having seen this hundreds of times in my little area, would certainly mean this scenario takes place thousands of times each year in the State of Wisconsin. These problems are never reported or recorded, and I am sure that many Sextons would simply deny it happening in his cemetery in fear of a law suit!

I will now attempt to answer why this happens. In the early 1800's, many cities and towns throughout the State designated certain areas to be used as burial grounds for the citizens. The acreage was never platted or mapped. When you needed a grave space you simply picked a site you liked, and then buried the deceased. Many times, directly in the grave, most often in a wooden casket. This practice was done for many years. When it was realized that platting, mapping and records was a must, there was no way of knowing where old graves might be. In many cases, it would have been a hundred years of burials without maps and records. As the years go by and these old cemeteries fill up the problem is less and less. It was a much more common occurrence 30 years ago than what it is today. You can see that this is not a problem in private owned cemeteries. They came into being about 1937. Their land was carefully platted and mapped and their records were kept perfect. The concrete burial vault became very popular around 1930 and for the past 60 years almost 100% of all burials were done in burial vaults. This too helps solve the problem.

I urge you to support the many cemeteries in your district by amending the Burial Site Preservation Law, to exempt all existing cemeteries. There are over 3,400 not for profit cemeteries in the State, managed by unpaid cemetery boards. Dedicated, honest members from your district.

I have been working closely with my Assemblyman Bill Lorge, please contact Bill for more information and help.

Dear State Assemblyman:

"The Burial Site Preservation Law" must be amended to exempt all active cemeteries in the State.

The law as written requires the cemetery to stop digging a grave and postpone the burial if you find even one bone in your excavation.

Although that burial is an unknown, unmarked grave, you have already broken the law by disturbing a grave. This problem is unique with the old, not for profit cemeteries. Burials were made in these 3,000 cemeteries for many years before they were ever mapped and plotted. There are over 30,000 burials a year in these not for profit cemeteries and I would guess cemeterians run into unmarked graves at least a thousand times a year. That translates into thousands of mourners who have to suffer with the delay of burial. This is a serious problem that the townships, municipalities and cemetery associations in charge of these 3,000 cemeteries should not have to endure.

We the undersigned, urge you to repeal this preservation act, or exempt the established cemeteries.

NAME

ADDRESS

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

This letter was prepared and distributed to several cemeterians by:

Dewey Mathewson
504 N. Water Street
New London, WI 54961

You are welcome to make additional copies of this form.

P.S. Please send me a copy of your petition, I must see if you support your Cemetery.

No action to be taken in Beloit graves case

Beloit — The state has decided not to take any action against the city after human bones were dug up during burials at a city-owned cemetery, officials said Thursday.

State Historical Society officials were pleased with efforts by Beloit officials to make sure human remains were not found again, said Leslie Eisenberg, state Burial Site Preservation Program coordinator.

Now that new burial policies have been instituted, Eisenberg said she expected the city would have no more problems with cemetery procedures.

Beloit's investigation started after gravediggers at Oakwood Cemetery in November complained that they had unearthed old remains while digging new grave sites. Bones were uncovered on three occasions but state officials, who by law must be notified when remains are unearthed during interments, were not told until the third time.

Oakwood Cemetery Superintendent Robert Carlson was suspended with pay on Dec. 20. Carlson, whose job was phased out at the end of 1995, is still on the city payroll because of the continuing investigation.

← What a silly statement, this will happen over and over again. They simply don't know if there is an old unmarked grave there!

← The law says you must stop digging, therefore, the burial must be postponed for weeks or months while they investigate!

← They backed off for a City the size of Beloit, would they for Bloomer, Edgerton or Shiocton, etc.?