

2003 DRAFTING REQUEST

Bill

Received: 12/18/2003

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Robert Welch (608) 266-0751

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: Real Estate - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Sen.Welch@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Surveys, landmarks, and monuments

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mlief 12/18/2003	kfollett 01/16/2004					Local
/1			jfrantze 01/20/2004		sbasford 01/20/2004	lnorthro 02/12/2004	

FE Sent For:

*At
Intro.*

<END>

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1/?	mlief	1/16 1/16	10/1/19	1/29			

FE Sent For:

<END>



State Senator
Robert T. Welch

MEMORANDUM

TO: Legislative Reference Bureau
FROM: Senator Bob Welch
DATE: December 17, 2003
RE: Drafting request

I would appreciate it if you would please draft the attached for this legislative session.

Please let me know if you have any questions.



State of Wisconsin
1999 - 2000 LEGISLATURE

3906
LRB-~~3906~~
MJL: ~~AMF~~

Toes
~~1/20 P.M.~~

1/20 P.M.

2003

~~REPEAL~~ BILL

Kyle

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

PWF

D-N

Regin

1 AN ACT to repeal 60.84 (3) (c) 1. and 2.; to renumber and amend 60.34 (3) (c)
 2 (intro.); to amend 59.45 (2), 59.46, 59.73 (1), 59.74 (1) (a), 59.74 (2) (a) 2., 59.74
 3 (2) (b), 59.74 (2) (d) and 60.84 (4); and to create 59.74 (2) (dm) and 59.74 (3) of
 4 the statutes; relating to: surveys, landmarks and monuments and providing X
 5 a penalty.

Analysis by the Legislative Reference Bureau

FNS - ANALYSIS

I will prepare an analysis for the first introducible draft.
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:

6 SECTION 1. 59.45 (2) of the statutes is amended to read:
 7 59.45 (2) SURVEYOR; DEPUTIES. The county surveyor may appoint and remove
 8 deputies at will on filing a certificate thereof with the clerk. The county surveyor may
 9 appoint as deputies ~~only~~ persons who are Wisconsin registered land surveyors.

OR ARE NOT

FNS - ANALYSIS

¶ This bill makes technical changes to the law governing survey^s landmarks, and monuments. X

The bill also increases the forfeiture for failure of a county surveyor, municipal engineer, or

land surveyor to perform a legal duty from ~~between~~ ^{forfeiture}

~~\$25 and \$50~~ to between ^{\$500} \$250 and ~~and~~ and changes the time period destruction

for notification of the destruction or removal of

a landmark, monument, ~~of survey~~ or corner

post from at least ³⁰ ~~thirty~~ days before the to

act to at least ⁶⁰ ~~sixty~~ days. Finally, the

bill ~~provides that~~ ^{shifts} the cost of restorative work

to landmarks from the county to the person

causing the landmark to be disturbed, unless

the person cannot be identified or does

not have adequate resources to reimburse

the county for the cost of the work. (1)

FE-10ca

1 SECTION ~~#~~[✓] 59.46 of the statutes is amended to read:

2 59.46 Penalty for nonfeasance. Any county surveyor, any city, village or
3 town engineer, or any land surveyor who fails or refuses to perform any duty required
4 of that person by law shall forfeit not less than ~~\$25~~ \$250 nor more than ~~\$50~~ \$500 for
5 each such failure or refusal.

6 SECTION ~~#~~[✓] 59.73 (1) of the statutes is amended to read:

7 59.73 (1) HOW BEARINGS EXPRESSED IN SURVEYS. In all surveys the bearings shall
8 be expressed with reference to a magnetic, ~~true or other identifiable~~ ^{line of the public}
9 land survey, ~~or other true or identifiable line of the public land survey~~ ^{and filed} recorded
10 subdivision or to the Wisconsin coordinate system. In all cases the reference selected
11 shall be so noted as set forth in s. 59.45 (1) (a) 2. and if magnetic must be retraceable
12 and identifiable by reference to a ^{plain period} ~~monumented line of the public land survey system~~

13 SECTION ~~#~~[✓] 59.74 (1) (a) of the statutes is amended to read:

14 59.74 (1) (a) If a majority of all the resident landowners in any section of land
15 within this state desire to establish, ~~relocate~~ or perpetuate any section or other
16 corner of any section, or in the same section ~~establish~~ or perpetuate a
17 division line of the section, they may make a formal application in writing to the
18 circuit judge for the county in which the land is situated. The circuit judge shall file
19 the application in his or her court and shall within a reasonable time give at least
20 10 days' notice in writing to the owners of all adjoining lands, if those owners reside
21 in the county where the land is situated and if not, by publication of a class 3 notice,
22 under ch. 985, stating the day and hour when the circuit judge will consider and pass
23 upon such application. The circuit judge shall hear all interested parties and
24 approve or reject the application at that time. If the application is approved, the clerk
25 shall notify the county surveyor who shall within a reasonable time proceed to make

1 the required survey and location. If a corner is to be perpetuated, the surveyor shall
2 deposit in the proper place a stone or other equally durable material of the
3 dimensions and in the manner and with the markings provided under s. 60.84 (3) (c),
4 and shall also erect witness monuments as provided under sub. (2). The surveyor
5 shall be paid the cost of the perpetuation from the general fund of the county.

6 SECTION ~~5~~ 59.74 (2) (a) 2. of the statutes is amended to read:

7 59.74 (2) (a) 2. Witness monuments shall be made of durable material,
8 including cement, natural stone, iron or other equally durable material, except wood.
9 If iron pipe monuments are used, they shall be made of 2 ^{one} inch or more galvanized
10 iron pipe not less than 30 inches in length having an ~~iron or brass~~ cap fastened to
11 the top and marked with a cross cut on the top of the cap where the point of
12 measurement is taken. If witness monuments are made of cement, stone or similar
13 material, they shall be not less than 30 inches in length nor less than 5 3 inches in
14 diameter along the shortest diagonal marked on the top with a cross where the point
15 of measurement is taken.

16 SECTION ~~5~~ 59.74 (2) (b) of the statutes is amended to read:

17 59.74 (2) (b) 1. Whenever it becomes necessary to destroy, remove or cover up
18 in such a way that will make it inaccessible for use, any landmark, monument of
19 survey, or corner post within the meaning of this subsection, the person including
20 employe^e of governmental agencies who intend to commit such act shall serve
21 written notice at least 30 60 days [↓] before prior to the act upon the county surveyor of the
22 county within which the landmark is located. Notice shall also be served upon the
23 municipality's engineer if the landmark is located within the corporate limits of a
24 municipality. The notice shall include a description of the landmark, monument of
25 survey or corner post and the reason for removing or covering it. In this paragraph,

1 removal of a landmark includes the removal of railroad track by the owner of the
2 track. In a county having a population of less than 500,000 where there is no county
3 surveyor, notice shall be served upon the clerk. In a county with a population of
4 500,000 or more where there is no county surveyor, notice shall be served upon the
5 executive director of the regional planning commission which acts in the capacity of
6 county surveyor for the county. Notwithstanding par. (c), upon receipt of the notice
7 the clerk shall appoint a registered land surveyor to perform the duties of a county
8 surveyor under subd. 2.

9 2. The county surveyor or executive director of the regional planning
10 commission, upon receipt of notice under subd. 1., shall within a period of not to
11 exceed ~~30~~ 60 working days, either personally or by a deputy, or by the municipality's
12 engineer make an inspection of the landmark, and, if he or she considers it necessary
13 because of the public interest to erect witness monuments to the landmark, he or she
14 shall erect 4 or more witness monuments or, if within a municipality, may make 2 or
15 more offset marks at places near the landmark where they will not be disturbed. The
16 county surveyor shall make a survey and field notes giving a description of the
17 landmark and the witness monuments or offset marks, stating the material and size
18 of the witness monuments and locating the offset marks, the horizontal distance and
19 courses in terms of the references set forth in s. 59.45 (1) (a) 2. that the witness
20 monuments bear from the landmark and, also, of each witness monument to all of
21 the other witness monuments. The county surveyor may also make notes as to such
22 other objects, natural or artificial, that will enable anyone to locate the position of
23 the landmark. The county surveyor upon completing the survey shall make a
24 certified copy of the field notes of the survey and record it as provided under s. 59.45
25 (1). The municipality's engineer upon completing the survey shall record the notes

1 in his or her office, open to the inspection of the public, and shall file a true and correct
2 copy with the county surveyor. In a county with a population of 500,000 or more, the
3 certified copy of the field notes of the survey shall be filed in the office of the regional
4 planning commission which acts in the capacity of county surveyor for the county.

5 SECTION ~~A~~ 59.74 (2) (d) of the statutes is amended to read:

6 59.74 (2) (d) The Except as provided in par. (dm), the cost of the work of
7 perpetuating the evidence of any landmark under the scope of this subsection shall
* 8 be borne by the county or counties proportionally, in which said landmark is located
9 person ~~performing that work~~ causing the monument or landmark to be disturbed. plain

10 SECTION ~~B~~ 59.74 (2) (dm) of the statutes is created to read:

11 59.74 (2) (dm) The county or the counties in which the landmark is located shall
12 bear proportionally the cost of the work under par. (d) if the county or counties cannot
13 identify the person performing the work under par. (d) or if the county or counties
14 have identified the person performing the work under par. (d) and the person does
15 not have adequate money or other resources to reimburse the county or counties.

16 SECTION ~~C~~ 59.74 (3) of the statutes is created to read: plain

17 59.74 (3) IMMUNITY FROM LIABILITY FOR TRESPASS. A surveyor and a surveyor's
18 assistant who are engaged in perpetuating a corner of the public land survey system,
19 a monument or landmark are not liable as trespassers and are liable only for actual
20 damage done to land or property. land

21 SECTION ~~D~~ 60.84 (3) (c) (intro.) of the statutes is renumbered 60.84 (3) (c) and
22 amended to read:

23 60.84 (3) (c) To establish, ~~relocate~~ or perpetuate a corner, the surveyor shall set
24 in the proper place a monument of durable material, as determined by the town
25 board, ~~consisting of:~~

1 SECTION ~~11~~ 60.84 (3) (c) 1. and 2. of the statutes are repealed.

2 SECTION ~~12~~ 60.84 (4) of the statutes is amended to read:

3 60.84 (4) CERTIFICATE. The surveyor shall prepare a certificate setting forth a
4 complete and accurate record of any survey under this section, including the exact
5 bearings and distances of each monument from each other monument nearest it on
6 any line in the town. The certificate shall be recorded in the office of the register of
7 deeds of the county in which the surveyed land is located and a copy of the certificate
8 shall be filed in the county surveyor's office.

9
10 Section ~~13~~ 59.74(2)(a) 1. of the statutes is amended to read:

11 No landmark, monument, corner post of the government survey or survey
12 made by the county surveyor or survey of public record may be destroyed,
13 removed, or covered by any material that will make the landmark, monument, or
14 corner post inaccessible for use, without first having erected witness or reference
15 monuments as provided in subd. 2. for the purpose of identifying the location of
16 the landmark and making a certified copy of the field notes of the survey setting
17 forth all the particulars of the location of the landmark with relation to the
18 reference or witness monuments so that its location can will be determined and
19 perpetuated with a monument of durable material after its destruction or removal.

20 The certified copy of the field notes shall be filed as provided under par. (b) 2.

21 (END)

more to
page 3, line 1

D-Note

Date

D-N

Senator Welch:

Please note the following:

1. I did not include the amendment of
s. 59.45(2) because the ^{handwritten} changes to the
preliminary draft have the effect of allowing
the county surveyor to appoint ^{any} person
as a deputy. Thus, the "changes" effect ~~is~~ no
change from current law and are unnecessary.
2. The term "agency" is ^{subsumed} ~~subsumed~~ by
the term "person," so I deleted ~~the~~ "agency"
from the amendment of s. 59.74(2)(d).

MJL

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3906/1dn
MJL:kjfjf

January 19, 2004

Senator Welch:

Please note the following:

1. I did not include the amendment of s. 59.45 (2) because the handwritten changes to the preliminary draft have the effect of allowing the county surveyor to appoint any person as a deputy. Thus, the "changes" effect no change from current law and are unnecessary.
2. The term "agency" is subsumed by the term "person," so I deleted "agency" from the amendment of s. 59.74 (2) (d).

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

Northrop, Lori

From: Ferris, Amy
Sent: Thursday, February 12, 2004 8:59 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3906/1 Topic: Surveys, landmarks, and monuments

It has been requested by <Ferris, Amy> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3906/1 Topic: Surveys, landmarks, and monuments