

**2015 DRAFTING REQUEST**

**Bill**

Received: 1/6/2015 Received By: agary  
Wanted: As time permits Same as LRB:  
For: Administration-Budget By/Representing: Hynek  
May Contact: Drafter: agary  
Subject: Higher Education - miscellaneous Addl. Drafters:  
Extra Copies: MDK

Submit via email: YES  
Requester's email:  
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov  
sbostatlanguage@webapps.wi.gov

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**Pre Topic:**

DOA:.....Hynek, BB0397 -

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**Topic:**

Archaeological site review process; appeal of historic preservation officer to DOA division of hearings and appeals

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**Instructions:**

See attached

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**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>
/?	agary 1/7/2015			_____			
/P1		kfollett 1/12/2015	jmurphy 1/14/2015	_____	lparisi 1/14/2015		State

FE Sent For:

<END>

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/?	agary 1/7/2015	1/11/15 1/12					
/P1				Jan 14			State

FE Sent For:

**<END>**

## Gary, Aaron

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**From:** Hanaman, Cathlene  
**Sent:** Monday, January 05, 2015 10:47 AM  
**To:** Kunkel, Mark; Gary, Aaron  
**Subject:** FW: Statutory Language Drafting Request - BB0397

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**From:** Sara.Hynek@Wisconsin.gov [mailto:Sara.Hynek@Wisconsin.gov]  
**Sent:** Monday, January 05, 2015 10:41 AM  
**To:** Hanaman, Cathlene  
**Cc:** Hynek, Sara - DOA; Hynek, Sara - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0397

Biennial Budget: 2015-17

DOA Tracking Code: BB0397

Topic: Archeological Site Review Process

SBO Team: EWD

SBO Analyst: Hynek, Sara - DOA  
Phone: (608) 266-1037  
E-mail: [Sara.Hynek@Wisconsin.gov](mailto:Sara.Hynek@Wisconsin.gov)

Agency Acronym: WHS

Agency Number: 245

Priority: Medium

Intent:

Permit state and local agencies to appeal determinations (whether a property is historic, whether there is an adverse effect, whether negotiations have sufficiently mitigated the effect....) of the state historic preservation officer under 44.40 and 44.42. Appeals would be filed with the Division of Hearings and Appeals in DOA.

Attachments: False

Please send completed drafts to [SBOStatlanguage@webapps.wi.gov](mailto:SBOStatlanguage@webapps.wi.gov)



in  
17



DOA:.....Hynek, BB0397 - Archaeological site review process; appeal of historic preservation officer to DOA division of hearings and appeals

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

1/14

note

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**OTHER EDUCATIONAL AND CULTURAL AGENCIES**

Under current law, the State Historical Society (SHS) serves as the principal historic preservation agency of the state. The director of the SHS, or the director's designee, serves as the state historic preservation officer (HP officer). The SHS coordinates the activities of all state agencies in connection with historic properties. State agencies must also appoint employees responsible for coordinating with the SHS and must cooperate with the SHS to achieve certain historic preservation objectives. Each state agency must consider whether any proposed action of the state agency, except an action subject to certain provisions of federal law relating to historic sites and buildings, will affect any historic property that is: 1) listed on the National Register of Historic Places in Wisconsin or the State Register of Historic Places (a listed property); 2) on the Wisconsin inventory of historic places, which is a listing of places that the HP officer has identified as being of some historic significance; or 3) on the list of locally designated historic places maintained by SHS and designated by a city, village, town, or county (political subdivision) in compliance with a historic preservation ordinance certified by the SHS (the list of locally

designated historic places). If the state agency determines that its proposed action will affect such a historic property, it must notify the HP officer and the HP officer must determine whether the proposed action will have an adverse effect on such a historic property. ("Historic property" and "adverse effect" are defined by statute.) If the HP officer determines that the proposed action will have an adverse effect, the HP officer may require negotiations with the state agency to reduce the effect. If the negotiations result in an agreement as to the means of reducing the effect, the agreement must be incorporated into the state agency's proposed action. The HP officer must prepare a written report on the adverse effects and the status of all negotiations.

Current law also requires political subdivisions and certain school boards to determine, in planning certain actions, if its proposed action will affect any historic property that is a listed property or is on the list of locally designated historic places and, if so, the political subdivision or school board must notify the HP officer. The HP officer must then determine whether the action would have an adverse effect on such a historic property. If the HP officer determines that an adverse effect will occur, the HP officer may require negotiations with the political subdivision or school board in an attempt to reduce the effect. If the negotiations result in an agreement as to the means of reducing the effect, that agreement must be incorporated into the proposed action of the political subdivision or school board. The HP officer must prepare a written report on the adverse effects and the status of all negotiations.

Under this bill, a state agency, political subdivision, or school board may appeal determinations of the HP officer to DOA's Division of Hearings and Appeals.

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.** 44.31 (1r) of the statutes is created to read:

2           44.31 (1r) "Division of hearings and appeals" means the division of hearings  
3 and appeals in the department of administration.

4           **SECTION 2.** 44.40 (3m) of the statutes is created to read:

5           44.40 (3m) A state agency may appeal to the division of hearings and appeals  
6 under ch. 227 any determination made by the officer under this section.

7           **SECTION 3.** 44.42 (3) of the statutes is created to read:

1 44.42 (3) A political subdivision or school board may appeal to the division of  
2 hearings and appeals under ch. 227 any determination made by the officer under this  
3 section.

4 **SECTION 4.** 227.43 (1) (bk) of the statutes is created to read:

5 227.43 (1) (bk) Assign a hearing examiner to preside over any hearing or review  
6 under s. 44.40 (3m) or 44.42 (3).

7 **SECTION 5.** 227.43 (3) (f) of the statutes is created to read:

8 227.43 (3) (f) The administrator of the division of hearings and appeals may  
9 set the fees to be charged for any services rendered to the historical society by a  
10 hearing examiner under this section. The fee shall cover the total cost of the services  
11 less any costs covered by the appropriation under s. 20.505 (4) (f).

12 **SECTION 6.** 227.43 (4) (f) of the statutes is created to read:

13 227.43 (4) (f) The historical society shall pay all costs of the services of a hearing  
14 examiner, including support services, assigned under sub. (1) (bk), according to the  
15 fees set under sub. (3) (f).

16 (END)

D - Note



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1103/P1dn

ARG: *leg...*

*Date*

ATTN: Sara Hynek

Do any positions need to be added at DOA's Division of Hearings and Appeals to handle these additional appeals?

Aaron R. Gary  
Senior Legislative Attorney  
(608) 261-6926  
aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1103/P1dn  
ARG:kjf:jm

January 14, 2015

ATTN: Sara Hynek

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State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-1103/P1  
ARG:kjf:jm

DOA:.....Hynek, BB0397 – Archaeological site review process; appeal of historic preservation officer to DOA division of hearings and appeals

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

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16

(END)