



WISCONSIN LEGISLATIVE COUNCIL

PRESERVATION OF BURIAL SITES

Room 411 South
State Capitol, Madison

December 8, 2016
10:10 a.m. – 4:00 p.m.

[The following is a summary of the December 8, 2016 meeting of the Study Committee on Preservation of Burial Sites. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.wisconsin.gov/lc>.]

Call to Order and Roll Call

Chair Loudenbeck called the committee to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Rep. Amy Loudenbeck, Chair; Rep. Robert Brooks, Vice-Chair; Rep. Dave Considine; Sen. Jon Erpenbach; and Public Members Conrad Goodkind, William Green, David Grignon, Kira Kaufmann, Justin Oeth, E. Glen Porter, Bill Quackenbush, Robert Shea, and Chad Wuebben.

COUNCIL STAFF PRESENT: Anna Henning, Senior Staff Attorney, and Amber Otis, Staff Attorney.

ATTENTION: This was the final meeting of the Study Committee on Preservation of Burial Sites. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.

Approval of the Minutes of the November 10, 2016 Meeting of the Study Committee

Public Member Conrad Goodkind moved, seconded by Public Member E. Glen Porter, to approve the minutes from the committee's meeting held on November 10, 2016. The committee approved the motion by unanimous consent.

Description of Distributed Materials

Legislative Council Staff Attorney Amber Otis described the materials that had been distributed to study committee members prior to the meeting. Those materials included: minutes of the November 10, 2016 meeting; LRB-0821/P3, a bill draft containing various items discussed at the November 10, 2016 meeting; a set of five potential changes to LRB-0821/P3 proposed by Vice Chair Brooks; Memo No. 7, *Penalties for Violations of the Burial Sites Preservation Law* (December 1, 2016); LRB-1008/P1, a bill draft relating to state acquisition of lands containing burial sites; and three documents submitted by the Wisconsin Historical Society (WHS), which contained comments from WHS regarding the bill drafts and the proposed changes to LRB-0821/P3. She also noted that a letter had been submitted to the committee by the retired Assistant Chief of Police for the City of Brookfield.

Discussion of LRB-0821/P3, Relating to Disclosure of Burial Sites Located on Residential Real Estate and Various Changes Relating to the Preservation and Disturbance of Burial Sites

Before the discussion, Chair Loudenbeck made introductory comments and thanked committee members for their participation and service throughout the committee process.

Chair Loudenbeck invited Legislative Council staff to review each section of LRB-0821/P3 for the committee. After Legislative Council staff summarized each section or group of sections, committee members asked questions and offered any comments or suggestions. The committee also considered several proposed changes to the bill draft following the section-by-section overview and discussion.

During the committee's discussion, and after significant debate regarding some proposals, the following changes were considered but lacked sufficient consensus to be incorporated in the bill draft:

1. LRB-1008/P1, relating to state acquisition of lands containing burial sites.
2. A change to s. 157.70 (2) (a), Stats., amended in SECTION 7, to create a maximum width for "sufficient contiguous land" surrounding a burial site (suggested by Public Member Chad Wuebben).
3. Changes set forth in Proposals 1, 2, and 3 of the *Proposals Prepared by Legislative Council Staff at the Direction of Vice-Chair Robert Brooks* (December 7, 2016).

4. A change to SECTION 12 to allow an owner to conduct minimally invasive testing to the burial site and require the WHS Director to consider such evidence (suggested by Public Member Justin Oeth).
5. A change on page 10, line 10, in SECTION 14 to authorize an owner to collect information using new technology, DNA verification, or archaeological excavation to show that a site or land proposed for removal from the catalog does not contain human remains (suggested by Public Member Robert Shea).

During its discussion, the committee reached general consensus to make the following changes to the bill:

1. As requested by WHS, modify the new definition of “notify” to remove the word “telephone” on page 5, line 18, and, on page 5, line 19, replace “means.” with “means approved by the director.”
2. On page 8, line 17, replace “evidence” with “evidence from any person”.
3. On page 9, replace lines 21-24 with the following text (or something similar): “(c) From the time of the notice under sub. (2) (a) that the site or land will be recorded in the catalog unless the owner requests a hearing under par. (a), and until all proceedings under this subsection are concluded, notwithstanding sub. (4), no person may conduct any soil disturbance activity on the site or land, except that the proposed activity may be conducted if the director determines that the proposed activity will not disturb the burial site.” (Committee members agreed to the above language in lieu of “Proposal 4” set forth in the *Proposals Prepared by Legislative Council Staff at the Direction of Vice-Chair Robert Brooks* (December 7, 2016).)
4. Make the change set forth in “Proposal 5” of the *Proposals Prepared by Legislative Council Staff at the Direction of Vice-Chair Robert Brooks* (December 7, 2016), with no changes to that proposal.
5. To correspond with the previous change, remove the word “final” on page 11, line 5, and on page 12, line 6 (suggested by Public Member Justin Oeth).
6. In SECTIONS 13 and 14, make references to burial sites singular by replacing “burial sites are” with “a burial site is” on page 9, line 10 and replacing “burial sites are not” with “no burial site is” on page 10, lines 4-5 (suggested by Public Member William Green).
7. On page 11, line 14, remove “in this state” (suggested by Public Member Kira Kaufmann).
8. Make the change suggested in the note on the top of page 13 by adding a 30-day deadline in s. 157.70 (4) (d), Stats.

9. As requested by WHS, modify s. 157.70 (4) (cm), created in SECTION 21, to require the WHS Director to immediately provide confirmation that the Director has received a notification of a disturbance or possible disturbance under sub. (3) (a), and specify that the 30-day period begins after that confirmation is provided.
10. Modify s. 157.70 (6) (bm), created in SECTION 29, to remove the mandatory nature of the directives applicable to the Wisconsin Inter-Tribal Repatriations Committee (WITRC) by requiring the WHS Director to request that WITRC take the actions indicated, rather than directly requiring WITRC to take those actions.
11. Make the change suggested in the second question in the Note on page 16 by requiring the division to make a request of WITRC similar to the requests set forth in SECTION 29, as revised by the previous change.
12. On page 16, line 12, replace “electronic transmittal” with “by any electronic means acceptable to the director” (suggested by Public Member Conrad Goodkind).
13. In SECTION 32, replace “608-264-6535” with “800-342-7834” and replace “www.wisconsinhistory.org” with “www.wihit.org/burial-information”.
14. In SECTION 35, provide an alternative effective date of July 1, 2018, which would apply only to the changes in the bill draft in SECTION 32, relating to the real estate disclosure form under s. 709.03, Stats.

After all members were given an opportunity to propose and discuss any changes, Chair Loudenberg entertained a motion to finalize the bill draft.

Public Member Conrad Goodkind moved, seconded by Public Member Kira Kaufmann, to finalize LRB-0821/P3 with the changes, enumerated above, for which the committee had reached general consensus during its discussion. The motion was approved on a vote of Ayes, 9; Noes; 3.

[Senator Erpenbach was excused from the meeting prior to the final vote on LRB-0821/3 but indicated to the chair that he would have voted “Aye” if he had been present.]

Adjournment

Chair Loudenberg adjourned the meeting at 4:00 p.m.

AH:ty