

HOUSE BILL REPORT

SHB 1951

As Amended by the Senate

Title: An act relating to abandoned cemeteries.

Brief Description: Protecting remains in abandoned cemeteries.

Sponsors: By House Committee on Judiciary (Originally sponsored by Representatives Lantz, DeBolt, Miloscia, McDonald, Stensen and Santos).

Brief History:

Committee Activity:

Judiciary: 2/26/99 [DPS].

Floor Activity:

Passed House: 3/10/99, 97-0.

Senate Amended.

Passed Senate: 4/6/99, 42-0.

Brief Summary of Substitute Bill

- Requires that recorded property title documents include notation if the property is a dedicated cemetery.
- Requires that before dedication of a cemetery can be removed, notice must be given to the Office of Archaeology and Historical Preservation and to the county auditor.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Lantz; Lovick; McDonald and Schindler.

Staff: Bill Perry (786-7123).

Background:

For most purposes, state law defines a "cemetery" as a place that is dedicated for burial or interment of human remains. Dedication requires filing of a map or plat of the cemetery property and a written declaration that the property is to be used exclusively for cemetery purposes.

Once property has been dedicated, the dedication can be removed by a superior court decree. Removal of dedication may be ordered if proof is shown that:

- there are no interments remaining on the property; and
- at least 60 days' notice of the proposed removal of dedication was given the cemetery board.

An "abandoned" cemetery is one for which:

- the county assessor can find no record of an owner; or
- the last known owner is dead and the land has not been conveyed to a new owner; or
- the company or organization that ran the cemetery has disbanded, been dissolved, or otherwise ceased to exist, and the land has not been conveyed to a new owner.

For purposes of "abandoned" cemeteries, a "cemetery" includes any place where five or more human remains are buried. If no boundaries for the cemetery are recorded with the county assessor, the boundaries of an abandoned cemetery are 10 feet in all directions from each burial site. An abandoned cemetery is considered "permanently dedicated," subject to the removal of dedication provisions described above.

Human remains may be removed from a cemetery with the consent of the operator of the cemetery and the consent of a surviving family member. If consent cannot be gotten, the superior court may allow the removal of the remains, but only if removal does not violate the terms of a contract or the rules of the cemetery.

As a practical matter, however, many older burial sites have never been formally dedicated or catalogued, and are subject to destruction without notice.

Summary of Bill:

Any recording of a title document for a dedicated cemetery must include the fact of that dedication.

Before dedication of a cemetery is removed, at least 60 days' notice must be given to the Office of Archaeology and Historic Preservation and to the county auditor.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment elaborates the process by which information about a cemetery is recorded with the county auditor or recording officer. The detail supplied by the amendment includes the following with regard to what the recording must contain:

- a legal description of the property;
- the approximate location of the cemetery on the property;
- the name of the owner of the property; and
- the assessor's tax number.

The amendment also clarifies that while notice of a proposed removal of a cemetery dedication must be "given" to the office of archaeology and historic preservation, the notice must be "filed" with the county auditor or recording officer.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Proposed substitute bill) The bill requires adequate notice be given to protect old cemeteries which are an important part of our heritage. It will greatly increase the likelihood that these important and sacred places are preserved.

Testimony Against: None.

Testified: Representative Lantz, prime sponsor; Andrea MacDonald, Washington State Cemetery Association; Evelyn Huff, citizen; Laura Pemberton Sparr, Washington State Genealogical Society; and David Daly, Washington Interment Association.