

SENATE BILL REPORT

HB 1907

As of March 29, 2017

Title: An act relating to abandoned cemeteries.

Brief Description: Concerning abandoned cemeteries.

Sponsors: Representatives Orcutt, Blake, DeBolt, McDonald and Van Werven.

Brief History: Passed House: 3/07/17, 97-0.

Committee Activity: State Government: 3/29/17.

Brief Summary of Bill

- Requires the Funeral and Cemetery Board adopt rules to allow for burials in abandoned cemeteries.
- Requires any records, maps, or other documents associated with an abandoned cemetery be transferred to State Archives.
- Requires any endowment care funds held by the cemetery authority at the time the cemetery becomes abandoned be transferred to the Department of Archaeology and Historic Preservation.
- Expands the definition of abandoned cemetery.

SENATE COMMITTEE ON STATE GOVERNMENT

Staff: Melissa Van Gorkom (786-7491)

Background: Property may be dedicated for cemetery purposes and shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or in part by an order and decree of the superior court of the county in which the property is situated.

Funeral and Cemetery Board (Board). The Board was created by the Legislature in 2005 by consolidating the Funeral Board and the Cemetery Board. Among other duties, the Board enforces and administers laws governing private cemeteries, endowment care funds, and prearranged funeral service trust funds, and adopts rules for administering and enforcing certain regulations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Board may provide a certificate of authority to an entity for operation of a cemetery as a cemetery authority. Cemetery authorities are required to manage any endowment care funds, records, maps, or other documents associated with the cemetery. Endowment care funds, which include special care funds and all funds held for or represented as maintenance funds, must be reported annually to the Board in a form and content prescribed by the Board.

Abandoned Cemetery. An abandoned cemetery is one for which:

- the county assessor can find no record of an owner;
- 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, the definition of 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 ten feet in all directions from each burial site.

The Department of Archaeology and Historic Preservation (Department) may grant a certificate of authority to a preservation organization to maintain and protect an abandoned cemetery. Such authority is limited to the care, maintenance, restoration, and historical preservation of the abandoned cemetery and shall not include authority to make burials. Preservation organizations with a certificate of authority are entitled to hold and possess burial records, maps, and other historical documents, and may establish care funds.

Summary of Bill: The Board, in consultation with the Department, must promulgate rules to allow for burials in abandoned cemeteries. Landowners of abandoned cemeteries must allow for burials in accordance with the rules established by the Board.

At the time the cemetery becomes abandoned, any records, maps, or other documents associated with an abandoned cemetery must be transferred to State Archives.

Any endowment care funds held by the cemetery authority at the time the cemetery becomes abandoned must be transferred to the Department.

The definition of abandoned cemetery is expanded to include a burial ground of the human dead that no longer has a valid certificate of authority as determined by the Board.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: There are families that plan ahead and buy plots far in advance so that funeral arrangements do not burden the family. Sometimes

cemeteries close, in this case due to miss management, causing the plot that was bought to no longer be in a certified cemetery. This required that the family find a nonprofit religious organization that could take ownership of the cemetery for a brief period to allow for a burial and get permission from the landowner to bury the family member there. Families should not have to jump through hoops when they are going through a grieving process to bury a family member in a plot that was already purchased.

Persons Testifying: PRO: Representative Ed Orcutt, Prime Sponsor; Debbie Campbell.

Persons Signed In To Testify But Not Testifying: No one.