
SENATE BILL 5178

State of Washington

61st Legislature

2009 Regular Session

By Senator Haugen

Read first time 01/15/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to historic cemeteries and graves; amending RCW
2 68.52.030; adding new sections to chapter 27.34 RCW; repealing RCW
3 68.60.030; and making an appropriation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 27.34 RCW
6 to read as follows:

7 (1) To be eligible to receive funding, an applicant must:

8 (a) Be certified by the department to preserve and rehabilitate
9 historic graves, historic cemeteries, or abandoned cemeteries under
10 this chapter; and

11 (b) Receive written permission from the fee owner of the land.

12 (i) For public lands, the applicant must receive permission from
13 the governmental entity responsible for the land.

14 (ii) If no owner can be determined, the applicant must obtain
15 written certification from the respective county stating that the land
16 is abandoned.

17 (iii) If the land is not accessible by public road, the applicant
18 must also receive written permission from any landowner whose land will
19 be crossed in order to enter the cemetery.

1 (2) A single applicant may receive permission to preserve and
2 rehabilitate more than one abandoned or historic cemetery. Funding
3 must be apportioned as described under RCW 27.34.240, except that no
4 group may receive more than one thousand five hundred dollars per year
5 for each site.

6 (3) The department must form a steering committee to advise the
7 director in the creation of an application process.

8 (a) The steering committee must have the following membership:

9 (i) One member from the Washington trust for historic preservation;

10 (ii) One member from the cemetery board; and

11 (iii) One member from the mortuary industry.

12 (b) Members of the steering committee may not be eligible to
13 receive funding under this section.

14 (4) The department must report yearly to the legislature on the
15 disbursement and use of the funds.

16 (5) For the purposes of this section:

17 (a) "Abandoned cemetery" has the same meaning provided in RCW
18 68.60.010;

19 (b) "Historic cemetery" has the same meaning as historical cemetery
20 in RCW 68.60.010; and

21 (c) "Historic grave" has the meaning provided in RCW 68.60.010.

22 **Sec. 2.** RCW 68.52.030 and 1857 p 28 s 3 are each amended to read
23 as follows:

24 (1) Each and every county, town, or city~~((, shall have power to))~~
25 may provide a hearse and pall for burial of the dead, ((and to))
26 procure and hold lands for burying grounds, ((and to)) procure and hold
27 lands containing historic cemeteries and graves, make regulations and
28 fence the same, ~~((and to))~~ preserve the monuments erected therein, and
29 ~~((to))~~ levy and collect the necessary taxes for that purpose, in the
30 same manner as other taxes are levied and collected.

31 (2) For the purposes of this section:

32 (a) "Historic cemetery" has the same meaning as historical cemetery
33 in RCW 68.60.010; and

34 (b) "Historic grave" has the meaning provided in RCW 68.60.010.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 27.34 RCW
36 to read as follows:

1 (1)(a) The department may grant by nontransferable certificate
2 authority to maintain and protect an untended cemetery upon application
3 made by an individual or group for the purpose of restoring,
4 maintaining, and protecting an untended cemetery. Such authority must
5 be limited to the care, maintenance, restoration, protection, and
6 historical preservation of the untended cemetery, and may not include
7 authority to make burials. In order to activate an untended cemetery
8 for burials, an applicant must apply for a certificate of authority to
9 operate a cemetery from the state cemetery board.

10 (b) Those individuals or groups that are granted authority to
11 maintain and protect an untended cemetery must be entitled to hold and
12 possess burial records, maps, and other historical documents as may
13 exist. Individuals or groups that are granted authority to maintain
14 and protect an untended cemetery may not be liable to those claiming
15 burial rights, ancestral ownership, or to any other person or
16 organization alleging to have control by any form of conveyance not
17 previously recorded at the county auditor's office within the county in
18 which the untended cemetery exists. Such individuals or groups may not
19 be liable for any reasonable alterations made during restoration work
20 on memorials, roadways, walkways, features, plantings, or any other
21 detail of the untended cemetery.

22 (c) Should a group be dissolved, the department must revoke the
23 certificate of authority.

24 (d) Individuals or groups that are granted authority to maintain
25 and protect an untended cemetery may establish care funds.

26 (2) Except as provided in subsection (1) of this section, the
27 department may, in its sole discretion, authorize any individual or
28 group in Washington that is not expressly incorporated for the purpose
29 of restoring, maintaining, and protecting an untended cemetery, to
30 restore, maintain, and protect one or more untended cemeteries. The
31 authorization may include the right of access to any burial records,
32 maps, and other historical documents, but may not include the right to
33 be the permanent custodian of original records, maps, or documents.
34 This authorization must be granted by a nontransferable certificate of
35 authority. Any individual or group authorized and acting under this
36 subsection is immune from liability to the same extent as if it were a
37 preservation organization holding a certificate of authority under
38 subsection (1) of this section.

1 (3) The department must establish standards and guidelines for
2 granting certificates of authority under subsections (1) and (2) of
3 this section to assure that any restoration, maintenance, and
4 protection activities authorized under this subsection are conducted
5 and supervised in an appropriate manner.

6 (4) For the purposes of this section, "untended cemeteries" means
7 abandoned and historical cemeteries and historic graves as defined in
8 RCW 68.60.010.

9 NEW SECTION. **Sec. 4.** RCW 68.60.030 (Preservation and maintenance
10 corporations--Authorization of other corporations to restore, maintain,
11 and protect abandoned cemeteries) and 2005 c 365 s 150, 1995 c 399 s
12 168, 1993 c 67 s 1, & 1990 c 92 s 3 are each repealed.

13 NEW SECTION. **Sec. 5.** The sum of forty thousand dollars, or as
14 much thereof as may be necessary, is appropriated for the biennium
15 ending June 30, 2011, from the general fund to the department for the
16 purposes of assisting civic-oriented individuals and groups in
17 preserving and rehabilitating historic graves and cemeteries.

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