

LD 806 An Act To Clarify the Definition of “Ancient Burying Ground”

To: Members, Joint Standing Committee on State and Local Government

From: Lynne Caswell, Esq., Legislative Analyst

Date: April 10, 2019

SUMMARY

This bill expands the definition of “ancient burying grounds” to include “private cemeteries” established pursuant to Public Laws from 1829 and 1839 and “family burying grounds” established before 1880.

This bill also expands the types of evidence used to identify an “ancient burying ground” beyond the records of the registry of deeds or the municipality in which the property is located.

TESTIMONY**Sponsor** (Senator Miramant)

- Gravestones are the records and historians should have access;
- Provide access and clarify definitions

Proponents (Helen Shaw; Corelyn Senn; Written only from: Stephanie Warner; Deborah Wilson; Faith Webster; Sarah Vining; Jeanne Edwards; Richard Bedard; Jonathan Albrecht; Patricia Leland and Paul Berry)

- Law should recognize burial grounds even if no record at registry of deeds or town office- never filed, lost or destroyed, filed under a different name, etc.;
- Should use earlier date - no understanding why 1880 was the date chosen;
- Should not require fences, stone walls and other markers to still exist given age of these structures;

Opponents – none**NFNA** (MMA; Dan Davis, written only)

- Expanding definition of ancient burying grounds may expand municipal responsibility to unknown number of additional burying grounds and to burying grounds that have not been maintained for decades;
- Proposed amended language re: municipalities responsibility for veterans graves in abandoned cemeteries.

PRIOR SESSIONS

Session	LD	Proposal	Outcome
128 th	1346	- Expands definition of “ancient burying ground”	ONTP(11) / OTP-AM(1)
127 th	1328	– provides for alternative proof of existence	ONTP
127 th	862	Enacted §1371	P.L. 2015, ch. 294

INFORMATION REQUESTS

Please refer to the side-by-side provided

MATTERS TO CONSIDER

1. Adds additional undefined terms and subjective criteria into statute
2. MMA's proposed amendment (with additional language for consistency with other statutes)

New sub-§3 to 13 MRSA §1101-B

3. Grave sites of veterans in abandoned cemeteries. To the best of its ability given the location and accessibility of abandoned cemeteries as defined in title 30-A, section 3107, the municipality in which an abandoned cemetery is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, is authorized but not required to ~~is authorized but not required to~~ may keep in good condition all graves, headstones, monuments and markers designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. To the best of its ability given the location and accessibility of the abandoned cemeteries, the municipality, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground.

FISCAL IMPACT - Preliminary (OFPR)

None provided as of April 10, 2019