

JAN 14 2024

LOCAL GOVERNMENT

HOUSE FILE  
BY ARNOLD

2024

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the care and maintenance of cemeteries by a  
2 county or a caretaker.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2024

1 Section 1. Section 317.4, Code 2001, is amended to read as  
2 follows:

3 317.4 DIRECTION AND CONTROL.

4 As used in this chapter, "commissioner" means the county  
5 weed commissioner or the commissioner's deputy within each  
6 county. Each commissioner, subject to direction and control  
7 by the county board of supervisors, shall supervise the  
8 control and destruction of all noxious weeds in the county,  
9 including those growing within the limits of cities, within  
10 the confines of **abandoned** cemeteries except as provided in  
11 section 317.5, and along streets and highways unless otherwise  
12 provided. A commissioner shall notify the department of  
13 public safety of the location of marijuana plants found  
14 growing on public or private property. A commissioner may  
15 enter upon any land in the county at any time for the  
16 performance of the commissioner's duties, and shall hire the  
17 labor and equipment necessary subject to the approval of the  
18 board of supervisors.

19 Sec. 2. Section 317.5, Code 2001, is amended to read as  
20 follows:

21 317.5 WEEDS IN **ABANDONED** CEMETERIES.

22 The commissioner shall control the weeds growing in  
23 **abandoned** cemeteries in the county as needed. If a county  
24 cemetery commission is created, the board of supervisors may  
25 assign the maintenance and management of the cemetery to the  
26 cemetery commission. Spraying for control of weeds shall be  
27 limited to those circumstances when it is not practical to mow  
28 or otherwise control the weeds.

29 Sec. 3. Section 317.9, Code 2001, is amended to read as  
30 follows:

31 317.9 DUTY OF BOARD TO ENFORCE.

32 The responsibility for the enforcement of the provisions of  
33 this chapter shall be vested in the board of supervisors as to  
34 all farm lands, railroad lands, **abandoned** cemeteries, state  
35 lands and state parks, primary and secondary roads; roads,

1 streets and other lands within cities unless otherwise  
2 provided.

3 Sec. 4. Section 331.325, subsection 3, Code 2001, is  
4 amended to read as follows:

5 3. In lieu of management of the cemeteries, the board of  
6 supervisors may create, by ordinance, a cemetery commission to  
7 assume jurisdiction and management of the pioneer cemeteries  
8 and other cemeteries assigned to the commission pursuant to  
9 section 317.5 in the county. The ordinance shall delineate  
10 the number of commissioners, the appointing authority, the  
11 term of office, officers, employees, organizational matters,  
12 rules of procedure, compensation and expenses, and other  
13 matters deemed pertinent by the board. The board may delegate  
14 any power and duties relating to cemeteries which may  
15 otherwise be exercised by township trustees pursuant to  
16 sections 359.28 through 359.41 to the cemetery commission  
17 except the commission shall not certify a tax levy pursuant to  
18 section 359.30 or 359.33 and except that the expenses of the  
19 cemetery commission shall be paid from the county general  
20 fund.

21 Sec. 5. Section 558.69, unnumbered paragraph 1, Code 2001,  
22 is amended to read as follows:

23 With each declaration of value submitted to the county  
24 recorder under chapter 428A, there shall also be submitted a  
25 statement regarding whether any known private burial site is  
26 situated on the property, and if a known private burial site  
27 is situated on the property, the statement shall state the  
28 approximate location of the site. If the statement identifies  
29 a known private burial site, a copy of the statement shall be  
30 submitted to the board of supervisors or the county cemetery  
31 commission, if any. The statement shall also state that no  
32 known wells are situated on the property, or if known wells  
33 are situated on the property, the statement must state the  
34 approximate location of each known well and its status with  
35 respect to section 159.29 or 455B.190. The statement shall

1 also state that no known disposal site for solid waste, as  
2 defined in section 455B.301, which has been deemed to be  
3 potentially hazardous by the department of natural resources,  
4 exists on the property, or if such a known disposal site does  
5 exist, the location of the site on the property. The  
6 statement shall additionally state that no known underground  
7 storage tank, as defined in section 455B.471, subsection 11,  
8 exists on the property, or if a known underground storage tank  
9 does exist, the type and size of the tank, and any known  
10 substance in the tank. The statement shall also state that no  
11 known hazardous waste as defined in section 455B.411,  
12 subsection 3, or listed by the department pursuant to section  
13 455B.412, subsection 2, or section 455B.464, exists on the  
14 property, or if known hazardous waste does exist, that the  
15 waste is being managed in accordance with rules adopted by the  
16 department of natural resources. The statement shall be  
17 signed by at least one of the sellers or their agents. The  
18 county recorder shall refuse to record any deed, instrument,  
19 or writing for which a declaration of value is required under  
20 chapter 428A unless the statement required by this section has  
21 been submitted to the county recorder. A buyer of property  
22 shall be provided with a copy of the statement submitted, and,  
23 following the fulfillment of this provision, if the statement  
24 submitted reveals no private burial site, well, disposal site,  
25 underground storage tank, or hazardous waste on the property,  
26 the county recorder may destroy the statement. The land  
27 application of sludges or soils resulting from the remediation  
28 of underground storage tank releases accomplished in  
29 compliance with department of natural resources rules without  
30 a permit is not required to be reported as the disposal of  
31 solid waste or hazardous waste.

32 Sec. 6. Section 566.35, Code Supplement 2001, is amended  
33 to read as follows:

34 566.35 BURIAL SITES LOCATED ON PRIVATE PROPERTY.

35 If a person notifies a governmental subdivision or agency

1 of the existence within the jurisdiction of the governmental  
2 subdivision or agency of a burial site of the person's  
3 ancestor on property owned by another person, the owner of the  
4 property shall permit the person or a caretaker reasonable  
5 ingress and egress for the purposes of visiting or maintaining  
6 the burial site, and the governmental subdivision or agency  
7 shall notify the owner of this obligation.

8 EXPLANATION

9 This bill strikes the word "abandoned" in Code chapter 317  
10 as the word describes cemeteries which are weed infested and  
11 maintained by the weed commissioner. The board of supervisors  
12 may assign the maintenance and control of the cemeteries to  
13 the county cemetery commission.

14 The bill also provides that if a declaration of value  
15 statement submitted to the county recorder identifies a  
16 private burial site, a copy of the statement shall be  
17 submitted to the board of supervisors or the county cemetery  
18 commission if it is created in the county.

19 Code section 566.35 is amended to allow a caretaker, as  
20 well as a person's ancestor, reasonable access to a burial  
21 site on private property.

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