

BILL ANALYSIS

C.S.S.B. 1630
By: Buckingham
Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the definitions and procedures regarding cemeteries unnecessarily intrude on private property rights. C.S.S.B. 1630 seeks to reform the law regarding cemeteries.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1630 amends the Health and Safety Code to authorize a justice of the peace acting as coroner or medical examiner, or another person authorized to supervise the removal of remains, to investigate or remove remains in an unmarked grave contained within an abandoned, unknown, or unverified cemetery without written order of the state registrar or the state registrar's designee. The bill defines, among other terms, "abandoned cemetery" as a cemetery, regardless of whether it appears on a map or in deed records, that is not owned or operated by a cemetery organization, does not have another person legally responsible for its care, and is not maintained by any person; "unknown cemetery" as an abandoned cemetery evidenced by the presence of marked or unmarked graves that does not appear on a map or in deed records; and "unverified cemetery" as a location having some evidence of interment but in which the presence of one or more unmarked graves has not been verified by a person authorized to supervise the removal of remains or by the Texas Historical Commission.

C.S.S.B. 1630 authorizes the commission, with consent of a landowner, to investigate a suspected but unverified cemetery or to delegate the investigation to a qualified person authorized to supervise the removal of remains. The bill gives a district court of the county in which an unknown cemetery is discovered or an abandoned cemetery is located, if the court orders the removal of a dedication of a cemetery and all human remains in that cemetery have not previously been removed, the option of ordering the removal of the remains from the cemetery to a municipal or county cemetery as an alternative to ordering such removal to a perpetual care cemetery. The bill requires a person who discovers an unknown or abandoned cemetery to mail, concurrently with filing the required notice with the applicable county clerk, notice to the landowner on record in the county appraisal district and specifies that the required notice is for the discovery of the cemetery.

C.S.S.B. 1630 requires a person who discovers an unverified cemetery to file notice and evidence of the discovery with the commission on a form provided by the commission and to

concurrently provide a copy of the notice to the landowner on record in the county appraisal district on whose land the unverified cemetery is located. The bill authorizes such a landowner to send a response or comments to the commission concerning the notice not later than the 30th day after the date the notice is filed. The bill requires the commission to evaluate the notice of the unverified cemetery, the evidence submitted with the notice, and the response of the landowner, if any, and to determine whether there is sufficient evidence of the existence of a cemetery. The bill requires the commission to inform the landowner if the commission determines sufficient evidence supports the existence of a cemetery and authorizes the commission under such circumstance to file notice of the existence of the cemetery with the applicable county clerk. The bill requires the commission, if it determines sufficient evidence supports a determination that a cemetery does not exist, to notify the landowner on record in the appraisal district of its determination, amend the notice to include the commission's determination, and ensure any applicable notice filed with a county clerk is corrected. The bill excludes an unverified cemetery from the applicability of statutory provisions relating to access to a cemetery or private burial grounds for which no public ingress or egress is available.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1630 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 711.001, Health and Safety Code, is amended.	SECTION 1. Substantially the same as engrossed version.
SECTION 2. Section 711.004, Health and Safety Code, is amended.	SECTION 2. Same as engrossed version.
SECTION 3. The heading to Section 711.010, Health and Safety Code, is amended.	SECTION 3. Same as engrossed version.
SECTION 4. Section 711.010, Health and Safety Code, is amended.	SECTION 4. Same as engrossed version.
SECTION 5. The heading to Section 711.011, Health and Safety Code, is amended.	SECTION 5. Same as engrossed version.
SECTION 6. Section 711.011(a), Health and Safety Code, is amended.	SECTION 6. Same as engrossed version.
SECTION 7. Subchapter A, Chapter 711, Health and Safety Code, is amended.	SECTION 7. Substantially the same as engrossed version.
SECTION 8. Section 711.041, Health and Safety Code, is amended.	SECTION 8. Same as engrossed version.
No equivalent provision.	SECTION 9. Section 712.0441(f-1), Health

and Safety Code, is amended to read as follows:

(f-1) The commissioner may issue an order requiring restitution by a person if, after notice and opportunity for a hearing held in accordance with the procedures for a contested case hearing under Chapter 2001, Government Code, the commissioner finds that the corporation has not ordered memorials, as defined by Section 711.001 [~~711.001(20-a)~~], in compliance with the deadlines established by rules adopted under this chapter.

SECTION 9. This Act takes effect September 1, 2017.

SECTION 10. Same as engrossed version.