

BILL ANALYSIS

Senate Research Center
79R2044 MCK-F

H.B. 1011
By: Hilderbran (Williams)
Administration
4/27/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The purpose of H.B. 1011 is to provide a district court with the discretion to order the removal of any dedication for cemetery purposes. Currently, a district court, upon petition of the property owner whose property is currently dedicated, is required to order removal of any such dedication. The bill also strikes language which allows the petition to be made ex parte and now requires notice to be given to the Texas Historical Commission as well as the county historical commission of the county in which the cemetery is located and allows them to properly appear at the hearing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 711.010, Health and Safety Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes, rather than requires, a district court of the county in which an unknown cemetery is discovered or an abandoned cemetery is located to order the removal of any dedication for cemetery purposes that affects the property on petition of the owner of the property. Requires the court to order the removal of the human remains from the cemetery to a perpetual care cemetery if a court orders the removal of a dedication of a cemetery and all human remains on the property have not previously been removed. Deletes existing text requiring a petition under this subsection to be made ex parte in the name of the owner of the property without naming any defendant or joinder of any other person.

(c) Requires, in addition to any notice required by Section 711.004 (Removal of Remains), notice of a petition filed under Subsection (b) to be given to the Texas Historical Commission (THC) and to the county historical commission of the county in which the cemetery is located. Authorizes THC and the county historical commission to intervene and become parties to the suit.

SECTION 2. Makes application of this Act prospective

SECTION 3. Effective date: September 1, 2005.