

- SUBJECT:** Exempting dedicated cemetery property from drainage fees or charges
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 7 ayes — Ritter, Ashby, D. Bonnen, Callegari, T. King, Larson, D. Miller
2 nays — Johnson, Lucio
2 absent — Keffer, Martinez Fischer
- WITNESSES:** For — Richard Ambrus, Glenwood Cemetery Houston Texas; Arlie Davenport, Texas Cemetery Association; (*Registered, but did not testify:* Rick Gaines, Oak Grove Memorial Gardens; Jim Kennerly, Texas Cemetery Association)

Against — Heather Mahurin, Texas Municipal League; Errick Thompson, The City of Dallas; (*Registered, but did not testify:* Victoria Li, City of Austin)

On — (*Registered, but did not testify:* Justin Taack, Texas Commission on Environmental Quality)
- BACKGROUND:** Federal storm water requirements under the Clean Water Act requires local governments to maintain infrastructure to ensure that storm water drainage flowing back into a public water source is free from pollutants. Local governments have the option to assess the fee by ordinance. Those that choose not to assess a specific fee typically cover the costs of the infrastructure in their general operating budgets.

The Health and Safety Code provides that all property of a dedicated cemetery, including a road, alley, or walk in the cemetery is exempt from public improvements assessments, fees, and public taxation.
- DIGEST:** CSHB 1168 would add drainage fees or charges to the exemptions to which all property of a dedicated cemetery, including a road, alley, or walk in the cemetery, was exempt.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2013.

**SUPPORTERS
SAY:**

Cemeteries have, for decades, been considered a special form of property providing a public or civic service and are therefore exempt from public improvement assessments, fees, and public taxation. A drainage fee or a drainage charge is a “fee,” and as a fee it is unlawful for it to be levied against property dedicated to cemetery purposes. While the statutory restriction is clear and was intended to include drainage fees, municipalities have been assessing drainage charges and fees to cemeteries. This bill would clarify current statute by specifically exempting cemeteries from drainage fees or charges.

**OPPONENTS
SAY:**

Drainage fees pay for the cost of maintaining the federally required storm water drainage infrastructure used to prevent flooding and protect public water sources from pollution. While it is appropriate to exempt cemeteries from other public improvement assessments and taxes, such as costs associated with roads, cemeteries should not be exempt from drainage infrastructure fees because they contribute to storm water run-off. Exempting cemeteries from a drainage fee would unfairly shift the cost of the burden onto others, adding to the inequity of the way the cost is apportioned.