

BILL ANALYSIS

Senate Research Center
88R3840 EAS-D

H.B. 783
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Local Government
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Cemeteries have been an important part of providing a place for remembrance and reflection in human society for thousands of years. In the United States, cemeteries are typically regulated at the state level, with each state having its own laws and regulations governing the management and maintenance of burial sites.

Some municipalities and counties have enacted regulations to supplement state law. These regulations may cover a wide range of issues, including zoning, land use, recordkeeping, burial permits, management, and maintenance. Current state law limits the establishment and operation of cemeteries in or within municipalities with a population greater than 5,000. This severely limits where cemeteries can be placed, especially within urban areas with higher populations, greatly limiting where people can be buried in city limits.

The proposed bill allows individuals, corporations, partnerships, firms, trusts, or associations to apply for permission to establish or use a cemetery within the limits of a municipality or county. However, this provision only applies to municipalities in counties with populations over 750,000 or adjacent to counties with populations over 750,000. To apply, the applicant must file a written application with the governing body of the municipality or the commissioners court of the county, as applicable. The governing body or commissioners court will then prescribe the information that must be included in the application. The governing body or commissioners court will only authorize the establishment or use of the cemetery if it determines that doing so will not adversely affect public health, safety, and welfare.

H.B. 783 is designed to provide a mechanism for establishing or using cemeteries within municipalities and counties while ensuring that public health, safety, and welfare are not compromised. It also sets out clear guidelines for applicants, making it easier to navigate the process of establishing or using a cemetery.

Additionally, H.B. 783 does not amend Section 711.021(f), Health and Safety Code, which requires all cemeteries established after September 1, 1993 to be perpetual care.

So, any cemetery created using the provision of this bill must be a perpetual care cemetery.

H.B. 783 amends current law relating to cemeteries in certain municipalities and counties.

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 711.008, Health and Safety Code, by amending Subsection (a) and adding Subsections (g-3) and (g-4), as follows:

(a) Creates exceptions under Subsections (g-3) and (g-4).

(g-3) Authorizes an individual, corporation, partnership, firm, trust, or association to file a written application with the governing body of a municipality to establish or use a cemetery located inside the limits of the municipality. Requires the governing body by ordinance to prescribe the information to be included in the application. Authorizes the governing body by ordinance to authorize the establishment or use of the cemetery if the governing body determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare. Provides that this subsection applies only to a municipality that is located in a county with a population of more than 750,000 or in a county adjacent to a county with a population of more than 750,000.

(g-4) Authorizes an individual, corporation, partnership, firm, trust, or association to file a written application with the commissioners court of a county to establish or use a cemetery located inside the limits of the county. Requires the commissioners court by order to prescribe the information to be included in the application. Authorizes the commissioners court by order to authorize the establishment or use of the cemetery if the commissioners court determines and states in the order that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare. Provides that this subsection applies only to a county with a population of more than 750,000 or that is adjacent to a county with a population of more than 750,000.

SECTION 2. Effective date: September 1, 2023.