

By: Estes

S.B. No. 951

A BILL TO BE ENTITLED

AN ACT

relating to the operation of certain cemeteries using county resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a) and (c), Section 713.028, Health and Safety Code, are amended to read as follows:

(a) For purposes of historical preservation or public health, safety, or welfare, a commissioners court may use public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to maintain a cemetery that has a grave marker more than 50 years old.

(c) At the discretion of the commissioners court, a county may permit the use of public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to open and close graves in a cemetery described by Subsection (a) [~~Maintenance of a cemetery under Subsection (a) includes any activity necessary for the continued operation of the cemetery, including the opening and closing of graves. This subsection applies only to a county with a population of 40,000 or less~~].

SECTION 2. Article 43.10, Code of Criminal Procedure, is amended to read as follows:

Art. 43.10. MANUAL LABOR. Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than

1 one day, or where in such conviction the punishment is assessed only
2 at a pecuniary fine and the party so convicted is unable to pay the
3 fine and costs adjudged against him, or where the party is sentenced
4 to jail for a felony or is confined in jail after conviction of a
5 felony, the party convicted shall be required to work in the county
6 jail industries program or shall be required to do manual labor in
7 accordance with the provisions of this article under the following
8 rules and regulations:

9 1. Each commissioners court may provide for the
10 erection of a workhouse and the establishment of a county farm in
11 connection therewith for the purpose of utilizing the labor of said
12 parties so convicted;

13 2. Such farms and workhouses shall be under the
14 control and management of the sheriff, and the sheriff may adopt
15 such rules and regulations not inconsistent with the rules and
16 regulations of the Commission on Jail Standards and with the laws as
17 the sheriff deems necessary;

18 3. Such overseers and guards may be employed by the
19 sheriff under the authority of the commissioners court as may be
20 necessary to prevent escapes and to enforce such labor, and they
21 shall be paid out of the county treasury such compensation as the
22 commissioners court may prescribe;

23 4. They shall be put to labor upon public works and
24 maintenance projects, including public works and maintenance
25 projects for a political subdivision located in whole or in part in
26 the county. They may also be put to labor upon maintenance projects
27 for a cemetery that the commissioners court uses public funds,

1 county employees, or county equipment to maintain under Section
2 713.028, Health and Safety Code;

3 5. One who from age, disease, or other physical or
4 mental disability is unable to do manual labor shall not be required
5 to work. His inability to do manual labor may be determined by a
6 physician appointed for that purpose by the county judge or the
7 commissioners court, who shall be paid for such service such
8 compensation as said court may allow; and

9 6. For each day of manual labor, in addition to any
10 other credits allowed by law, a defendant is entitled to have one
11 day deducted from each sentence he is serving. The deduction
12 authorized by this article, when combined with the deduction
13 required by Article 42.10 of this code, may not exceed two-thirds
14 (2/3) of the sentence.

15 SECTION 3. The change in law made by Section 2 of this Act
16 applies to a person who is convicted of an offense with respect to
17 which Article 43.10, Code of Criminal Procedure, applies,
18 regardless of whether the conviction occurs before, on, or after
19 the effective date of this Act.

20 SECTION 4. This Act takes effect September 1, 2005.