

1-1 By: Estes S.B. No. 951
1-2 (In the Senate - Filed March 3, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 5, 2005, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the operation of certain cemeteries using county
1-9 resources.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a) and (c), Section 713.028, Health
1-12 and Safety Code, are amended to read as follows:

1-13 (a) For purposes of historical preservation or public
1-14 health, safety, or welfare, a commissioners court may use public
1-15 funds, county employees, county inmate labor as provided by Article
1-16 43.10, Code of Criminal Procedure, and county equipment to maintain
1-17 a cemetery that has a grave marker more than 50 years old.

1-18 (c) At the discretion of the commissioners court, a county
1-19 may permit the use of public funds, county employees, county inmate
1-20 labor as provided by Article 43.10, Code of Criminal Procedure, and
1-21 county equipment to open and close graves in a cemetery described by
1-22 Subsection (a) [Maintenance of a cemetery under Subsection (a)
1-23 includes any activity necessary for the continued operation of the
1-24 cemetery, including the opening and closing of graves. This
1-25 subsection applies only to a county with a population of 40,000 or
1-26 less].

1-27 SECTION 2. Article 43.10, Code of Criminal Procedure, is
1-28 amended to read as follows:

1-29 Art. 43.10. MANUAL LABOR. Where the punishment assessed in
1-30 a conviction for misdemeanor is confinement in jail for more than
1-31 one day, or where in such conviction the punishment is assessed only
1-32 at a pecuniary fine and the party so convicted is unable to pay the
1-33 fine and costs adjudged against him, or where the party is sentenced
1-34 to jail for a felony or is confined in jail after conviction of a
1-35 felony, the party convicted shall be required to work in the county
1-36 jail industries program or shall be required to do manual labor in
1-37 accordance with the provisions of this article under the following
1-38 rules and regulations:

1-39 1. Each commissioners court may provide for the
1-40 erection of a workhouse and the establishment of a county farm in
1-41 connection therewith for the purpose of utilizing the labor of said
1-42 parties so convicted;

1-43 2. Such farms and workhouses shall be under the
1-44 control and management of the sheriff, and the sheriff may adopt
1-45 such rules and regulations not inconsistent with the rules and
1-46 regulations of the Commission on Jail Standards and with the laws as
1-47 the sheriff deems necessary;

1-48 3. Such overseers and guards may be employed by the
1-49 sheriff under the authority of the commissioners court as may be
1-50 necessary to prevent escapes and to enforce such labor, and they
1-51 shall be paid out of the county treasury such compensation as the
1-52 commissioners court may prescribe;

1-53 4. They shall be put to labor upon public works and
1-54 maintenance projects, including public works and maintenance
1-55 projects for a political subdivision located in whole or in part in
1-56 the county. They may also be put to labor upon maintenance projects
1-57 for a cemetery that the commissioners court uses public funds,
1-58 county employees, or county equipment to maintain under Section
1-59 713.028, Health and Safety Code;

1-60 5. One who from age, disease, or other physical or
1-61 mental disability is unable to do manual labor shall not be required
1-62 to work. His inability to do manual labor may be determined by a
1-63 physician appointed for that purpose by the county judge or the
1-64 commissioners court, who shall be paid for such service such

2-1 compensation as said court may allow; and
2-2 6. For each day of manual labor, in addition to any
2-3 other credits allowed by law, a defendant is entitled to have one
2-4 day deducted from each sentence he is serving. The deduction
2-5 authorized by this article, when combined with the deduction
2-6 required by Article 42.10 of this code, may not exceed two-thirds
2-7 (2/3) of the sentence.

2-8 SECTION 3. The change in law made by Section 2 of this Act
2-9 applies to a person who is convicted of an offense with respect to
2-10 which Article 43.10, Code of Criminal Procedure, applies,
2-11 regardless of whether the conviction occurs before, on, or after
2-12 the effective date of this Act.

2-13 SECTION 4. This Act takes effect September 1, 2005.

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