

BILL ANALYSIS

C.S.H.B. 3207
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

An organized religious society or sect that is exempt from income taxation under the federal Internal Revenue Code of 1986 is currently authorized to establish a columbarium. C.S.H.B. 3207 seeks to allow such a religious society or sect to establish and operate a perpetual care cemetery in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles under certain conditions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3207 amends the Health and Safety Code to exempt the establishment and operation of a perpetual care cemetery by an organized religious society or sect that is exempt from income taxation under the federal Internal Revenue Code of 1986; has been in existence for at least five years; and has at least \$500,000 in assets from provisions of law prohibiting an individual, corporation, partnership, firm, trust, or association from establishing or operating a cemetery, or using any land for the interment of remains within or near the boundaries of certain municipalities, if the society or sect establishes and operates the cemetery on land that is owned by the society or sect that, together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres and that is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles.

C.S.H.B. 3207 authorizes the governing body of such a municipality to authorize the establishment and use by such a religious society or sect of a perpetual care cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare and makes an exemption under the bill's provisions contingent on such authorization.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3207 differs from the original, in the bill provision exempting the establishment and operation of a cemetery by certain religious societies or sects from provisions of law prohibiting certain entities from establishing or operating a cemetery or using any land for the internment of remains within or nearby certain municipal boundaries, by specifying that such an exemption is contingent on an authorization for the establishment and use of the cemetery granted by the

municipality in which the cemetery is located, whereas the original contains no such specification.

C.S.H.B. 3207 differs from the original by limiting the applicability of such an exemption to the establishment and operation of a perpetual care cemetery, whereas the original exempts the establishment and operation of a cemetery. The substitute differs from the original by including among the conditions qualifying a religious society or sect for the exemption, the qualifications that the religious society or sect be in existence for at least five years and have at least \$500,000 in assets, whereas the original contains no such qualifications.

C.S.H.B. 3207 differs from the original, in the bill provision establishing conditions for the exemption relating to the land on which the perpetual care cemetery is to be located, by requiring that the land be located in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles, whereas the original requires the land to be located in a municipality with a population of at least one million that is located in a county with a population of at least two million. The substitute differs from the original by including among the conditions for the exemption relating to the land on which the perpetual care cemetery is to be located, the condition that the land, together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres, whereas the original contains no such condition.

C.S.H.B. 3207 contains a provision not included in the original authorizing the governing body of an applicable municipality to authorize the establishment and use by an applicable religious society or sect of a cemetery located inside the boundaries of the municipality if the ordinance meets certain conditions.