

BILL ANALYSIS

Senate Research Center
82R10327 YDB-F

S.B. 1343
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Administration
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 81st Legislature, Regular Session, 2009, the legislature passed H.B. 2927, relating to the regulation of cemeteries by state and local governments. This legislation provides that when an unknown cemetery site is discovered, notice must be filed with the county clerk and the Texas Historical Commission (THC).

Sometimes, unmarked burial sites or graves are discovered by property owners, and these sites are at risk of looting or desecration by persons who may also trespass on private property.

S.B. 1343 addresses this concern by providing a definition for an archaeological cemetery and waiving the notice requirement to the county clerk if the cemetery is believed to be an archaeological cemetery. THC would still be notified and the removal of remains, if necessary, would be supervised by a qualified professional archeologist.

As proposed, S.B. 1343 amends current law relating to archeological cemeteries.

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 711.001, Health and Safety Code, by amending Subdivisions (1) and (1-a) and adding Subdivision (1-b) to define "archaeological cemetery." Makes nonsubstantive changes.

SECTION 2. Amends Section 711.010(a), Health and Safety Code, to prohibit the owner of property on which an unknown cemetery is discovered or on which an abandoned cemetery is located from constructing improvements on the property in a manner that would further disturb the cemetery until the human remains interred in the cemetery are removed under either a written order issued by the state registrar or the state registrar's designee under Section 711.004(f), or for an archeological cemetery, a permit issued by the Texas Historical Commission (THC); and an order of a district court as provided by this section.

SECTION 3. Amends Section 711.0105(a), Health and Safety Code,

(a) Requires that the removal of remains authorized under this chapter, except as provided by this subsection, be supervised by a cemetery keeper, a licensed funeral director, a medical examiner, a coroner, or a professional archeologist. Provides that the removal of remains from an archeological cemetery may only be supervised by a professional archeologist that meets any qualifications established by THC.

SECTION 4. Amends Section 711.011(a), Health and Safety Code, as follows:

(a) Requires a person who discovers an unknown or abandoned cemetery, except as provided by this subsection, to file notice of the cemetery with the county clerk of the county in which the cemetery is located not later than the 90th day, rather than the 10th

day, after the date of the discovery. Requires a person who discovers a cemetery the person reasonably believes might be an archeological cemetery, to protect an archeological cemetery from looting or other desecration, to report the discovery to THC but is not required to file notice with the county clerk as required by this section.

SECTION 5. Amends Section 711.041, Health and Safety Code, by adding Subsection (d) to authorize a member of the public, notwithstanding any other provision of this section, to access an archeological cemetery only if THC issues a written authorization for the public access.

SECTION 6. Effective date: September 1, 2011.