

## **BILL ANALYSIS**

C.S.H.B. 2206  
By: Crownover  
Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the Texas State Cemetery's mission to honor and commemorate distinguished and notable Texans who have contributed significantly to the history and development of the state is more closely aligned with the mission of the State Preservation Board than with the Texas Facilities Commission (TFC), under which it currently operates. The parties point out the board preserves and maintains the Texas Capitol and other historic buildings, a caretaking function much like that of the Texas State Cemetery, while the TFC acts as the real estate representative for the state in the purchase of buildings, grounds, and property. The parties support transferring certain functions and actions relating to the Texas State Cemetery from the TFC to the board. C.S.H.B. 2206 seeks to achieve this goal.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the State Preservation Board in SECTION 2 of this bill. It is the committee's opinion that rulemaking authority previously granted to State Cemetery Committee is transferred to State Preservation Board in SECTIONS 2 and 3 of this bill.

### **ANALYSIS**

C.S.H.B. 2206 sets out provisions relating to the transfer of the oversight of the Texas State Cemetery to the State Preservation Board. The bill makes a Texas Facilities Commission (TFC) employee who was performing duties exclusively related to the Texas State Cemetery an employee of the board; transfers all money, contracts, leases, rights, and obligations of the TFC related to the Texas State Cemetery to the board; makes all property in the custody of the TFC related to the Texas State Cemetery the property of the board; and transfers all funds appropriated by the legislature to the TFC related to the Texas State Cemetery to the board and authorizes the funds to be disbursed to the State Cemetery Committee as provided by the bill. The bill continues in effect a rule adopted by the committee or the TFC related to the Texas State Cemetery before the bill's effective date as a rule of the board until amended or repealed by the board. The bill transfers a function or activity performed by the TFC related to the Texas State Cemetery to the board as provided by the bill.

C.S.H.B. 2206 amends the Government Code to reflect the transfer of the oversight of the Texas State Cemetery to the board and to require the board, in cooperation with the committee, to govern and provide oversight, adopt rules and policies, and provide for the operation of the State Cemetery. The bill removes provisions requiring the committee to oversee all operations of the State Cemetery, to develop a budget for the operations of the TFC relating to the State Cemetery,

and to determine the salary of TFC employees whose duties primarily relate to the operation of the State Cemetery. The bill requires the committee to review the names of certain appointed state officials presented to the committee for consideration for burial in the State Cemetery. The bill includes service to the state through public administration or governmental service as factors to be considered by the committee in determining whether a person has made significant contributions to Texas history and culture before authorizing the person's burial in the State Cemetery.

C.S.H.B. 2206 replaces the nonvoting advisory member of the committee who is a TFC employee with a board employee and requires the appointment of such member by the board's executive director as soon as practicable after the bill's effective date.

C.S.H.B. 2206 specifies that the requirement for the committee to adopt rules regulating the monuments erected in the State Cemetery applies to the board in collaboration with the committee and specifies that the authorization for the committee to adopt rules as necessary for the administration of the State Cemetery applies to the board in collaboration with the committee.

C.S.H.B. 2206 repeals provisions relating to the dedication of certain additional property for cemetery purposes as part of the State Cemetery as well as taking that dedication away under certain conditions, the committee's requirement to encourage members of the legislature to advise constituents who are eligible for burial in the State Cemetery, the requirement for the legislature to separately appropriate money to the committee within certain appropriations, the requirement that activities relating to maintenance of the State Cemetery grounds and monuments conform to certain guidelines, the authorization for certain appropriated funds to be transferred by interagency contract for the performance at the committee's direction of an act related to the State Cemetery, and the committee's duty to develop and implement certain policies regarding the separation of policymaking and management responsibilities.

C.S.H.B. 2206 repeals the following provisions of the Government Code:

- Sections 2165.256(b), (b-1), and (r)
- Sections 2165.2561(k), (l), and (t)

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2206 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 2165.007(b), Government Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Sections 2165.256(a), (d), (e), and (m), Government Code, are amended to read as follows:	SECTION 2. Section 2165.256, Government Code, is amended by amending Subsections (a), (e), (i), and (m) and adding Subsection (a-1) to read as follows: <u>(a) In this section:</u>

(a) The State Cemetery Committee shall oversee and exercise direct control of all operations of the State Cemetery. The committee shall develop a budget for the operations of ~~[the commission relating to]~~ the State Cemetery and determine the salary of State Cemetery employees, including a superintendent and other staff. The committee may delegate authority granted under this subsection and the management, maintenance, and operation of the State Cemetery to the superintendent ~~[of the commission whose duties primarily relate to the operation of the State Cemetery].~~

(d) Persons eligible for burial in the State Cemetery are:

(1) a former member of the legislature or a member who dies in office;

(2) a former elective state official or an elective state official who dies in office;

(3) a former state official or a state official who dies in office who has been appointed by the governor and confirmed by the senate and who served at least six ~~[10]~~ years in the office to which appointed, subject to review and approval by the committee under Subsection (e);

(4) a person specified by a governor's proclamation, subject to review and approval by the committee under Subsection (e);

(5) a person specified by a concurrent resolution adopted by the legislature, subject to review and approval by the committee under Subsection (e); and

(6) a person specified by order of the committee under Subsection (e).

(e) The committee shall review the names of state officials presented to the committee for consideration under Subsection (d)(3), in proclamations under Subsection (d)(4), and in resolutions under Subsection (d)(5). A person whose name is presented to the committee or who is specified in a proclamation or resolution is eligible for burial in the State Cemetery only if the committee, following its review, finds that the person specified made a significant contribution to Texas history and only if, based on that finding, the committee approves the person's burial in the cemetery. The committee may by order authorize a

(1) "Board" means the State Preservation Board.

(2) "Committee" means the State Cemetery Committee.

(a-1) The board, in cooperation with the committee, shall govern and provide oversight, adopt rules and policies, and provide for the operation of the State Cemetery [State Cemetery Committee shall oversee all operations of the State Cemetery. The committee shall develop a budget for the operations of the commission relating to the State Cemetery and determine the salary of employees of the commission whose duties primarily relate to the operation of the State Cemetery].

(e) The committee shall review the names of state officials presented to the committee for consideration under Subsection (d)(3), in proclamations under Subsection (d)(4), and in resolutions under Subsection (d)(5). A person whose name is presented to the committee or who is specified in a proclamation or resolution is eligible for burial in the State Cemetery only if the committee, following its review, finds that the person specified made a significant contribution to Texas history and only if, based on that finding, the committee approves the person's burial in the cemetery. The committee may by order

burial under Subsection (d)(6) only if the committee finds that the person made a significant contribution to Texas history, which may include a person who served this state through public administration or governmental service.

(m) The committee shall consider for burial in the State Cemetery persons who have made significant contributions to Texas history and culture in the following fields: air and space, agriculture, art and design, business and labor, city building, education, governmental service, industry, justice, military affairs, law enforcement, oil and gas, performing arts, philanthropy, public administration, ranching, religion, science and medicine, sports, and writing.

SECTION 3. Sections 2165.2561(a), (b), (c), (g), (k), (l), (m), (p), (q), and (t), Government Code, are amended to read as follows:

(a) The State Cemetery Committee is composed of:

(1) three voting members appointed as follows:

(A) one member of the general public appointed by the governor;

(B) one member of the general public appointed by the governor from a list submitted by the lieutenant governor; and

(C) one member of the general public appointed by the governor from a list submitted by the speaker of the house of representatives; and

(2) one ~~three~~ nonvoting advisory member who is an ~~members appointed as follows:~~

~~[(A) one] employee of the State Preservation Board [Texas Historical Commission] appointed by the executive director of the board [Texas Historical Commission];~~

~~[(B) one employee of the Texas Building and Procurement Commission appointed by the executive director of the Texas Building~~

authorize a burial under Subsection (d)(6) only if the committee finds that the person made a significant contribution to Texas history, which may include a person who served this state through public administration or governmental service.

(i) The board, in collaboration with the committee, shall adopt rules regulating the monuments erected in the State Cemetery.

(m) The committee shall consider for burial in the State Cemetery persons who have made significant contributions to Texas history and culture in the following fields: air and space, agriculture, art and design, business and labor, city building, education, governmental service, industry, justice, military affairs, law enforcement, oil and gas, performing arts, philanthropy, public administration, ranching, religion, science and medicine, sports, and writing.

SECTION 3. Section 2165.2561, Government Code, is amended by amending Subsections (a), (c), (g), (m), (p), (q), and (r) and adding Subsection (a-1) to read as follows:

(a) In this section:

(1) "Board" means the State Preservation Board.

(2) "Committee" means the State Cemetery Committee.

(a-1) The committee [State Cemetery Committee] is composed of:

(1) three voting members appointed as follows:

(A) one member of the general public appointed by the governor;

(B) one member of the general public appointed by the governor from a list submitted by the lieutenant governor; and

(C) one member of the general public appointed by the governor from a list submitted by the speaker of the house of representatives; and

(2) three nonvoting advisory members appointed as follows:

(A) one employee of the Texas Historical Commission appointed by the executive director of the Texas Historical Commission;

(B) one employee of the board [Texas Building and Procurement Commission] appointed by the executive director of the

and Procurement Commission; and

~~[(C) one employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department].~~

(b) The voting member serving the last two years of the member's term is ~~[governor shall designate]~~ the presiding officer of the committee ~~[from among its members, and the presiding officer shall serve in that capacity for two years].~~

(c) The voting members of the committee ~~[appointed by the governor]~~ are appointed for staggered terms of six years with one member's term expiring February 1 of each odd-numbered year. The advisory member ~~[members]~~ of the committee serves ~~[serve]~~ at the will of the State Preservation Board ~~[appointing authority].~~

(g) A person is not eligible for appointment to the committee under Subsection (a)(1) ~~[by the governor]~~ if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the committee, other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

(k) The legislature shall separately appropriate money to the committee within the appropriations to the State Preservation Board ~~[Texas Building and Procurement Commission]~~ for all matters relating to the operation of the State Cemetery. ~~[Activities relating to maintenance of the State Cemetery grounds and monuments shall conform to guidelines for historic preservation submitted to the committee by the Texas Historical Commission.]~~

(l) Funds appropriated to the State Preservation Board shall ~~[Texas Building and Procurement Commission may]~~ be transferred by interagency contract for the

board ~~[Texas Building and Procurement Commission]; and~~

(C) one employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department.

(c) The voting members of the committee ~~[appointed by the governor]~~ are appointed for staggered terms of six years with one member's term expiring February 1 of each odd-numbered year. The advisory members of the committee serve at the will of the appointing authority.

(g) A person is not eligible for appointment to the committee under Subsection (a-1)(1) ~~[by the governor]~~ if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the committee, other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

*(See SECTION 4(2) below.)*

*(See SECTION 4(2) below.)*

performance of, at the direction of the committee, an act related to the State Cemetery, including funds for cemetery operation and maintenance, salaries for the superintendent and staff, clothing and allowances for cemetery employees, and food and drinks for inmates or other persons who are providing maintenance services. The State Preservation Board shall provide the administrative and accounting support required by the committee.

(m) The committee may adopt rules and policies as necessary for the administration of the State Cemetery, including policies on personnel, grounds operation, security, and other matters related to cemetery operations.

(p) If the superintendent ~~[executive director]~~ of the State Cemetery ~~[commission]~~ has knowledge that a potential ground for removal from the committee exists, the superintendent ~~[executive director]~~ shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the superintendent ~~[executive director]~~ shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(q) The superintendent ~~[executive director]~~ of the State Cemetery ~~[commission]~~ or the superintendent's ~~[executive director's]~~ designee shall provide to members of the committee, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

(m) The board, in collaboration with the committee, may adopt rules as necessary for the administration of the State Cemetery.

(p) If the executive director of the board ~~[commission]~~ has knowledge that a potential ground for removal from the committee exists, the executive director shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(q) The executive director of the board ~~[commission]~~ or the executive director's designee shall provide to members of the committee, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

(r) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this subsection. The training program must provide the person with information regarding:

(1) the legislation that created the State Cemetery and the committee ~~[State~~

~~Cemetery Committee~~];

- (2) the programs operated by the committee;
- (3) the role and functions of the committee;
- (4) the rules of the committee, with an emphasis on any rules that relate to disciplinary and investigatory authority;
- (5) ~~the current budget for the committee~~;
- ~~(6)~~ the results of the most recent formal audit of cemetery operations;
- (6) ~~(7)~~ the requirements of:
  - (A) the open meetings law, Chapter 551;
  - (B) the public information law, Chapter 552;
  - (C) the administrative procedure law, Chapter 2001; and
  - (D) other laws relating to public officials, including conflict-of-interest laws; and
- ~~(7)~~ ~~(8)~~ any applicable ethics policies adopted by the board ~~[commission]~~, the committee, or the Texas Ethics Commission.

(t) The committee shall develop and implement policies that clearly separate the policymaking responsibilities of the committee and the management responsibilities of the superintendent ~~[executive director of the commission]~~ and staff of the cemetery.

(See SECTION 4(2) below.)

SECTION 4. The following provisions of the Government Code are repealed:

- (1) Sections 2165.256(b), (b-1), and (r); and
- (2) Sections 2165.2561 ~~(f)~~ and (j).

SECTION 4. The following provisions of the Government Code are repealed:

- (1) Sections 2165.256(b), (b-1), and (r); and
- (2) Sections 2165.2561 ~~(k)~~, (l), and (t).

SECTION 5. (a) On the effective date of this Act:

- (1) an employee of the Texas Facilities Commission who was performing duties exclusively related to the Texas State Cemetery becomes an employee of the State Cemetery Committee;
- (2) all money, contracts, leases, rights, and obligations of the Texas Facilities Commission related to the Texas State Cemetery are transferred to the State Cemetery Committee;
- (3) all property, including records, in the custody of the Texas Facilities Commission related to the Texas State Cemetery becomes the property of the State Cemetery

SECTION 5. (a) On the effective date of this Act:

- (1) an employee of the Texas Facilities Commission who was performing duties exclusively related to the Texas State Cemetery becomes an employee of the State Preservation Board;
- (2) all money, contracts, leases, rights, and obligations of the Texas Facilities Commission related to the Texas State Cemetery are transferred to the State Preservation Board;
- (3) all property, including records, in the custody of the Texas Facilities Commission related to the Texas State Cemetery becomes the property of the State

Committee; and

(4) all funds appropriated by the legislature to the Texas Facilities Commission related to the Texas State Cemetery are transferred to the State Preservation Board to be transferred to the State Cemetery Committee as required under this Act.

(b) A function or activity performed by the Texas Facilities Commission related to the Texas State Cemetery is transferred to the State Cemetery Committee or the State Preservation Board, as applicable, as provided by this Act. The board shall provide the administrative and accounting support required by the committee.

(c) As soon as practicable after the effective date of this Act, the State Preservation Board shall appoint a nonvoting advisory member to the State Cemetery Committee as required by Section 2165.2561(a)(2), Government Code, as amended by this Act.

SECTION 6. This Act takes effect September 1, 2015.

Preservation Board; and

(4) all funds appropriated by the legislature to the Texas Facilities Commission related to the Texas State Cemetery are transferred to the State Preservation Board and may be disbursed to the State Cemetery Committee as provided by this Act.

(b) A rule adopted by the State Cemetery Committee or the Texas Facilities Commission related to the Texas State Cemetery before the effective date of this Act is continued in effect as a rule of the State Preservation Board until amended or repealed by the board.

(c) A function or activity performed by the Texas Facilities Commission related to the Texas State Cemetery is transferred to the State Preservation Board as provided by this Act.

(d) As soon as practicable after the effective date of this Act, the State Preservation Board shall appoint a nonvoting advisory member to the State Cemetery Committee as required by Section 2165.2561(a-1)(2), Government Code, as amended by this Act.

SECTION 6. Same as introduced version.