

1-1 By: Buckingham S.B. No. 1630
 1-2 (In the Senate - Filed March 9, 2017; March 22, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 24, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1630 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to cemeteries.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 711.001, Health and Safety Code, is
 1-24 amended by amending Subdivisions (1) and (1-a) and adding
 1-25 Subdivisions (1-b), (29), (30), (31), and (32) to read as follows:
 1-26 (1) "Abandoned cemetery" means a cemetery, regardless
 1-27 of whether it appears on a map or in deed records, that is not owned
 1-28 or operated by a cemetery organization, does not have another
 1-29 person legally responsible for its care, and is not maintained by
 1-30 any person.
 1-31 (1-a) "Burial park" means a tract of land that is used
 1-32 or intended to be used for interment in graves.
 1-33 (1-b) [~~(1-a)~~] "Campus" means the area:
 1-34 (A) within the boundaries of one or more adjacent
 1-35 tracts, parcels, or lots under common ownership;
 1-36 (B) on which the principal church building and
 1-37 related structures and facilities of an organized religious society
 1-38 or sect are located; and
 1-39 (C) that may be subject to one or more easements
 1-40 for street, utility, or pipeline purposes.
 1-41 (29) "Unidentified grave" means a grave that is not
 1-42 marked in a manner that provides the identity of the interment.
 1-43 (30) "Unknown cemetery" means an abandoned cemetery
 1-44 evidenced by the presence of marked or unmarked graves that does not
 1-45 appear on a map or in deed records.
 1-46 (31) "Unmarked grave" means the immediate area where
 1-47 one or more human interments are found that:
 1-48 (A) is not in a recognized and maintained
 1-49 cemetery;
 1-50 (B) is not owned or operated by a cemetery
 1-51 organization;
 1-52 (C) is not marked by a tomb, monument,
 1-53 gravestone, or other structure or thing placed or designated as a
 1-54 memorial of the dead; or
 1-55 (D) is located on land designated as
 1-56 agricultural, timber, recreational, park, or scenic land under
 1-57 Chapter 23, Tax Code.
 1-58 (32) "Unverified cemetery" means a location having
 1-59 some evidence of interment but in which the presence of one or more
 1-60 unmarked graves has not been verified by a person described by

2-1 Section 711.0105(a) or by the Texas Historical Commission.
2-2 SECTION 2. Section 711.004, Health and Safety Code, is
2-3 amended by adding Subsection (f-1) to read as follows:
2-4 (f-1) For unmarked graves contained within an abandoned,
2-5 unknown, or unverified cemetery, a justice of the peace acting as
2-6 coroner or medical examiner under Chapter 49, Code of Criminal
2-7 Procedure, or a person described by Section 711.0105(a) may
2-8 investigate or remove remains without written order of the state
2-9 registrar or the state registrar's designee.
2-10 SECTION 3. The heading to Section 711.010, Health and
2-11 Safety Code, is amended to read as follows:
2-12 Sec. 711.010. ABANDONED, UNKNOWN, OR UNVERIFIED
2-13 [ABANDONED] CEMETERY.
2-14 SECTION 4. Section 711.010, Health and Safety Code, is
2-15 amended by amending Subsections (a) and (b) and adding Subsection
2-16 (d) to read as follows:
2-17 (a) The owner of property on which an unknown cemetery is
2-18 discovered or on which an abandoned cemetery is located may not
2-19 construct improvements on the property in a manner that would
2-20 ~~further~~ disturb the cemetery until the human remains interred in
2-21 the cemetery are removed under a written order issued by the state
2-22 registrar or the state registrar's designee under Section
2-23 711.004(f) and under an order of a district court as provided by
2-24 this section, except as provided by Section 711.004(f-1).
2-25 (b) On petition of the owner of the property, a district
2-26 court of the county in which an unknown cemetery is discovered or an
2-27 abandoned cemetery is located may order the removal of any
2-28 dedication for cemetery purposes that affects the property if the
2-29 court finds that the removal of the dedication is in the public
2-30 interest. If a court orders the removal of a dedication of a
2-31 cemetery and all human remains in that cemetery ~~[on the property]~~
2-32 have not previously been removed, the court shall order the removal
2-33 of the human remains from the cemetery to a perpetual care cemetery
2-34 or a municipal or county cemetery.
2-35 (d) The Texas Historical Commission, with consent of the
2-36 landowner, may investigate a suspected but unverified cemetery or
2-37 may delegate the investigation to a qualified person described by
2-38 Section 711.0105(a).
2-39 SECTION 5. The heading to Section 711.011, Health and
2-40 Safety Code, is amended to read as follows:
2-41 Sec. 711.011. FILING RECORD OF UNKNOWN OR ABANDONED
2-42 CEMETERY.
2-43 SECTION 6. Section 711.011(a), Health and Safety Code, is
2-44 amended to read as follows:
2-45 (a) A person who discovers an unknown or abandoned cemetery
2-46 shall file notice of the discovery of the cemetery with the county
2-47 clerk of the county in which the cemetery is located and
2-48 concurrently mail notice to the landowner on record in the county
2-49 appraisal district not later than the 10th day after the date of the
2-50 discovery. The notice must contain a legal description of the land
2-51 on which the unknown or abandoned cemetery was found and describe
2-52 the approximate location of the cemetery and the evidence of the
2-53 cemetery that was discovered.
2-54 SECTION 7. Subchapter A, Chapter 711, Health and Safety
2-55 Code, is amended by adding Section 711.0111 to read as follows:
2-56 Sec. 711.0111. NOTICE OF UNVERIFIED CEMETERY. (a) A
2-57 person who discovers an unverified cemetery shall file notice and
2-58 evidence of the discovery with the Texas Historical Commission on a
2-59 form provided by the Texas Historical Commission, and shall
2-60 concurrently provide a copy of the notice to the landowner on record
2-61 in the county appraisal district on whose land the unverified
2-62 cemetery is located.
2-63 (b) The landowner described by Subsection (a) may send a
2-64 response or comments to the Texas Historical Commission concerning
2-65 the notice not later than the 30th day after the date the notice is
2-66 filed.
2-67 (c) The Texas Historical Commission shall evaluate the
2-68 notice of the unverified cemetery, the evidence submitted with the
2-69 notice, and the response of the landowner, if any, and shall

3-1 determine whether there is sufficient evidence of the existence of
3-2 a cemetery.

3-3 (d) If the Texas Historical Commission determines
3-4 sufficient evidence supports the existence of a cemetery, the Texas
3-5 Historical Commission shall inform the landowner and may file
3-6 notice of the existence of the cemetery under Section 711.011.

3-7 (e) If the Texas Historical Commission determines
3-8 sufficient evidence supports a determination that a cemetery does
3-9 not exist, the Texas Historical Commission shall notify the
3-10 landowner on record in the appraisal district of its determination
3-11 and amend the notice to include the commission's determination and
3-12 ensure any notice filed with a county clerk under Section 711.011 is
3-13 corrected.

3-14 SECTION 8. Section 711.041, Health and Safety Code, is
3-15 amended by adding Subsection (d) to read as follows:

3-16 (d) This section does not apply to an unverified cemetery.

3-17 SECTION 9. This Act takes effect September 1, 2017.

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