

BILL ANALYSIS

Senate Research Center
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S.B. 586
By: West
Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Cemeteries are among Texas' most cherished historic resources. Cemeteries are of cultural, religious, and historic interest and, for decades, state policy has favored the protection of Texas' historic cemeteries.

The Texas Historical Commission (THC) indicates that at least approximately 14,000 cemeteries exist in Texas. Preservation and documentation of these cemeteries is a necessary part of the preservation of the cultural patrimony of the Lone Star State. Nevertheless, across the state, cemeteries are frequently threatened by increasing development and urbanization.

The Historic Texas Cemeteries designation program has existed under THC's Cemetery Preservation Program for many years in order to provide recognition and protection to Texas' historic cemeteries. However, throughout this program's operation, it has operated solely as a program promulgated in the Texas Administrative Code, not in statute. Placing the Historic Texas Cemeteries designation program in statute will ensure the program has greater protection against fiscal, personnel, or other future potential issues.

S.B. 586 simply takes the Historic Texas Cemeteries designation program and places it in statute in exactly the format it is in the Administrative Code.

As proposed, S.B. 586 amends current law relating to establishing the Historic Texas Cemeteries Designation Program and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Historical Commission in SECTION 1 (Section 442.359, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 442, Government Code, by adding Subchapter I, as follows:

SUBCHAPTER I. HISTORIC TEXAS CEMETERIES DESIGNATION PROGRAM

Sec. 442.351. DEFINITION. Defines "program."

Sec. 442.352. ESTABLISHMENT AND PURPOSE. Requires the Texas Historical Commission (THC) to establish the Historic Texas Cemeteries Designation Program (program) to alert the public, as well as current and future owners of land adjacent to a cemetery, of the cemetery's existence.

Sec. 442.353. ELIGIBILITY. Requires that a cemetery, to be eligible for a designation under the program, be worthy of recognition and preservation for the cemetery's historical associations and be established at least 50 years before the date an application is submitted to THC to designate the cemetery under the program, unless THC determines the cemetery is exceptionally significant.

Sec. 442.354. APPLYING FOR DESIGNATION. (a) Authorizes any person to submit an application to THC to designate a cemetery under the program.

(b) Requires the applicant to include as part of the application information establishing the existence of the cemetery.

Sec. 442.355. NOTICE OF APPLICATION. (a) Requires THC, after THC receives an application to designate a cemetery under the program, to notify the following persons of the application:

(1) the owner of the property containing the cemetery;

(2) each owner of property adjacent to the cemetery; and

(3) the county historical commission established under Chapter 318 (Historic Preservation by Counties), Local Government Code, for the county in which the cemetery is located, if applicable.

(b) Requires THC to provide a county historical commission described by Subsection (a)(3) with a copy of the application materials to designate a cemetery under the program.

Sec. 442.356. APPLICATION REVIEW; DECISION. (a) Requires THC to review each application it receives for designation of a cemetery under the program and determine whether the cemetery qualifies for designation under the program.

(b) Requires THC, if THC determines the cemetery qualifies for a designation under the program, to:

(1) approve the application;

(2) notify the applicant of the approval of the application;

(3) send to the applicant a declaration of dedication to be filed with the appropriate county clerk's office; and

(4) inform the applicant that the cemetery is authorized to be recognized with an Official Texas Historical Marker available for purchase from THC to certify the cemetery's participation in the program.

(c) Provides that a cemetery is officially recognized under the program on THC's receipt of a copy of the filed declaration of dedication described by Subsection (b)(3), including any exhibits filed with the declaration. Requires that the copy of the declaration of dedication show the date the declaration was filed and the recording information for the declaration.

(d) Requires THC, if THC determines the cemetery does not qualify for designation under the program, to either request additional information from the applicant to support the application or deny the application.

(e) Requires THC, if THC denies the application for designation under the program, to notify the applicant of the denial and inform the applicant of the ability to appeal the decision to the members of THC.

Sec. 442.357. APPLICATION FORM; FEE. (a) Requires THC to develop an application form and procedure for applying for a designation under the program. Authorizes THC to require any information in the application THC considers necessary, including a deed and title, plot records, archival documents, photographs, oral histories, and archaeological data.

(b) Requires THC to make the application available at THC's office or post the application on THC's Internet website.

(c) Authorizes THC to charge a processing fee not to exceed \$25 for each application submitted under this subchapter.

Sec. 442.358. EFFECT OF DESIGNATION; REMOVAL. (a) Provides that a historic cemetery designation under the program does not restrict in any way a property owner's use of land outside the designated cemetery's boundaries.

(b) Provides that a historic cemetery designation under the program is authorized to be removed only by THC action or an order of a court of competent jurisdiction removing the designation or removing the dedication and returning the land to other purposes.

(c) Provides that a transfer of ownership of property containing a cemetery designated under the program does not result in a removal of the designation.

Sec. 442.359. RULES. Requires THC to adopt rules as necessary to implement this subchapter.

SECTION 2. Effective date: September 1, 2025.