
Local Government Committee

SSB 5235

Brief Description: Withdrawing territory from a cemetery district.

Sponsors: Senate Committee on Local Government (originally sponsored by Senator Takko).

<p style="text-align: center;">Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">• Authorizes territory within a cemetery district to be withdrawn, using the same territory withdrawal procedures as those used by water-sewer districts, provided a special election is held to approve the withdrawal.

Hearing Date: 3/16/17

Staff: Yvonne Walker (786-7841).

Background:

Cemetery Districts.

A cemetery district (district) is a municipal corporation governed by a board of three elected commissioners. A district acquires, maintains, manages, improves, and operates cemeteries and conducts cemetery business.

In order to form a district, a petition must be filed with the county auditor containing signatures by at least 10 percent of the registered votes in the proposed district. After the filing of the petition, the county legislative authority must provide public notice and conduct a hearing on the petition. After the hearing, if the legislative authority finds in favor of the proposed district, a resolution must be adopted and the proposal is submitted to the voters for approval at the next election.

Districts may annex territory, merge districts, and dissolve entire districts. Any territory contiguous to a district and not within the boundaries of a city or town or other cemetery district may be annexed to such district upon petition of 10 percent of the registered votes residing within the territory proposed to be annexed. In addition, a district may merge with another

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district lying adjacent to that district based on agreed terms and conditions. Districts may completely dissolve by a majority vote of the electors at an election called for that purpose. There is currently no process to withdraw territory from the boundaries of a district.

Water-Sewer District Withdrawal Process.

Territory within a water-sewer district may be withdraw when: (1) there is a petition for withdrawal, in writing, that designates the boundaries of the territory proposed to be withdrawn from the district; (2) the petition is signed by at least 25 percent of voters residing within the territory; and (3) the petition is filed with the county auditor. If there are no voters residing within the territory proposed to be withdrawn, landowners who own a majority of the acreage within the territory may sign the petition. As an alternative procedure, the board of commissioners (board) may commence the withdrawal of territory by resolution.

Following public notice, the board must hold a public hearing on the petition setting forth the boundaries of the territory proposed to be withdrawn. The board must make, and by resolution adopt, findings of fact as to the following two questions:

1. Would the withdrawal of such territory be of benefit to such territory?
2. Would such withdrawal be conducive to the general welfare of the balance of the district?

Such findings must be entered in the records of the district, together with any recommendations the board adopted by resolution. The board must transmit its findings and recommendation to the county legislative authority.

Upon receipt of the petition and the findings and recommendations, the county legislative authority must hold a public hearing at which it adopts findings of fact, answering the same two questions. If both the board and the county legislative authority answer affirmatively to both questions then the county legislative authority must declare the territory withdrawn by resolution. If the board and the county legislative authority do not agree, or the county legislative authority answers no to one of the questions, then a special election must take place. A majority vote of approval on the proposition by district residents is required for withdrawal.

Summary of Bill:

Cemetery districts are provided with the same territory withdrawal procedures as those used by water sewer districts. However, territory from a cemetery district cannot be withdrawn, unless a special election is held and voters residing in the district approve the withdrawal. Agreement between the district board and the county legislative authority does not preclude this election.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.