
Local Government Committee

HB 1802

Brief Description: Concerning cemetery district withdrawal of territory.

Sponsors: Representative Orcutt.

Brief Summary of Bill

- Allows a cemetery district to withdraw territory without a special election if the territory has no qualified voters residing in it.
- Requires the approval of the land owners of the territory, if this withdrawal is initiated by the cemetery district board of commissioners.

Hearing Date: 2/19/19

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 ten percent of the registered voters 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. Following 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. Territory may be withdrawn from the boundaries of a district using the same withdrawal procedures as those used by water sewer districts. However, territory from a cemetery district cannot be withdrawn,

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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.

Water-Sewer District Withdrawal Process.

Territory within a water-sewer district may be withdrawn when: (1) there is a petition for withdrawal, in writing, that designates the boundaries of the territory proposed to be withdrawn from the district; (2) the petition is signed by at least 25 percent of voters residing within the territory; and (3) the petition is filed with the county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 If there are no voters residing within the territory proposed to be withdrawn, landowners who own a majority of the acreage within the territory may sign the petition.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

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:

A district is allowed to withdraw territory without a special election if the territory has no qualified voters residing in it. However, if this withdrawal is initiated by the district board, then the territory may not be withdrawn unless written approval is attained from the owners of no less than 60 percent of the area of land included in the resolution for withdrawal. The written approval must be attained within 60 days from the date of the final hearing of any county legislative authority on the resolution for withdrawal. Agreement between the district board and the county legislative authority does not preclude the written approval requirement.

Appropriation: None.

Fiscal Note: Requested on February 18, 2019.

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