

BILL ANALYSIS

S.B. 1821
By: Campbell
Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that the laws regarding perpetual care cemeteries need to be revised to recover certain agency costs and to provide for revocation of a certificate of authority due to a violation. S.B. 1821 seeks to provide for this cost recovery and improve the oversight of perpetual care cemeteries.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1821 amends the Health and Safety Code to authorize the banking commissioner of Texas to recover from an applicant for a certificate of authority to operate a perpetual care cemetery the reasonable costs incurred by the commissioner in investigating the applicant before issuing the certificate. The bill authorizes the commissioner to conduct an investigation to administer and enforce statutory provisions relating to perpetual care cemeteries and to recover reasonable costs incurred by the commissioner in the investigation from the subject of the investigation if the commissioner determines a violation occurred. The bill authorizes a cease and desist order issued by the commissioner that names an officer, director, or employee of a perpetual care cemetery to require the person named in the order to take corrective action to remedy a violation described by the order.

S.B. 1821 authorizes the commissioner by order to revoke or suspend a certificate of authority to operate a perpetual care cemetery if the commissioner determines through an investigation or other credible evidence that the certificate holder:

- violated statutory provisions relating to perpetual care cemeteries, a rule adopted or order issued under those statutory provisions, or any other state law relating to cemeteries;
- misrepresented or concealed a material fact in the certificate application; or
- obtained or attempted to obtain the certificate by misrepresentation, concealment, or fraud.

S.B. 1821 requires such an order for the revocation or suspension of a certificate to state with reasonable certainty the grounds for the order and to state the effective date of the order, which may not be earlier than the 16th day after the date the order is mailed. The bill requires the commissioner to provide the order to the person named in the order by certified mail, return

receipt requested, at the person's last known address. The bill authorizes a person to request a hearing on the order not later than the 15th day after the date the order is mailed and provides for the order to be stayed pending the resolution of a requested hearing. Such a hearing is a contested case under the Administrative Procedure Act.

EFFECTIVE DATE

September 1, 2019.