

HOUSE BILL REPORT

HB 1207

As Passed Legislature

Title: An act relating to cemetery district formation requirements.

Brief Description: Concerning cemetery district formation requirements.

Sponsors: Representatives Haigh, Takko and Ryu.

Brief History:

Committee Activity:

Local Government: 1/25/13, 1/31/13 [DP].

Floor Activity:

Passed House: 3/5/13, 54-42.

Senate Amended.

Passed Senate: 4/15/13, 35-13.

House Concurred.

Passed House: 4/22/13, 60-35.

Passed Legislature.

Brief Summary of Bill

- Authorizes the establishment of a cemetery district in a county with only one city or town when a ballot question of whether to form the cemetery district is approved by a simple majority of the voters rather than two-thirds of the voters.
- Modifies the petition-based establishment process for cemetery districts, including by requiring petitions calling for the creation of a cemetery district that are insufficient to be returned for 10 days to allow the person filing the petition to add additional signatures.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Liias, Springer and Upthegrove.

Minority Report: Do not pass. Signed by 3 members: Representatives Taylor, Ranking Minority Member; Kochmar, Assistant Ranking Minority Member; Buys.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Ethan Moreno (786-7386).

Background:

Cemetery districts may be established in any county to acquire, maintain, manage, improve, and operate cemeteries and conduct any of the businesses of a cemetery. Cemetery districts are separate taxing districts and are authorized to contract indebtedness, borrow money, issue bonds, and levy taxes.

Formation of Cemetery Districts.

Cemetery districts may be established through a petition-based process. A petition to create a cemetery district must be signed by no less than 10 percent of the registered voters residing within the boundaries of the proposed district. The petition, which must be filed with the county auditor, must designate the proposed boundaries or describe the lands to be included in the proposed district in accordance with prescribed requirements. Persons signing the petition may not withdraw their names from the petition after it has been filed with the auditor.

Once the petition has been filed, the auditor has 30 days to verify the signatures and determine whether the petition is sufficient. If the petition is found to contain a sufficient number of valid signatures, the county legislative authority must set a date and time and provide notice for public hearing on the proposal. If the board of county commissioners subsequently finds the creation of a district to be conducive to public welfare and convenience, it must designate the name and number of the proposed district, establish the boundaries, and call for an election within the boundaries of the proposed district.

An election on the establishment of a cemetery district must be held and conducted in the same manner as a special election in the county. For the purpose of the election, county voting precincts may be combined or divided and redefined. Establishment of the district requires an affirmative vote by two-thirds of the voters participating in the election. The election returns must be canvassed at the court house on the Monday following the election, and if there are sufficient votes in favor of the cemetery district, the board of county commissioners must declare by resolution that the cemetery district is duly organized. A copy of the resolution must be filed with the county auditor and county assessor without requiring payment of a recording fee.

As an alternative to the petition-based process, a county legislative authority may, by ordinance or resolution, provide for a ballot proposition to create a cemetery district. The ballot proposition must designate the proposed boundaries or describe the lands to be included in the proposed district. The ballot approval and canvassing requirements are identical to those required for ballot measures initiated through the petition-based process.

Within five days of any finding, determination, or resolution of the board of county commissioners, an aggrieved person may appeal the finding, determination, or resolution to the superior court of the county. If no timely appeal is made, the formation of the cemetery district is complete and its legal existence may not be questioned.

Cemetery District Commissioners.

The affairs of cemetery districts are managed by independently elected three-member boards of commissioners. Commissioners may be compensated for actual attendance at official meetings of the cemetery district at a rate of up to \$90.00 per day, not to exceed \$8,640.00 per year. These dollar thresholds are adjusted for inflation by the Office of Financial Management every five years. Commissioners may waive compensation by written waiver.

To achieve staggered terms of office, the initial three commissioners of a cemetery district serve terms that vary in length between one and six years. Subsequent commissioners elected thereafter serve six-year terms of office. The polling places for a cemetery district election may be located inside or outside the boundaries of the cemetery district, and an election may not be held irregular or void on that account.

Summary of Bill:

Requirements governing the petition-based establishment process for cemetery districts are modified. A petition to form a cemetery district must be signed: (1) for counties with only one city or town, at least 10 percent of the registered voters in the proposed district, based on the total votes cast in the most recent county general election; or (2) for all other counties, by at least 10 percent of the registered voters in the proposed district.

Upon filing of the petition, the county auditor has 30 days from the date of filing to examine and certify the sufficiency or insufficiency of petition signatures, except that for counties with only one city or town the county auditor has 15 days from the date of filing. The county auditor is obligated to return insufficient petitions to the filer for a 10-day period, during which time the filer may add additional signatures. After the petition is resubmitted, the county auditor has an additional 15 days to examine the petition and to attach a certificate of sufficiency to the petition. No person signing the petition may withdraw his or her name from the petition after filing.

A ballot proposition to establish a cemetery district must be approved: (1) for counties with only one city or town, by a majority of all votes cast at the election; or (2) for all other counties, by two-thirds of all votes cast at the election

Certain election administration provisions have been deleted or modified. For an election on the issue of forming a cemetery district, statute: (1) no longer authorizes counties to combine or divide and redefine county voting precincts for the purpose of the election; (2) no longer expressly requires that returns of an election be canvassed at the county court house on the Monday following the day of the election; and (3) permits, though no longer entitles, the cemetery district to record the board of county commissioner's resolution declaring the district organized without payment of a recording fee. Additionally for cemetery district elections, statute no longer expressly permits polling places to be located outside the boundaries of the district or provides that elections may not be held irregular or void on that account.

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.

Staff Summary of Public Testimony:

(In support) A cemetery in Shelton is the beneficiary of efforts from many people. Funding to maintain the cemetery has been reduced and local residents are trying to find a way to financially maintain a cemetery. This bill will assist with those efforts and reflects support of a "50 percent majority rule" concept.

The voter approval level needed to establish a cemetery district should not be higher than what is required for other districts. This bill is a request to lower the requirement, to level the playing field, and to prevent a cemetery from becoming defunct.

Cemeteries are places of local history. Cemeteries also help with the grieving process by giving people a place to honor the deceased. Cemeteries can be run by volunteers, but a cemetery district would have elected members and would be responsible to the public. A 3 cents levy would appear to be sufficient to fund the district.

Mason County residents tried to form a cemetery district in 2010. The ballot measure received an approval of 58.78 percent, but failed by 100 votes. Some formation requirements are archaic and inconsistent with those of other districts. The current two-thirds voter approval requirement is excessive, and the proposed changes to the petition requirements will align cemetery district requirements with those of other districts. The proposed changes are common sense.

(Opposed) None.

Persons Testifying: Representative Haigh, prime sponsor; Robert Shaw, Mount Moriah Lodge No. 11; David Pifke, Shelton Memorial Park Board and VFW Post 1694; Douglas D. Coles, VFW Post 1694 and Shelton, Mason County Cemetery Board; and Karen Herr, Washington State Association of County Auditors.

Persons Signed In To Testify But Not Testifying: None.