

By: Noriega

H.B. No. 1041

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a peace officer employed in the field of private
3 security.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1702.322, Occupations Code, is amended
6 to read as follows:

7 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter does
8 not apply to:

9 (1) [~~a person who has full-time employment as~~] a peace
10 officer [~~and~~] who receives compensation for private employment on
11 an individual or an independent contractor basis as a patrolman,
12 guard, extra job coordinator, or watchman if the officer:

13 (A) is employed in an employee-employer
14 relationship or employed on an individual contractual basis;

15 (B) is not in the employ of another peace
16 officer; and

17 (C) [~~is not a reserve peace officer, and~~
18 [~~(D) works as a peace officer on the average of at~~
19 ~~least 32 hours a week,~~] is employed [~~compensated~~] by the state or a
20 political subdivision of the state as [~~at least at the minimum wage,~~
21 ~~and is entitled to all employee benefits offered to~~] a peace officer
22 [~~by the state or political subdivision~~];

23 (2) [~~a reserve peace officer while the reserve officer~~
24 ~~is performing guard, patrolman, or watchman duties for a county and~~

1 ~~is being compensated solely by that county,~~

2 [~~3~~] a peace officer acting in an official capacity in
3 responding to a burglar alarm or detection device; or

4 (3) [~~4~~] a person engaged in the business of electronic
5 monitoring of an individual as a condition of that individual's
6 community supervision, parole, mandatory supervision, or release
7 on bail, if the person does not perform any other service that
8 requires a license under this chapter.

9 SECTION 2. Section 85.004(b), Local Government Code, is
10 amended to read as follows:

11 (b) A reserve deputy serves at the discretion of the sheriff
12 and may be called into service if the sheriff considers it necessary
13 to have additional officers to preserve the peace and enforce the
14 law. The sheriff may authorize a reserve deputy who is a peace
15 officer as described by Article 2.12, Code of Criminal Procedure,
16 to carry a weapon or act as a peace officer at all times, regardless
17 of whether the reserve deputy is engaged in the actual discharge of
18 official duties, or may limit the authority of the reserve deputy to
19 carry a weapon or act as a peace officer to only those times during
20 which the reserve deputy is engaged in the actual discharge of
21 official duties. A reserve deputy who is not a peace officer as
22 described by Article 2.12, Code of Criminal Procedure, may act as a
23 peace officer only during the actual discharge of official duties.
24 A reserve deputy, regardless of whether the reserve deputy is a
25 peace officer as described by Article 2.12, Code of Criminal
26 Procedure, is not [+]

27 [~~1~~] eligible for participation in any program

1 provided by the county that is normally considered a financial
2 benefit of full-time employment or for any pension fund created by
3 statute for the benefit of full-time paid peace officers[~~+~~ or
4 [~~(2)~~ exempt from Chapter 1702, Occupations Code].

5 SECTION 3. Section 86.012(b), Local Government Code, is
6 amended to read as follows:

7 (b) A reserve deputy constable serves at the discretion of
8 the constable and may be called into service at any time that the
9 constable considers it necessary to have additional officers to
10 preserve the peace and enforce the law. The constable may authorize
11 a reserve deputy constable who is a peace officer as described by
12 Article 2.12, Code of Criminal Procedure, to carry a weapon or act
13 as a peace officer at all times, regardless of whether the reserve
14 deputy constable is engaged in the actual discharge of official
15 duties, or may limit the authority of the reserve deputy constable
16 to carry a weapon or act as a peace officer to only those times
17 during which the reserve deputy constable is engaged in the actual
18 discharge of official duties. A reserve deputy constable who is not
19 a peace officer as described by Article 2.12, Code of Criminal
20 Procedure, may act as a peace officer only during the actual
21 discharge of official duties. A reserve deputy constable,
22 regardless of whether the reserve deputy constable is a peace
23 officer as described by Article 2.12, Code of Criminal Procedure,
24 is not[~~+~~

25 [~~(1)~~] eligible for participation in any program
26 provided by the county that is normally considered a financial
27 benefit of full-time employment or for any pension fund created by

1 statute for the benefit of full-time paid peace officers[~~+~~~~or~~
2 [~~(2)~~ exempt from Chapter 1702, Occupations Code].

3 SECTION 4. Section 341.012(h), Local Government Code, is
4 amended to read as follows:

5 (h) Reserve police officers may act only in a supplementary
6 capacity to the regular police force and may not assume the
7 full-time duties of regular police officers without complying with
8 the requirements for regular police officers. On approval of the
9 appointment of a member who is a peace officer as described by
10 Article 2.12, Code of Criminal Procedure, the chief of police may
11 authorize the person appointed to carry a weapon or act as a peace
12 officer at all times, regardless of whether the person is engaged in
13 the actual discharge of official duties, or may limit the authority
14 of the person to carry a weapon or act as a peace officer to only
15 those times during which the person is engaged in the actual
16 discharge of official duties. A reserve police officer, regardless
17 of whether the reserve police officer is a peace officer as
18 described by Article 2.12, Code of Criminal Procedure, is not[~~+~~

19 [~~(1)~~] eligible for participation in any program
20 provided by the governing body that is normally considered a
21 financial benefit of full-time employment or for any pension fund
22 created by statute for the benefit of full-time paid peace
23 officers[~~+~~~~or~~

24 [~~(2)~~ exempt from Chapter 1702, Occupations Code].

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.