

## **BILL ANALYSIS**

H.B. 1589  
By: Driver  
Law Enforcement  
Committee Report (Amended)

### **BACKGROUND AND PURPOSE**

Most local and state law enforcement agencies conduct pre-employment polygraph testing before hiring an applicant as a peace officer. The FBI, CIA, Secret Service and Bureau of Alcohol, Tobacco, Firearms and Explosives also conduct such testing. Pre-employment polygraph testing enables these departments to cull out undesirable candidates for commissioning as peace officers.

Currently, the Department of Public Safety does not administer pre-employment polygraph testing. Therefore, they are unable to use this additional tool to ascertain the character of potential officers. Officers who fail polygraph tests at other departments or who know they would be unable to pass such a test apply to the Department of Public Safety. In an effort to increase the collective professionalism of DPS officers as well as decrease the costs, liabilities and detrimental effects of employing exceptionable officers, HB 1589 requires the department to administer pre-employment polygraph tests to all applicants for commissioned officer or police communications operator positions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 of this bill.

### **ANALYSIS**

The bill amends Section 411.007(c) of the Government Code to provide that the new Section 411.0074 does not authorize the department to require an officer commissioned by the Department of Public Safety (the department) to take a polygraph examination.

The bill amends the Government Code by adding Section 411.0074 to require the department to require each applicant for a peace officer or police communications operator position to submit to a polygraph examination. The bill requires the department to use the results of a polygraph examination, under this section, as a factor in determining whether to employ an applicant for the position of a commissioned peace officer or police communications operator. The bill provides that this section does not apply to an applicant who is currently a peace officer of the department or a police communications operator.

The bill requires that the polygraph examination required by this section be administered by a polygraph examiner licensed under Chapter 1703 of the Occupations Code who is a peace officer commissioned by the department or has a minimum of two years of experience conducting employment polygraph examinations for a law enforcement agency.

The bill requires that the department and the polygraph examiner maintain the confidentiality of the results of the polygraph examination conducted under this section. The bill authorizes the department and the polygraph examiner to disclose the results in accordance with §1703.306 of the Occupations Code, as well as to disclose any admission of criminal conduct made during the examination to another appropriate governmental entity.

The bill requires the department to adopt reasonable rules for the administration of a polygraph examination and requires that these rules be in accordance with the guidelines of the American Polygraph Association or the American Association of Police Polygraphists.

The bill provides that the changes in law apply only to an applicant who submits an application for a position with the department on or after the effective date of this Act.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

### **EXPLANATION OF AMENDMENTS**

Committee Amendment No. 1 requires that the department require an applicant for a peace officer or police communications operator position to submit to a polygraph examination before commissioning the applicant. Amendment No. 1 also requires that this examination be administered in accordance with rules adopted under subsection (e) and adds subsection (e) to require the department to adopt rules to specify the point in the hiring process at which the department will require a polygraph examination to be administered under this section and the manner in which it will be administered. The amendment also requires that rules relating to the administration of the polygraph be in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.