

BILL ANALYSIS

C.S.S.B. 732
By: Williams
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Most local and state law enforcement agencies conduct pre-employment polygraph testing before hiring an applicant as a peace officer. On a national level, agencies, such as the FBI, CIA, Secret Service and Bureau of Alcohol, Tobacco, Firearms and Explosives, use pre-employment polygraph examination to deter undesirable candidates, and make background information easier to establish.

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. Currently potential officers, who fail polygraph tests or 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, C.S.S.B. 732 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, Subsection (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 as follows:

- Sets forth the persons to whom this section does not apply.
- Requires the department to require applicants for a peace officer or police communications operator position to submit to the administration of a polygraph examination before commissioning the applicant and requires the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).
- Requires the polygraph examination to be administered by a polygraph examiner licensed under Chapter 1703 (Polygraph Examiners), Occupations Code, who meets certain qualifications.
- Requires DPS and the polygraph examiner to maintain the confidentiality of the results of the polygraph examination, and sets forth certain exceptions.
- Requires DPS to adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination and the manner in which the examination shall be administered; also specifies any rules for the administration of a polygraph examination under this section be in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.
- Requires DPS to use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

The bill makes application of Section 411.0074, Government Code, as added by this Act, prospective.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

Senate Bill 732 amends the Government Code by adding Section 411.0074, Subsection (b), which requires the department to require applicants for a peace officer or police communications operator position to submit to the administration of a polygraph examination prior to employment. C.S.S.B. 732 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.

Senate Bill 732 under Government Code, Section 411.0074, Subsection (b), also requires the polygraph examination to be administered at a point in the hiring process as determined by department by rule. C.S.S.B. 732 requires that this examination be administered in accordance with rules adopted under Subsection (e).

Senate Bill 732, under Government Code, Section 411.0074, Subsection (e), does not 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. C.S.S.B. 732 does make this requirement under said Subsection.