

By: Driver

H.B. No. 1588

Substitute the following for H.B. No. 1588:

By: Hupp

C.S.H.B. No. 1588

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the qualifications and removal of and continuing
3 education requirements for a constable.

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

5 SECTION 1. Sections 86.0021(a) and (b), Local Government
6 Code, are amended to read as follows:

7 (a) A person is not eligible to serve as constable unless
8 the person:

9 (1) has at least an associate's degree conferred by an
10 institution of higher education accredited by an accrediting
11 organization recognized by the Texas Higher Education Coordinating
12 Board [~~a high school diploma or a high school equivalency~~
13 ~~certificate~~]; or [~~and~~]

14 (2) holds an active permanent peace officer license
15 [~~is eligible to be licensed~~] under Chapter 1701 [~~Sections 1701.309~~
16 ~~and 1701.312~~], Occupations Code.

17 (b) On or before the 270th day after the date a constable who
18 is eligible to serve as a constable under Subsection (a)(1) takes
19 office or on the day a constable who is eligible to serve as a
20 constable under Subsection (a)(2) takes office, the constable shall
21 provide, to the commissioners court of the county in which the
22 constable serves or is to serve, evidence that the constable holds
23 an active [~~has been issued a~~] permanent peace officer license under
24 Chapter 1701, Occupations Code. A constable who fails to provide

1 evidence of licensure under this subsection or who fails to
2 maintain a permanent license while serving in office forfeits the
3 office and is subject to removal in a quo warranto proceeding under
4 Chapter 66, Civil Practice and Remedies Code. The judge of the
5 district court who removes a constable under this subsection may
6 appoint an eligible successor to temporarily perform the duties of
7 the office of constable. The commissioners court may then appoint
8 an eligible successor to fill the office as provided by Section
9 87.041.

10 SECTION 2. Subchapter D, Chapter 96, Education Code, is
11 amended by adding Section 96.642 to read as follows:

12 Sec. 96.642. INITIAL TRAINING AND CONTINUING EDUCATION FOR
13 CONSTABLES. (a) The Bill Blackwood Law Enforcement Management
14 Institute of Texas shall establish and offer a program of initial
15 training and a program of continuing education for constables. The
16 curriculum for each program must relate to law enforcement
17 management and civil process issues. The institute shall develop
18 the curriculum for the programs. The curriculum must be approved by
19 the Commission on Law Enforcement Officer Standards and Education.

20 (b) Each constable must complete at least 40 hours of
21 continuing education provided by the institute under this section
22 each 48-month period.

23 (c) An individual appointed or elected to that individual's
24 first position as constable must complete at least 40 hours of
25 initial training for new constables in accordance with Subsections
26 (d) and (e).

27 (d) A newly appointed or elected constable shall complete

1 the initial training program for new constables not later than the
2 second anniversary of that individual's appointment or election as
3 constable. The initial training program for new constables is in
4 addition to the initial training required by Chapter 1701,
5 Occupations Code. The first 48-month period under Subsection (b)
6 begins, for an individual who completes the initial training
7 program for new constables under this section, on the first
8 anniversary of the date the individual completed the initial
9 training program.

10 (e) The institute by rule may provide for the waiver of:

11 (1) all or part of the required 40 hours of initial
12 training for new constables to the extent the new constable has
13 satisfactorily completed equivalent training during the 24 months
14 preceding the individual's appointment or election; or

15 (2) the continuing education requirements of
16 Subsection (b) for an individual who has satisfactorily completed
17 equivalent continuing education during the preceding 24 months.

18 (f) An individual who is subject to the continuing education
19 requirements of Subsection (b) is exempt from other continuing
20 education requirements under Subchapter H, Chapter 1701,
21 Occupations Code.

22 (g) The Commission on Law Enforcement Officer Standards and
23 Education shall establish procedures to ensure that constables
24 comply with this section and forward to the attorney general's
25 office documentation for each constable who does not comply with
26 this section. A constable who does not comply with this section
27 forfeits the office and the attorney general shall institute a quo

1 warranto proceeding under Chapter 66, Civil Practice and Remedies
2 Code, to remove the constable from office.

3 (h) To the extent of a conflict between this section and any
4 other law, this section controls.

5 SECTION 3. Section 1701.354, Occupations Code, is amended
6 to read as follows:

7 Sec. 1701.354. CONTINUING EDUCATION FOR [~~CONSTABLES AND~~]
8 DEPUTY CONSTABLES. (a) If the commission requires a state, county,
9 special district, or municipal agency that employs a [~~constable or~~]
10 deputy constable to provide the [~~constable or~~] deputy constable
11 with a training program under Section 1701.352, the commission
12 shall require the [~~constable or~~] deputy constable to attend at
13 least 20 hours of instruction in civil process.

14 (b) The commission shall adopt rules and procedures
15 concerning a civil process course, including rules providing for:

- 16 (1) approval of course content and standards; and
17 (2) issuance of course credit.

18 (c) [~~For the purposes of removal of a constable under~~
19 ~~Subchapter B, Chapter 87, Local Government Code, a constable is~~
20 ~~considered to be incompetent if the constable fails to complete the~~
21 ~~hours of instruction required by this section.~~

22 [~~(d)~~] The commission may waive the requirement that a
23 [~~constable or~~] deputy constable complete the instruction required
24 by this section if:

25 (1) the [~~constable or~~] deputy constable requests a
26 waiver because of hardship; and

27 (2) the commission determines that a hardship exists.

1 SECTION 4. (a) Not later than January 1, 2006, the Bill
2 Blackwood Law Enforcement Management Institute of Texas shall
3 establish the initial training and continuing education programs
4 required by Section 96.642, Education Code, as added by this Act.

5 (b) Section 96.642(c), Education Code, as added by this Act,
6 requiring newly appointed or elected constables to complete at
7 least 40 hours of initial training, applies only to an individual
8 newly appointed or elected as constable who takes office on or after
9 January 1, 2006.

10 SECTION 5. The changes in law made by this Act to Section
11 86.0021, Local Government Code, do not apply to a constable serving
12 a term that began before the effective date of this Act. A
13 constable serving a term that began before the effective date of
14 this Act is governed for the remainder of that term by the
15 applicable law that existed immediately before the effective date
16 of this Act, and the prior law is continued in effect for that
17 purpose.

18 SECTION 6. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.