

By: Driver

H.B. No. 1588

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(b) On or before the 270th day after the date a constable who is eligible to serve as a constable under Subsection (a)(1) takes office or on the day a constable who is eligible to serve as a constable under Subsection (a)(2) takes office, the constable shall provide, to the commissioners court of the county in which the constable serves or is to serve, evidence that the constable holds an active [~~has been issued a~~] permanent peace officer license under 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 serve the remainder of the
7 constable's term.

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

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

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

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

25 (d) A newly appointed or elected constable shall complete
26 the initial training program for new constables not later than the
27 second anniversary of that individual's appointment or election as

1 constable. The initial training program for new constables is in
2 addition to the initial training required by Chapter 1701,
3 Occupations Code. The first 48-month period under Subsection (b)
4 begins, for an individual who completes the initial training
5 program for new constables under this section, on the first
6 anniversary of the date the individual completed the initial
7 training program.

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

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

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

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

20 (g) The Commission on Law Enforcement Officer Standards and
21 Education shall establish procedures to ensure that constables
22 comply with this section and forward to the attorney general's
23 office documentation for each constable who does not comply with
24 this section. A constable who does not comply with this section
25 forfeits the office and the attorney general shall institute a quo
26 warranto proceeding under Chapter 66, Civil Practice and Remedies
27 Code, to remove the constable from office.

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

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

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

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

- 14 (1) approval of course content and standards; and
15 (2) issuance of course credit.

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

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

- 23 (1) the [~~constable or~~] deputy constable requests a
24 waiver because of hardship; and
25 (2) the commission determines that a hardship exists.

26 SECTION 4. (a) Not later than January 1, 2006, the Bill
27 Blackwood Law Enforcement Management Institute of Texas shall

1 establish the initial training and continuing education programs
2 required by Section 96.642, Education Code, as added by this Act.

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

8 SECTION 5. The changes in law made by this Act to Section
9 86.0021, Local Government Code, do not apply to a constable serving
10 a term that began before the effective date of this Act. A
11 constable serving a term that began before the effective date of
12 this Act is governed for the remainder of that term by the
13 applicable law that existed immediately before the effective date
14 of this Act, and the prior law is continued in effect for that
15 purpose.

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