

BILL ANALYSIS

C.S.H.B. 2241
By: Kuempel
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Section 411.016 of the Government Code currently outlines the rules for overtime compensation for commissioned officers of the Department of Public Safety (the department). The section authorizes supplemental pay, which is a percentage of monthly pay, for officers who work in excess of 40 hours a week. However, the supplemental pay is permissive and officers lose any accumulated compensatory time if it is not taken within a certain time period.

The statute currently bases overtime on a 40-hour week, but the DPS pay period is based on a 28-day cycle, which conforms to the federal Fair Labor Standards Act (FLSA). FLSA generally governs overtime for public safety employees, however states are free to adopt provisions that grant more benefits than federal law requires. Committee Substitute House Bill 2241 conforms some of the provisions in Section 411.016 to the FLSA.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 411.016, Government Code, as follows:

Sec. 411.016. New Title: HOURS OF WORK; COMPENSATORY TIME; OVERTIME PAY.

SECTION 2. Amends Section 411.016, Government Code, by amending Subsections (b), (c), and (e) and adding Subsections (b-1), (f), (g), and (h) as follows:

(b) Provides, except as provided in Subsection (b-1), that if during a 28-day pay period, the total number of hours worked by a commissioned officer, plus leave time taken, equals more than 160 hours, the excess is overtime and the officer is entitled to 1-1/2 hours of compensatory time for each excess hour worked. Subsection (b) is also amended to remove language that authorized the payment of supplemental pay for overtime and set out the formula to calculate that pay.

(b-1) Provides that if, during a 28-day pay period, the total number of hours worked by a commissioned officer equals more than 171 hours, the officer is entitled to overtime pay or 1-1/2 hours of compensatory time for each excess hour worked.

(c) Makes a conforming change.

(e) Requires overtime pay to be paid at a rate of 1-1/2 the amount of the officer's hourly pay rate and makes a conforming change.

(f) Requires the department to establish a compensatory time account for each commissioned officer in which compensatory time earned under Subsection (b) is maintained. Further provides that an officer may accumulate compensatory in this account in an unlimited amount. Notwithstanding Section 659.015(g), Government Code, compensatory time earned under Subsection (b) does not expire or lapse and remains in the compensatory time account until used by the officer or until the officer separates from employment. At the time of

separation, any compensatory time accumulated under Subsection (b) lapses and the officer is not entitled to payment from the unused time.

(g) Provides that an officer may accumulate compensatory time under Subsection (b-1) in an amount equal to the amount of hours authorized under the Fair Labor Standards Act. Further provides that the compensatory time earned under Subsection (b-1) shall be maintained in a separate account from the account described in Subsection (f). Further provides that, notwithstanding Section 659.015(g), Government Code, this time does not expire or lapse but remains in the account until used by the officer.

(h) Provides that if a conflict exists between Section 411.016 and Section 659.015, Government Code, then Section 411.016 controls.

SECTION 3. Effective date.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute removes the amendment to Subsection (a) setting forth a commissioned officers' hours of work and removing language relating to the applicability of the section.

The substitute modifies the amendment to Subsection (b) by providing that an officer's pay cycle be based on 160 hours spanning 28 days rather than 40 hours for a calendar week and removing reference to overtime pay.

The substitute modifies the added Subsection (b-1) by basing the entitlement to overtime pay on whether the officer works more than 171 hours in the 28-day pay cycle rather than 48 hours during a calendar week, removing language that allows the total to include leave time taken, and adding language that allows the officer to take either compensatory time or overtime pay.

The substitute redesignates Subsection (f) in the original bill as Subsection (h).

The substitute adds a new Subsection (f) to require the department to establish a compensatory time account for each commissioned officer in which compensatory time earned under Subsection (b) is maintained. The substitute sets forth provisions for the amount of time accumulated, the expiration or lapse of compensatory time, and the disposition of compensatory time after separation from employment.

The substitute adds a new Subsection (g) to require the department to establish a separate compensatory time account for each officer for time earned under Subsection (b-1). The substitute sets forth provisions regarding the amount of time that may be accrued and the disposition of compensatory time.