

By: Pitts, Branch, Goolsby, Anchia,
Crownover, et al.

H.B. No. 1213

A BILL TO BE ENTITLED

1 AN ACT

2 relating to mutual assistance agreements entered into by certain
3 municipalities and private institutions of higher education for the
4 purpose of enforcing state law and to additional powers,
5 privileges, and immunities of peace officers employed by private
6 institutions of higher education.

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

8 SECTION 1. Section 51.212, Education Code, is amended to
9 read as follows:

10 Sec. 51.212. PEACE [~~SECURITY~~] OFFICERS AT PRIVATE
11 INSTITUTIONS. (a) The governing boards of private institutions of
12 higher education, including private junior colleges, are
13 authorized to employ and commission peace officers [~~campus security~~
14 ~~personnel~~] for the purpose of enforcing:

15 (1) state law [~~the law of this state~~] on the campuses
16 of private institutions of higher education; and

17 (2) state and local law, including applicable
18 municipal ordinances, at other locations, as permitted by
19 Subsection (b) or Section 51.2125.

20 (b) Any officer commissioned under the provisions of this
21 section is vested with all the powers, privileges, and immunities
22 of peace officers if the officer:

23 (1) is [~~while~~] on the property under the control and
24 jurisdiction of the respective private institution of higher

1 education or is otherwise performing [~~in the performance of his~~
2 ~~assigned~~] duties assigned to the officer by the institution,
3 regardless of whether the officer is on property under the control
4 and jurisdiction of the institution; or

5 (2) to the extent authorized by Section 51.2125, is:

6 (A) requested by another law enforcement agency
7 to provide assistance in enforcing state or local law, including a
8 municipal ordinance, and is acting in response to that request; or

9 (B) otherwise assisting another law enforcement
10 agency in enforcing a law described by Paragraph (A).

11 (c) Any officer assigned to duty and commissioned shall take
12 and file the oath required of peace officers, and shall execute and
13 file a good and sufficient bond in the sum of \$1,000, payable to the
14 governor, with two or more good and sufficient sureties,
15 conditioned that the officer [~~he~~] will fairly, impartially, and
16 faithfully perform the duties as may be required of the officer
17 [~~him~~] by law. The bond may be sued on from time to time in the name
18 of the person injured until the whole amount is recovered.

19 (d) [~~(b)~~] The governing boards of private institutions of
20 higher education are authorized to hire and pay on a regular basis
21 peace [~~law-enforcement~~] officers commissioned by an incorporated
22 city. The officers shall be under the supervision of the hiring
23 institution, but shall be subject to dismissal and disciplinary
24 action by the city. An incorporated city is authorized to contract
25 with a private institution of higher education for the use and
26 employment of its commissioned officers in any manner agreed to,
27 provided that there is no expense incurred by the city.

1 (e) [~~(e)~~] In this section, "private institution of higher
2 education" means a private or independent institution of higher
3 education as defined [~~has the meaning assigned~~] by Section 61.003
4 [~~61.003(15) of this code~~].

5 SECTION 2. Subchapter E, Chapter 51, Education Code, is
6 amended by adding Sections 51.2125 and 51.2126 to read as follows:

7 Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO
8 MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a
9 private institution of higher education, as defined by Section
10 61.003, with a fall headcount enrollment of more than 10,000
11 students.

12 (b) If the institution has under its control and
13 jurisdiction property that is contiguous to, or located in any part
14 within the boundaries of, a municipality with a population of more
15 than one million, in addition to exercising the authority provided
16 under Section 51.212(d), the governing board of a private
17 institution of higher education to which this section applies and
18 the governing body of each municipality, regardless of the
19 municipality's population, that is contiguous to, or the boundaries
20 of which contain any part of, property under the control and
21 jurisdiction of the private institution of higher education may
22 enter into a written mutual assistance agreement in which peace
23 officers commissioned by the institution or the applicable
24 municipality serve the public interest by assisting, without any
25 form of additional compensation or other financial benefit, the
26 peace officers of the other party to the agreement in enforcing
27 state or local law, including applicable municipal ordinances. The

1 agreement must be reviewed at least annually by the institution and
2 the municipality and may be modified at that time by a written
3 agreement signed by each party. The agreement may be terminated at
4 any time by a party to the agreement on the provision of reasonable
5 notice to the other party to the agreement.

6 (c) A mutual assistance agreement authorized by this
7 section may designate the geographic area in which the campus peace
8 officers are authorized to provide assistance to the peace officers
9 of the municipality.

10 (d) This section does not affect a municipality's duty to
11 provide law enforcement services to any location within the
12 boundaries of the municipality.

13 (e) A peace officer providing assistance under a mutual
14 assistance agreement authorized by this section may make arrests
15 and exercise all other authority given to peace officers under
16 other state law. The municipal law enforcement agency has
17 exclusive authority to supervise any campus peace officer operating
18 under the agreement to assist the peace officers of the
19 municipality. A municipal peace officer operating under the
20 agreement to assist the campus peace officers remains under the
21 supervision of the municipal law enforcement agency.

22 (f) In the same manner and to the same extent as a
23 municipality is liable for an act or omission of a peace officer
24 employed by the municipality, a private institution of higher
25 education is liable for an act or omission of a campus peace officer
26 operating under a mutual assistance agreement authorized by this
27 section at a location other than property under the control and

1 jurisdiction of the institution.

2 (g) This section does not limit the authority of a campus
3 peace officer to make a warrantless arrest outside the officer's
4 jurisdiction as described by Article 14.03(d), Code of Criminal
5 Procedure.

6 Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF
7 DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF
8 ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace
9 officer acting under a mutual assistance agreement authorized by
10 Section 51.2125 who is demoted, suspended, or terminated by the
11 applicable private institution of higher education or who
12 experiences a promotional bypass by the institution may elect to
13 appeal the institution's action to an independent third party
14 hearing examiner under this section.

15 (b) To elect to appeal to an independent third party hearing
16 examiner under this section, the campus peace officer must submit
17 to the head of the institution's law enforcement agency not later
18 than the 30th day after the date of the action being appealed a
19 written request stating the officer's decision to appeal to such a
20 hearing examiner.

21 (c) The hearing examiner's decision is final and binding on
22 all parties. If a campus peace officer elects to appeal the
23 institution's action to an independent third party hearing examiner
24 under this section, the officer or institution may appeal the
25 examiner's decision to a district court only as provided by
26 Subsection (j).

27 (d) If a campus peace officer elects to appeal to a hearing

1 examiner, the officer and the head of the institution's law
2 enforcement agency or their designees shall attempt to agree on the
3 selection of an impartial hearing examiner. If the parties do not
4 agree on the selection of a hearing examiner before the 10th day
5 after the date the appeal is filed, the parties immediately shall
6 request a list of seven qualified neutral arbitrators from the
7 American Arbitration Association or the Federal Mediation and
8 Conciliation Service, or their successors in function. The officer
9 and the agency head or their designees may agree on one of the seven
10 neutral arbitrators on the list. If the parties do not agree before
11 the fifth business day after the date the parties receive the list,
12 the parties or their designees shall alternate striking a name from
13 the list, and the single name remaining after all other names have
14 been struck is selected as the hearing examiner. The parties or
15 their designees shall agree on a date for the hearing.

16 (e) The appeal hearing must begin as soon as an appearance
17 by the hearing examiner can be scheduled. If the hearing examiner
18 cannot begin the hearing before the 45th day after the date of
19 selection, the campus peace officer may, within 48 hours after
20 learning of that fact, call for the selection of a new hearing
21 examiner using the procedure prescribed by Subsection (d).

22 (f) In a hearing conducted under this section, the hearing
23 examiner has the same duties and powers that a civil service
24 commission has in conducting a hearing or hearing an appeal under
25 Chapter 143, Local Government Code, including the right to issue
26 subpoenas. The hearing examiner may:

27 (1) order that the campus peace officer be reinstated

1 to the same position or status in which the officer was employed
2 immediately before the demotion, suspension, or termination or, in
3 the case of a promotional bypass, to the position or status with
4 respect to which the officer experienced the bypass; and

5 (2) award the officer lost wages and any other
6 compensation lost as a result of the disciplinary action or
7 promotional bypass, as applicable.

8 (g) In a hearing conducted under this section, the parties
9 may agree to an expedited hearing procedure. Unless otherwise
10 agreed by the parties, in an expedited procedure the hearing
11 examiner shall issue a decision on the appeal not later than the
12 10th day after the date the hearing is completed.

13 (h) In an appeal that does not involve an expedited hearing
14 procedure, the hearing examiner shall make a reasonable effort to
15 issue a decision on the appeal not later than the 30th day after the
16 later of the date the hearing is completed or the briefs are filed.
17 The hearing examiner's inability to meet the time requirements
18 imposed by this section does not affect the hearing examiner's
19 jurisdiction, the validity of the disciplinary action or
20 promotional bypass, or the hearing examiner's final decision.

21 (i) The hearing examiner's fees and expenses shall be paid
22 in equal amounts by the parties. The costs of a witness shall be
23 paid by the party who calls the witness.

24 (j) A district court may hear an appeal of a hearing
25 examiner's decision only on the grounds that the hearing examiner
26 was without jurisdiction or exceeded the examiner's jurisdiction or
27 that the decision was procured by fraud, collusion, or other

1 unlawful means. An appeal must be brought in the district court
2 having jurisdiction in the municipality in which the institution is
3 located.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2007.