

BILL ANALYSIS

C.S.H.B. 3732
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Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Peace officers around the state are facing strenuous, and sometimes unnecessary, physical fitness assessments to retain their employment. These assessments have been implemented through statute and policy to officers under the Schedule C prescribed by the General Appropriations Act. After providing years of dedicated service to their respective agencies, officers must now comply with rigorous physical testing in order to retain their employment.

Officers not actively employed in the field, women, and officers of an older age are finding it increasingly difficult to perform the rigorous physical tasks demanded of them, despite their skills and abilities in tasks closely related to their daily jobs. Recently, Parks and Wildlife Game Warden George Whatley died during his physical fitness assessment.

C.S.H.B. 3732 replaces physical fitness standards for law enforcement officers with physical readiness standards and requires the new standards to relate to an officer's functional job description and performance standard and include goals relative to an officer's age, weight, and gender. The bill establishes that a violation of a standard is not just cause to discharge an officer or transfer the officer to a position with lower compensation.

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

C.S.H.B. 3732 amends Section 614.151(2), Government Code, as added by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007, to remove compensation criteria from the definition of "law enforcement officer" for purposes of provisions regarding standards for certain law enforcement officers.

C.S.H.B. 3732 amends Section 614.152, Government Code, as added by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007, to require each law enforcement agency to adopt physical readiness standards, rather than physical fitness standards, that a law enforcement officer appointed or employed by the agency must meet. The bill requires these standards to be adopted in consultation with physical readiness experts. The bill specifies that the standards as applied to an officer must directly relate to the officer's functional job description and performance standards, rather than the officer's job duties, and requires the standards to include individual readiness goals relative to an officer's age, weight, and gender.

C.S.H.B. 3732 authorizes a law enforcement agency to adopt physical readiness standards independent of other law enforcement agencies. The bill establishes that a violation of an adopted standard is not just cause to discharge an officer or to transfer the officer to a position that is compensated at a level less than the officer's current position according to the salary schedule applicable to the officer's current position, rather than establishing that such a violation

is just cause for discharge or transfer to a position that is not compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act, or, for a law enforcement officer employed by the Parks and Wildlife Department and compensated according to Schedule B, a transfer to a position that does not require the employee to be a commissioned peace officer. The bill authorizes an officer who fails to meet an adopted standard to be transferred to a position classified at the same or a higher salary level. The bill specifies that the exemption of a law enforcement officer from a standard adopted by a law enforcement agency based on facts and circumstances of the individual case is a temporary exemption.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3732 adds provisions not in the original removing references to compensation from the definition of "law enforcement officer." The substitute differs from the original by requiring each law enforcement agency to adopt physical readiness standards, rather than physical fitness standards, and adds a provision not in the original requiring those standards to be adopted in consultation with physical readiness experts. The substitute adds provisions not in the original requiring the readiness standards as applied to an officer to directly relate to the officer's functional job description and performance standards and include individual readiness goals relative an officer's age, weight, and gender, and authorizing a law enforcement agency to adopt physical readiness standards independent of other law enforcement agencies.

C.S.H.B. 3732 differs from the original by establishing that a violation of an adopted readiness standard is not just cause to discharge a law enforcement officer, whereas the original removes the discharge of an officer as a consequence of a violation of an adopted fitness standard. The substitute differs from the original by establishing that a violation of a readiness standard is not just cause to transfer an officer to a position that is compensated at a level less than the officer's current position according to the salary schedule applicable to the officer's current position, whereas the original establishes that a violation of a physical fitness standard is just cause to transfer an officer to a position that is not compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act or for a law enforcement officer employed by the Parks and Wildlife Department and compensated according to Schedule B to a position that does not require the employee to be a commissioned officer. The substitute differs from the original by specifying that the exemption of a law enforcement officer from a standard adopted by a law enforcement agency based on facts and circumstances of the individual case is a temporary exemption.