

BILL ANALYSIS

S.B. 150
By: West
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Office of the Inspector General (OIG) is the law enforcement arm of the United States Department of Veterans Affairs (VA). One of two field offices in Texas is located at the Veterans Hospital in Dallas. Special Agents of the OIG previously had law enforcement authority through the U.S. Marshal Service via special deputation. That changed in 2003, when Section 812 of the Homeland Security Act of 2002 (Public Law 107-296) granted separate law enforcement authority.

However under Texas law, VA/OIG special agents cannot perform an arrest on a felony warrant. Such actions would require the presence of local law enforcement. VA/OIG special agents are not Texas peace officers under Article 2.12 (Who Are Peace Officers), Code of Criminal Procedure. However, Article 2.122 (Special Investigators) authorizes various special agents of federal agencies under Texas law.

The VA/OIG is empowered to conduct audits, investigate fraud, perform inspections, and investigate any crime that takes place on VA property or that is related to VA programs and patients.

As proposed, S.B. 150 amends current law relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Department of Veterans Affairs and to updating certain references related to the grant of that authority to other federal law enforcement personnel.

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

SB 150 amends Articles 2.122(a) and (c), Code of Criminal Procedure, to prohibit the following named criminal investigators of the United States from being deemed peace officers, but requires that they have the powers of arrest, search, and seizure under the laws of this state as to felony offenses only, rather than as to felony offenses only under the laws of the State of Texas:

- Special Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, rather than Special Agents of Alcohol, Tobacco, and Firearms;
- Special Agents of the United States Drug Enforcement Administration, rather than Special Agents of Federal Drug Enforcement Agency;
- Inspectors of the United States Postal Inspection Service, rather than Inspectors of the United States Postal Service;
- Special Agents of the Criminal Investigation Division of the Internal Revenue Service. Deletes existing text relating to Inspectors of the Internal Security Division of the Internal Revenue Service;
- Civilian Special Agents of the United States Naval Criminal Investigative Service, rather than Civil Special Agents of the United States Naval Investigative Service;
- Special Agents of the Treasury Inspector General for Tax Administration; and
- Special Agents of the Office of Inspector General of the United States Department of Veterans Affairs.

S.B. 150 deletes existing text relating to Special Agents of the United States Citizenship and Immigration Services and redesignates existing Subdivision (11) as Subdivision (10);

S.B. 150 provides that a Customs and Border Protection Officer or Border Patrol Agent of the United States Customs and Border Protection or an immigration enforcement agent, or deportation officer of the Department of Homeland Security is not a peace officer under the laws of this state but, on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic check point, has the authority to detain a person pending transfer without unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in conduct that is violation of Section 49.02 (Public Intoxication), 49.04 (Driving While Intoxicated), 49.07 (Intoxication Assault) or 49.08 (Intoxication Manslaughter), Penal Code, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding. Makes nonsubstantive changes.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2011.