

BILL ANALYSIS

C.S.S.B. 1600
By: Whitmire
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that statutes relating to the exemption of certain law enforcement personnel from the Private Security Act were originally written to exempt full-time paid police officers from certain private security licensing requirements, but that subsequent amendments to those statutes have resulted in the law being interpreted to require such an officer to be registered in the same manner as a security guard in order to perform certain functions. The parties assert that such registration is unnecessary, since full-time paid police officers are required to have more training and experience than certain commissioned private security personnel and are licensed in Texas through the Commission on Law Enforcement Officer Standards and Education (TCLEOSE). In addition, the parties believe that a recent attorney general opinion relating to exemptions from the Private Security Act puts unnecessary focus on the officer's job title and current duties, rather than on the officer's training and licensing by TCLEOSE.

C.S.S.B. 1600 proposes to resolve this issue by amending current law relating to the registration of peace officers as private security officers to change the criteria under which certain peace officers are exempt from the Private Security Act.

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.S.B. 1600 amends the Occupations Code to make the exemption from the Private Security Act for certain peace officers apply to a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in Texas or a person appointed or employed by the chief administrator of a law enforcement agency as a peace officer in accordance with the licensing requirements provided for by the rules of the Commission on Law Enforcement Officer Standards and Education and who is privately employed as a patrolman, guard, extra job coordinator, or watchman, rather than to a person who has full-time employment as a peace officer who is privately employed in that capacity.

C.S.S.B. 1600, in provisions establishing conditions for such an exception, specifies that an exempt officer is a peace officer employed by a private employer in an employee-employer relationship or on an individual contractual basis, rather than an officer employed in an employee-employer relationship or on an individual contractual basis. The bill establishes that an exempt peace officer may be employed by a company licensed under the Private Security Act as an alternative to being employed directly by the recipient of the services. The bill, in the requirement that such an exempt officer not be in the employ of another peace officer, specifies that the exemption applies if the private employment does not require the peace officer to be in the employ of another peace officer. The bill, in the requirement that such an exempt officer work as a peace officer on the average of at least 32 hours a week, specifies that the exemption applies if the peace officer works for the law enforcement agency on that average.

C.S.S.B. 1600 makes conforming and nonsubstantive changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1600 contains a provision not included in the original making the exemption from the Private Security Act for certain peace officers apply to a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in Texas or a person appointed or employed by the chief administrator of a law enforcement agency as a peace officer in accordance with the licensing requirements provided for by the rules of the Commission on Law Enforcement Officer Standards and Education and who is privately employed as a patrolman, guard, extra job coordinator, or watchman.

C.S.S.B. 1600 contains a provision not included in the original specifying that an exempt officer is a peace officer employed by a private employer in an employee-employer relationship or on an individual contractual basis, rather than an officer employed in an employee-employer relationship or on an individual contractual basis. The substitute contains a provision not included in the original specifying, in the requirement that such an exempt officer not be in the employ of another peace officer, that the exemption applies if the private employment does not require the peace officer to be in the employ of another peace officer. The substitute contains a provision not included in the original specifying, in the requirement that such an exempt officer work as a peace officer on the average of at least 32 hours a week, that the exemption applies if the peace officer works for the law enforcement agency on that average. The substitute differs from the original in conforming and nonsubstantive ways.