

BILL ANALYSIS

C.S.H.B. 461
By: Menéndez
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a recent attorney general opinion relating to peace officer exemptions from the Private Security Act mistakenly focuses on an officer's job title and current duties, rather than on the officer's training and licensing by the Commission on Law Enforcement Officer Standards and Education. C.S.H.B. 461 proposes to resolve this issue by changing the circumstances 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.H.B. 461 amends the Occupations Code to make the exemption from the Private Security Act for certain peace officers apply to a person who is a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in Texas or who is 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 making the exemption apply to a person who has full-time employment as a peace officer who is privately employed in that capacity. The bill, in the requirement that such an exempt peace 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 peace 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 by which the officer is employed on that average.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 461 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

	INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1.	Section 1702.322,	SECTION 1. Section 1702.322,

83R 24807

13.114.102

Substitute Document Number: 83R 13649

Occupations Code, is amended to read as follows:

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter does not apply to:

(1) a person who is a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in this state or is appointed, elected, or employed by the chief administrator of a law enforcement agency ~~[has full-time employment]~~ as a peace officer, as defined by Section 1701.001, in accordance with the licensing requirements provided for by the rules of the Commission on Law Enforcement Officer Standards and Education and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if ~~[the officer]~~:

(A) the peace officer is employed by the private employer in an employee-employer relationship or ~~[employed]~~ on an individual contractual basis:

(i) directly by the recipient of the services; or

(ii) by a company licensed under this chapter;

(B) the private employment does not require the peace officer to be ~~[is not]~~ in the employ of another peace officer;

(C) the peace officer is not a reserve peace officer; and

(D) the peace officer works for the law enforcement agency by which the officer is employed or, in the case of an appointed or elected peace officer, serves the law enforcement agency ~~[as a peace officer]~~ on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community

Occupations Code, is amended to read as follows:

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter does not apply to:

(1) a person who is a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in this state or is employed by the chief administrator of a law enforcement agency ~~[has full-time employment]~~ as a peace officer, as defined by Section 1701.001, in accordance with the licensing requirements provided for by the rules of the Commission on Law Enforcement Officer Standards and Education and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if ~~[the officer]~~:

(A) the peace officer is employed by the private employer in an employee-employer relationship or ~~[employed]~~ on an individual contractual basis:

(i) directly by the recipient of the services; or

(ii) by a company licensed under this chapter;

(B) the private employment does not require the peace officer to be ~~[is not]~~ in the employ of another peace officer;

(C) the peace officer is not a reserve peace officer; and

(D) the peace officer works for the law enforcement agency by which the officer is employed ~~[as a peace officer]~~ on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community

supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

SECTION 2. This Act takes effect September 1, 2013.

supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

SECTION 2. Same as introduced version.