

BILL ANALYSIS

C.S.S.B. 965
By: Williams
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, when a peace officer is discharged, the head of the law enforcement agency terminating the employee must submit a form to the Commission on Law Enforcement Officer Standards and Education indicating whether the employee was discharged honorably, dishonorably, or generally. The employee may contest information in the report through a petition and administrative hearing. C.S.S.B. 965 revises current law relating to the correction of employment termination reports for law enforcement officers.

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. 965 amends the Occupations Code to add the specification, in the requirement that an administrative law judge order an employment termination report to be changed based on alleged misconduct that has been found in a hearing to not be supported by a preponderance of the evidence, that the judge order the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to change the termination report. The bill requires TCLEOSE to send the changed report to the law enforcement agency that prepared the original termination report and requires the agency to replace the original report with the changed report.

C.S.S.B. 965 repeals Section 1701.4525(e-1), Occupations Code, that authorizes TCLEOSE to assess an administrative penalty against a law enforcement agency head who fails to make a correction to an employment termination report following an order by the State Office of Administrative Hearings after all appeals available to the agency head have been exhausted.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 965 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The heading to Section 1701.4525, Occupations Code, is amended.

SECTION 1. Same as engrossed version.

SECTION 2. Subsection (e), Section 1701.4525, Occupations Code, is amended to read as follows:

(e) In a proceeding to contest information in an employment termination report for a report based on alleged misconduct, an administrative law judge shall determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination. If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the commission to change the report [~~to be changed~~].

SECTION 3. Subsection (e-1), Section 1701.4525, Occupations Code, is repealed.

SECTION 4. The changes in law made by this Act to Section 1701.4525, Occupations Code, apply only to a petition for a correction of an employment termination report submitted on or after the effective date of this Act. A petition submitted before the effective date of this Act is governed by the law in effect on the date the petition was submitted, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2013.

SECTION 2. Section 1701.4525(e), Occupations Code, is amended to read as follows:

(e) In a proceeding to contest information in an employment termination report for a report based on alleged misconduct, an administrative law judge shall determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination. If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the commission to change the report [~~to be changed~~]. The commission shall send the changed report to the law enforcement agency that prepared the original employment termination report. The law enforcement agency shall replace the original employment termination report with the changed report.

SECTION 3. Same as engrossed version except for recitation.

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.