

BILL ANALYSIS

Senate Research Center
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H.B. 1552
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Portions of the current Texas law under Section 1701.357, Occupations Code, conflict with the federal Law Enforcement Officers Safety Act (LEOSA). This has caused confusion and has, in some instances, caused some retired federal law enforcement officers or former out-of-state officers who have moved to Texas to be denied the firearms qualification certificate and/or identification card needed to be able to carry a concealed firearm as a peace officer. H.B. 1552 seeks to reconcile Texas law with LEOSA.

LEOSA provisions allow for 10 years of service, versus the current 15 years required to be considered an honorably retired peace officer under Texas law. H.B. 1552 changes Texas law to conform with the federal 10-year requirement.

Federal law also requires a retired officer to qualify with a firearm annually, versus every two years under current Texas law. H.B. 1552 makes conforming changes.

Federal law does not differentiate between reserve and full-time service. H.B. 1552 brings Texas law in line by also not differentiating.

The LEOSA statute does not require that officers show proof of eligibility for retirement benefits or proof that the agency from which they retired did not offer retirement benefits. H.B. 1552 amends Texas law to match the LEOSA in this case as well.

There is no known opposition to this bill.

H.B. 1552 amends current law relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 1701.357, Occupations Code, to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS.

SECTION 2. Amends Section 1701.357, Occupations Code, by amending Subsections (a), (b), (c), (c-1), (d), (h), and (i) and adding Subsection (a-1), as follows:

(a) Defines "qualified retired law enforcement officer" for purposes of this section.

(a-1) Redesignates text of existing Subsection (a) as Subsection (a-1). Deletes existing Subdivisions (1)–(4) (relating to the applicability of this section to certain persons). Provides that this section applies only to a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C.

(b) Authorizes the head of a state or local law enforcement agency to allow a qualified retired law enforcement officer who is a retired commissioned peace officer an opportunity to demonstrate weapons proficiency if the officer, rather than allow an honorably retired peace officer an opportunity to demonstrate weapons proficiency if the retired officer, provides to the agency a sworn affidavit stating that:

(1) the officer:

(A) honorably retired after not less than a total of 10 years of cumulative service, rather than 15 years of service, as a commissioned officer with one or more state or local law enforcement agencies; or

(B) makes conforming changes to this paragraph; and

(2)–(3) makes no changes to these subdivisions.

(c) Requires the state or local law enforcement agency to establish written procedures for the issuance or denial of a certificate of proficiency under this subsection, rather than under this section. Requires the agency to issue the certificate to a retired commissioned peace officer who satisfactorily demonstrates weapons proficiency under Subsection (b), rather than issue the certificate to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (b), provides proof that the officer is entitled to receive a pension or annuity for service with a state or local law enforcement agency or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the retired officer does not offer a pension or annuity to its retired employees, and satisfies the written procedures established by the agency. Requires the agency to maintain records of any person who holds a certificate issued under this subsection, rather than under this section. Deletes existing text requiring the agency to issue the certificate to a person described by Subsection (a)(4) who satisfactorily demonstrates weapons proficiency under Subsection (b-1).

(c-1) Authorizes proof that an individual is a qualified retired law enforcement officer, rather than proof that a retired officer is entitled to receive a pension or annuity or is not entitled to receive a pension or annuity only because the agency that last employed the retired officer does not offer a pension or annuity, for purposes of this section, to include a retired peace officer identification card issued under Subchapter H (Peace Officer Identification Cards), Chapter 614, Government Code, or other form of identification as described by 18 U.S.C. Section 926C(d).

(d) Provides that a certificate issued under this section expires on the first anniversary, rather than the second anniversary, of the date the certificate was issued. Deletes existing text authorizing a person to whom this section applies to request an annual evaluation of weapons proficiency and issuance of a certificate of proficiency as needed to comply with applicable federal or other laws.

(h) Authorizes the head of a state law enforcement agency to allow a qualified retired law enforcement officer, other than a retired commissioned peace officer, an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, a retired commissioned peace officer as described by Subsection (b), rather than authorizing the head of a state law enforcement agency to allow an honorably retired federal criminal investigator or a qualified retired law enforcement officer to whom this section applies an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, an honorably retired peace officer as described by this section. Requires the agency to establish written procedures for the issuance or denial of a certificate of proficiency under this subsection. Requires the agency to issue a certificate of proficiency to a qualified retired law enforcement officer who satisfactorily demonstrates weapons proficiency under this subsection and satisfies the written procedures adopted by the agency, rather

than to an honorably retired federal criminal investigator or a qualified retired law enforcement officer who otherwise meets the requirements of this section. Requires the agency to maintain records regarding the issuance of that certificate. Makes nonsubstantive changes to this subsection.

(i) Requires the head of the state or local law enforcement agency from which the officer retired or most recently separated, rather than retired, on request of a qualified retired law enforcement officer who holds a certificate of proficiency under this section, to issue to the officer identification that indicates that the officer honorably retired or separated, rather than retired, from the agency. Makes conforming changes.

SECTION 3. Amends Sections 411.1992(a) and (c), Government Code, as follows:

(a) Authorizes a person who served as a reserve law enforcement officer, as defined by Section 1701.001 (Definitions), Occupations Code, not less than a total of 10 years of cumulative service, rather than 15 years, with one or more state or local law enforcement agencies to apply for a license under this subchapter (License to Carry a Handgun) at any time.

(c) Makes a conforming change to this subsection.

SECTION 4. Amends Section 46.15(a), Penal Code, as follows:

(a) Deletes existing Paragraphs (5)(A)-(D) and makes nonsubstantive changes. Provides that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to:

(1)–(4) makes no changes to these subdivisions;

(5) an honorably retired peace officer or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, rather than an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is an honorably retired peace officer or other or qualified retired law enforcement officer; or

(6)–(10) makes no changes to these subdivisions.

SECTION 5. Repealer: Section 411.1992(e) (relating to requiring a former reserve law enforcement officer who obtains a certain license to maintain a certain proficiency), Government Code.

Repealer: Section 1701.357(b-1) (relating to authorizing the head of a state or local law enforcement agency to allow a person who served as a certain reserve law enforcement officer an opportunity to demonstrate weapons proficiency if the person provides to the agency a certain sworn affidavit), Occupations Code.

Repealer: Section 1701.357(j) (relating to requiring the head of the state or local law enforcement agency at which a person last served as a reserve law enforcement officer, on request of the person, to issue to the person identification that indicates the person's status), Occupations Code.

SECTION 6. Makes application of Section 1701.357, Occupations Code, as amended by this Act, prospective.

SECTION 7. Makes application of Section 411.1992, Government Code, as amended by this Act, prospective.

SECTION 8. Makes application of Section 46.15, Penal Code, as amended by this Act, prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 9. Effective date: September 1, 2019.