

By: Harris

H.B. No. 1357

A BILL TO BE ENTITLED

AN ACT

relating to the appointment, powers, duties, rights, and privileges of special Texas constables.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.128 to read as follows:

Art. 2.128. SPECIAL TEXAS CONSTABLE. (a) In this article, "department" means the Department of Public Safety.

(b) The department may appoint as a special Texas constable an honorably retired peace officer, as defined by Section 614.121(2), Government Code, who:

(1) served as:

(A) an elected or appointed constable in this state; or

(B) a chief deputy constable in the office of an elected or appointed constable in this state;

(2) was employed full-time as a peace officer by the state or a political subdivision of the state for at least 20 years;

(3) held a master proficiency certificate issued by the Texas Commission on Law Enforcement upon retirement; and

(4) has reactivated the officer's license as provided by Section 1701.3161, Occupations Code.

(c) A special Texas constable:

(1) is subject to orders of the Public Safety

1 Commission and the governor for special duty to the same extent as  
2 other peace officers commissioned under Chapter 411, Government  
3 Code;

4 (2) subject to Subdivision (3), has the same rights  
5 and privileges as any other peace officer of this state; and

6 (3) may enforce only:

7 (A) provisions of the Penal Code; and

8 (B) other state laws intended to protect life or  
9 property.

10 (d) A special Texas constable may:

11 (1) serve civil or criminal process and retain a fee  
12 from that service; and

13 (2) engage in off-duty employment, except at:

14 (A) an establishment licensed or permitted under  
15 the Alcoholic Beverage Code; or

16 (B) a business that allows a person to bring and  
17 consume on the premises of that business an alcoholic beverage.

18 (e) A special Texas constable is not connected to any  
19 elected or appointed constable's office.

20 (f) An application for a special Texas constable  
21 appointment must be filed with the department and include a  
22 high-quality photograph of the applicant wearing a suit, tie, and  
23 silver belly western felt hat.

24 (g) On appointment of a special Texas constable, the  
25 department shall provide the constable an identification card that  
26 bears:

27 (1) a high-quality photograph of the constable wearing

1 a suit, tie, and silver belly western felt hat;

2 (2) the words: "I hereby certify that (name of  
3 officer) has been appointed a special Texas constable by the  
4 Department of Public Safety of the State of Texas effective (date of  
5 appointment)."; and

6 (3) following the words required by Subdivision (2),  
7 the public safety director's name and signature.

8 (h) Except as provided by Subsection (i), while engaging in  
9 any activity described by Subsection (d) or providing services  
10 under order of the Public Safety Commission or the governor, a  
11 special Texas constable must wear:

12 (1) pressed or starched western clothing, including a  
13 silver belly western felt or high-quality straw hat; and

14 (2) boots.

15 (i) A special Texas constable is not required to wear the  
16 clothing or boots described by Subsection (h) if:

17 (1) wearing the clothing or boots is not feasible; or

18 (2) a physician licensed under Subtitle B, Title 3,  
19 Occupations Code, recommends to the constable in writing against  
20 wearing the clothing or boots.

21 (j) On arrest of an individual by a special Texas constable:

22 (1) the constable shall as soon as practicable after  
23 the arrest notify a local law enforcement agency with jurisdiction  
24 over the location where the arrest was made; and

25 (2) the law enforcement agency shall:

26 (A) take custody of the arrested person and take  
27 that person before a magistrate as required under Article 14.06;

1 and

2 (B) take custody of any property seized during or  
3 after the arrest as if that property had been seized by a peace  
4 officer of that agency.

5 (k) Before appointment of a person as a special Texas  
6 constable, the person shall enter into a good and sufficient bond  
7 executed by a surety company authorized to do business in this state  
8 in the amount of \$5,000, approved by the department, and  
9 indemnifying all persons against damages resulting from an unlawful  
10 act of the person while serving as a special Texas constable.

11 (1) The department:

12 (1) may establish by rule standards governing the  
13 conduct and duties of a special Texas constable;

14 (2) may revoke a special Texas constable appointment  
15 for good cause and for failure of the constable to provide proof of  
16 completion of a requirement described by Section  
17 1701.356(d)(1)(A), (B), or (C), Occupations Code; and

18 (3) is not required to provide to a special Texas  
19 constable a training program under Section 1701.352, Occupations  
20 Code.

21 (m) A special Texas constable appointment expires on  
22 January 15 of the fifth calendar year after the year in which the  
23 appointment was made. On expiration of the appointment, a special  
24 Texas constable is eligible for reappointment.

25 SECTION 2. Section 1701.356, Occupations Code, is amended  
26 by adding Subsections (d) and (e) to read as follows:

27 (d) A special Texas constable appointed under Article

1 2.128, Code of Criminal Procedure, is exempt from the continuing  
2 education requirements of this chapter, except that the constable:

3 (1) must:

4 (A) annually demonstrate weapons proficiency;

5 (B) every 24 months attend at least 20 hours of  
6 instruction in civil process, as described by Section 1701.354;

7 (C) every 24 months complete a training and  
8 education program that covers recent changes to the laws of this  
9 state and of the United States pertaining to peace officers, as  
10 described by Section 1701.351(a-1); and

11 (D) provide the Department of Public Safety proof  
12 of completion of each requirement described by Paragraph (A), (B),  
13 or (C) within 90 days of completing the requirement; and

14 (2) is eligible to attend any course offered in this  
15 state that satisfies a requirement described by Subdivision (1).

16 (e) Notwithstanding Subsection (d), a special Texas  
17 constable appointed under Article 2.128, Code of Criminal  
18 Procedure, may be exempt from a requirement described by Subsection  
19 (d)(1)(A), (B), or (C) if a physician licensed under Subtitle B,  
20 Title 3, recommends in writing against the constable's  
21 participation in that requirement. An exemption under this  
22 subsection lasts for not more than 11 months from the date of the  
23 recommendation.

24 SECTION 3. Section 1702.322, Occupations Code, is amended  
25 to read as follows:

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

1           (1) a person who has full-time employment as a peace  
2 officer and who receives compensation for private employment on an  
3 individual or an independent contractor basis as a patrolman,  
4 guard, extra job coordinator, or watchman if the officer:

5                   (A) is employed in an employee-employer  
6 relationship or employed on an individual contractual basis:

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

9                           (ii) by a company licensed under this  
10 chapter;

11                   (B) is not in the employ of another peace  
12 officer;

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

14                   (D) works as a peace officer on the average of at  
15 least 32 hours a week, is compensated by the state or a political  
16 subdivision of the state at least at the minimum wage, and is  
17 entitled to all employee benefits offered to a peace officer by the  
18 state or political subdivision;

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

22           (3) a peace officer acting in an official capacity in  
23 responding to a burglar alarm or detection device; [~~or~~]

24           (4) a person engaged in the business of electronic  
25 monitoring of an individual as a condition of that individual's  
26 community supervision, parole, mandatory supervision, or release  
27 on bail, if the person does not perform any other service that

1 requires a license under this chapter; or

2 (5) a special Texas constable appointed under Article  
3 2.128, Code of Criminal Procedure.

4 SECTION 4. This Act takes effect September 1, 2021.