

- SUBJECT:** Allowing the commission of special retired peace officers
- COMMITTEE:** Public Safety — committee substitute recommended
- VOTE:** 6 ayes — B. Turner, Berman, Carter, Gutierrez, Hupp, Najera
0 nays
3 absent — Keel, Driver, P. King
- WITNESSES:** For — Darrell Bush; W.M. Bill Elkin, Houston Police Officers Association, Texas Municipal Police Association
Against — None
On — Wayne Green, Texas Commission on Law Enforcement Officer Standards and Education
- BACKGROUND:** The Texas Commission on Law Enforcement Officer Standards and Education (TCLOSE) is a state agency providing training, continuing education, licensing, and certification for a variety of law enforcement officers.
- DIGEST:** CSHB 3430 would allow retired law officers to be designated as “special retired peace officers” with the power to enforce laws designed to protect life and property. The officer could carry a gun but would not be authorized to enforce traffic laws.
- A special retired peace officer would be subject to the special duty orders of TCLOSE, the governor, and the department from which the officer retired. TCLOSE could grant this designation to an officer of a municipal police department, a sheriff’s department, or a constable’s department, provided the officer:
- was honorably retired after at least 20 years of service or eligible to receive a pension;
 - had no psychological or physical disability that would interfere with proper handling of a handgun; and

- never had had an officer's license revoked or suspended;
- had a weapons proficiency certificate or handgun proficiency certificate; and
- posted a \$2,500 bond issued by a surety company approved by TCLOSE to indemnify against damages resulting from an unlawful act.

A department from which the officer had retired would be liable for the officer's unlawful act only in the event the officer had been called by the department for special duty.

Special retired peace officers with active TCLOSE commissions could be appointed to any position in a local law enforcement agency, but would not be entitled to compensation from the state or from the department from which the officer retired. The officer would not be required to fulfill basic training or continuing education requirements.

A special retired peace officer's commission would be renewed automatically upon resubmission of a bond. TCLOSE could not require additional training or tests to reactivate the license, except physical, mental, or other required exams. The bill would authorize TCLOSE to revoke a special commission at any time.

A state or local law enforcement agency would be authorized to allow an annual opportunity for a special retired police officer or applicant for such an appointment to demonstrate weapons proficiency and receive a one-year proficiency certificate. TCLOSE would adopt necessary rules and fees to administer this program.

CSHB 3430 would add the classification of "special retired peace officer" to Chapter 415 of the Government Code. It would include special retired peace officers in the list of licensed peace officers in art. 2.12, Penal Code. Provisions in sec. 46.02, Penal Code, regarding illegal possession of a weapon, would not apply to special retired peace officers.

**SUPPORTERS
SAY:**

CSHB 3430 would greatly augment the crime fighting resources of Texas. It would create a special new kind of police force of volunteer retirees in neighborhoods throughout the state. Personal and property crime would drop as a result.

Good peace officers who retire should be allowed to continue to help their

departments. This bill not only would allow them to be recalled to service during a time of emergency, it also would help Texas citizens by giving these trained and experienced officers the authority to step in and take action when they see a crime against person or property.

Some state agencies already commission retired peace officers and find their services very useful. No such authority exists for local law enforcement agencies. CSHB 3430 would give local agencies the authority they need to commission retired officers as additional peace officers.

Under this proposal, law enforcement agencies would be able to call retired officers before reserve officers when they needed assistance. Reserve officers only have police authority when they are called to duty, whereas a special retired police officer would have that authority 24 hours a day.

Many public places do not allow patrons to carry concealed weapons. A retired officer would not be prohibited from carrying a weapon into any of these places and could save lives and property as a result.

The public would be safeguarded by the experience of these officers and the fact that this program would be administered by TCLOSE, the same agency that oversees active-duty officers. A special retired peace officer, by definition, would have dedicated at least 20 years to law enforcement. Retired officers would be required to demonstrate firearms proficiency annually, rather than every four years as required by the concealed handgun law.

Special retired peace officers would not be entitled to compensation unless they were called into duty. This would ensure that no officer sought appointment for financial gain.

Retired officers would be commissioned by TCLOSE, not a local agency. This would preclude any political battles over who could be commissioned. For instance, a newly elected sheriff might not be willing to commission his or her defeated counterpart. Allowing TCLOSE to administer the commission would solve this potential problem.

**OPPONENTS
SAY:**

Police work is a job, not a lifetime crusade. Enforcing laws should be left to active duty officers, not the vast numbers of officers in retirement. This bill would create an extensive network of armed citizens who would not be

supervised by law enforcement agencies on a day-to-day basis, who would not be wearing uniforms, but who would have very broad police powers. This bill would give retired officers the right to make arrests and the right to carry a gun in any public place, even places that specify they do not allow concealed weapons. Retired officers would come under supervision only if called into duty by a law enforcement agency.

CSHB 3430 actually would give special retired police officers more weapons privileges than active duty officers. Most active duty officers must wear their gun in a holster while on duty, while the retired officers would be able to conceal their guns without obtaining a license to do so and carry them 24 hours a day.

CSHB 3430 would allow any retired officer who chose to become a special retired peace officer to bypass concealed handgun licensing requirements. Retired officers could abuse this right and could maintain their peace officer license to avoid handgun licensing fees, regulations, and restrictions.

Law enforcement agencies already can call on reserve police officers in an emergency. There is no need to commission retired officers to fill these needs when reserve officers are readily available.

State agencies using special retired officers have offered more consistent training and experience to each of their officers, and their officers have abided by a single ethical standard. The bill would allow the commission of “honorably discharged” officers from some 2,000 local agencies across the state with widely varying standards on training and teaching of police ethics. Yet under CSHB 3430, all of these retirees would have the same police powers.

OTHER
OPPONENTS
SAY:

This bill should institute a maximum age requirement for officers to become special retired police officers.

The bill could create liability problems for TCLOSE. Local agency liability for an officer’s actions is limited to the time when the officer is called back to duty, but this bill would create no such limitation for the state. TCLOSE could be liable if a retired officer arrested some one illegally or injured someone while not on duty with an agency.

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