

SUBJECT: Exempting certain reserve officers from the Private Investigators Act

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 8 ayes — B. Turner, Berman, Carter, Driver, Gutierrez, Hupp, P. King, Najera

0 nays

1 absent — Keel

WITNESSES: For — Gene Barber; Randie Cook, Texas Silver Haired Legislature; Charles Kenner

Against — Caryl Bunton, Bailey Elkin, and Herb Kelpen, ASSIST

On — Jay Kimbrough, Texas Board of Private Investigators and Private Security Agencies

BACKGROUND: The Private Investigators and Private Security Agencies Act (art. 4413(29bb), VTCS) regulates employees of the private security industry. The law provides that only certain officers exempt from the act can perform guard services in uniform while off duty — for example, at grocery stores or football games. Currently, reserve officers are exempt from the act only while performing guard, patrolman, or watchman duties for a county and being compensated solely by that county.

DIGEST: CSHB 949 would amend the Private Investigators and Private Securities Act to exempt a person who is a reserve peace officer for a county with a population below 85,000 while performing guard company services within that county. The person would be exempt only if the guard services were performed in an employee-employer relationship or on an individual contractual basis and if the guard had received a reserve peace officer endorsement from the Board of Private Investigators and Private Security Agencies. The officer also would have to maintain current proof of liability insurance on file with the board.

HB 949
House Research Organization
page 2

The bill would define “reserve peace officer endorsement” as an endorsement granted by the board authorizing a reserve officer to provide guard company services within the county in which the officer maintains reserve status. The bill would set a fee of \$25 for this endorsement.

The board would have to adopt rules for administering and issuing a reserve peace officer endorsement. The board could not require a person applying for or renewing a reserve officer endorsement to submit fingerprints for classification by the Department of Public Safety or the Federal Bureau of Investigation.

A reserve peace officer endorsement would be considered a license for law enforcement purposes.

An officer with an endorsement would have to notify the board promptly in writing of any change in address and would have to surrender the endorsement to the board on termination of peace officer status in the county in which the person performed guard company services.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Law enforcement agencies in small counties should be able to pay licensed reserve officers to work at public events. Agencies in small counties often cannot hire enough officers because of minimal funding. In these counties, it is important for the agencies to be able to hire local, available reserve officers to supply extra law enforcement presence at public events such as high school football games or fairs. Organizers of such events often do not wish to contract with private security businesses, as these personnel do not hold the same certification or training as certified reserve officers. Furthermore, private security officers can make only citizens’ arrests.

**OPPONENTS
SAY:**

Reserve officers are supposed to be civic-minded citizens who work for no compensation. They usually have other full-time jobs and are not full-time peace officers. They should not be seen by the public as licensed peace officers and should not be compensated for their actions.

Private security companies are in the business of licensing, training, insuring, and paying sales tax on their officers. Private security officers work full-time in these security jobs. They should not have to compete with reserve officers

HB 949
House Research Organization
page 3

who have purchased the uniforms of their local law enforcement agencies and who have full-time jobs in other lines of work but who appear to be peace officers.

Constables and sheriffs are not responsible for the actions of their reserve officers. Reserve officers also have no workers' compensation insurance through the law enforcement agency. Therefore, reserve officers should not be paid to represent the constable's or sheriff's department at public events.

NOTES: In the 1997 legislative session, three similar bills died in the House: HB 3289 by Bailey, HB 2999 by Wilson, and SB 922 by Lewis. In the 1995 session, a similar bill, SB 813 by Henderson, passed the Senate and reported by the House Public Safety Committee but was not set on the calendar.

A related bill, HB 394 by Longoria, also is on today's calendar.