

SUBJECT: Defining certain reserve officers as peace officers

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 7 ayes — B. Turner, Berman, Carter, Gutierrez, Hupp, P. King, Najera
0 nays
2 absent — Keel, Driver

WITNESSES: For — Dave Fowler, Victoria County Sheriffs Reserve Inc.; Scott Noris, Texas Reserve Law Officers Association; Gary Sawyer, Texas Reserve Law Officers Association
Against — None
On — Wayne Green, Texas Commission on Law Enforcement Officer Standards and Education; Jay Kimbrough, Texas Board of Private Investigators

DIGEST: CSHB 957 would add fully licensed reserve sheriff's deputies, reserve deputy constables, and reserve municipal police officers to the definition of "peace officers" in the Code of Criminal Procedure, Art. 2.12. Reserve officers with peace officer status would have the same privileges as paid full-time officers to carry a weapon and make arrests while off duty. Reserve officers who are not fully licensed would continue to have these privileges only while on duty.
CSHB 957 would specify that reserve officers, regardless of their peace officer status, would remain ineligible to participate in any pension fund or county program considered a financial benefit that full-time peace officers receive and would not be exempt from the Private Investigators and Private Security Agencies Act.
CSHB 957 would take effect on September 1, 1999.

SUPPORTERS
SAY:

CSHB 957 would give reserve officers the authority they need to act as peace officers while off duty. Reserve officers sometimes encounter emergency situations in which they could protect public safety by acting as a peace officer while off duty.

Carrying a weapon while off duty can be crucial to a reserve officer's personal safety. If an unarmed off-duty reserve officer encounters on the street a criminal he or she has dealt with in the past, the officer's safety could be threatened. Without the right to carry a gun in all public places, reserve officers might not be able to defend themselves.

The Texas Commission on Law Enforcement Officer Standards and Education requires reserve officers to undergo the same licensing process, training, and in-service training as paid full-time officers undergo. Reserve officers, whether on or off duty, are recognized by members of the community as peace officers.

More than two dozen groups already have peace officer status under the Code of Criminal Procedure, including officers commissioned by water- control districts and by the State Board of Pharmacy. If these individuals are considered peace officers, reserve officers should be too.

CSHB 957 covers law enforcement agencies against all liabilities that could arise from giving fully licensed off-duty reserve officers the same rights as other off-duty officers. Also, police chiefs and sheriffs retain the right to prohibit any off-duty officer from carrying a weapon.

CSHB 957 would specify that even though licensed reserve officers are considered peace officers, they would not be entitled to the same benefits or pension qualification as full-time officers. Part-time benefits for reserve officers vary by agency, but reserve officers do not qualify for the same financial benefits that full-time paid officers receive. If reserve officers were eligible for full-time benefits, a part-time reserve officer could pay into a benefit system based on part-time wages but receive a full-time employee's benefits.

CSHB 957 also reiterates current law that making license reserve officers peace officers would not exempt them from the Private Investigators and Private Security Agencies Act. The act requires that officers who do not

work more than 32 hours and do not receive full-time benefits, such as reserve officers, be licensed by the Texas Board of Private Investigators and Private Security Agencies to work as private security guards. Full-time, paid peace officers are exempt.

OPPONENTS
SAY:

Reserve officers are another in a long list of groups who want peace officer status and the unrestricted right to carry a weapon. While fully licensed reserve officers undergo the same initial training and licensing as other paid officers, reserve officers have no minimum work requirements. A fully licensed reserve officer could work eight hours a month or not at all and still be considered a reserve officer. A reserve officer who works only a few days a year should not have a police officer's off-duty gun privileges for the rest of the year.

CSHB 957 unjustifiably would exempt reserve officers from the requirements and restrictions of the handgun permit. Reserve officers already may carry a gun off duty if they have a concealed handgun permit, like any other eligible citizen.

Law enforcement agencies could be liable for a reserve officer's misuse of off-duty powers. For example, if an off-duty officer makes an illegal arrest, the agency could be held responsible or sued. While agencies take that risk with paid full-time officers, they should not have to bear the same risk for reserve officers who work infrequently.

NOTES:

The committee substitute would require that only fully licensed reserve officers be eligible for the off-duty privileges that paid full-time officers have. The original bill would have given these privileges to reserve officers who are not fully licensed.