

SUBJECT: Benefits for disabled peace officers from the crime victims' fund

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Hinojosa, Talton, Garcia, Kitchen, Martinez Fischer
0 nays
4 absent — Dunnam, Keel, Green, Shields

SENATE VOTE: On final passage, April 23 — voice vote

WITNESSES: For — *Registered but did not testify:* Deborah Ingersoll, Texas State Troopers Association; Kevin Lawrence, Texas Municipal Police Association; Charley Wilkison, Combined Law Enforcement Associations of Texas
Against — None

BACKGROUND: Money in the crime victims' compensation fund comes from court costs paid by people convicted of felonies and of certain misdemeanors and violations of municipal ordinances. Under Code of Criminal Procedure, art. 56.54(b), the fund may be used only by the attorney general to pay for compensation to claimants or victims, to operate the Crime Victims' Institute, and for other administrative expenses, with certain exceptions.

For each biennium, the Legislature may appropriate from the fund excess money certified by the attorney general to state agencies that deliver or fund victim-related services and for grants and contracts supporting such services. An amount not to exceed one-quarter of the amount spent on compensation payments in a fiscal year must be carried forward to the next fiscal year. The attorney general may retain any portion of the fund in excess of actual compensation payments as an emergency reserve for the next fiscal year, not to exceed \$10 million. This emergency reserve may be used only for compensation awards and to provide emergency relief stemming from an act of mass violence or international terrorism occurring in Texas or resulting in injury or death of Texas residents outside the United States. The Legislature also may appropriate money from the fund to administer the associate judge

program under the Family Code. The reserve fund now contains the maximum \$10 million.

DIGEST:

SB 850 would enact the “Bill Biles Law,” relating to benefits for disabled peace officers. If a peace officer sustained an injury in the line of duty on or after September 1, 1989, and could prove to the attorney general that the injury had incapacitated the officer completely for more than 12 months, the officer could receive an annual payment equal to the difference between any injury-related payments — including settlement money, insurance benefits, or workers’ compensation benefits — and the officer’s average annual salary for the three years preceding the injury.

The bill would define “peace officer” as an active officer working for a governmental entity and a former peace officer who is entitled to receive disability payments because of an injury sustained in the line of duty as the result of criminally injurious conduct.

The annual payment to a disabled peace officer would be subject to a cost-of-living adjustment calculated by the attorney general on the basis of the annual increase in the Consumer Price Index. The attorney general would have to calculate the initial payment by adding the cumulative cost-of-living adjustments for the years since the date of the injury to the amount the officer was entitled to receive as an annual payment.

An officer would have to prove that the injury had been sustained in the line of duty and was a total disability. The attorney general could approve an application for benefits with or without a hearing, subject to judicial review, and could appoint a panel of physicians to review applications periodically to validate the applications and the continuance of assistance.

The comptroller would have to issue benefits to an eligible claimant from the crime victims’ compensation fund. The attorney general and the comptroller would have to issue a memorandum of understanding to establish procedures for continuing annual payments until assistance no longer was necessary.

The time limit for filing a claim against the crime victims’ compensation fund would not apply to filing a claim for the proposed benefits for disabled peace officers. The limits on compensation for victims from the fund would

not apply to these proposed payments, but the aggregate amount of all annual payments to a single officer could not exceed \$200,000.

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

SB 850 would provide much-needed assistance to disabled peace officers and would be an appropriate use of the crime victims' compensation fund. Many law enforcement agencies do not offer disability compensation, and situations can arise in which an officer's family would receive more financial compensation if the officer were killed in the line of duty than if the officer were disabled. This bill would help disabled officers and their families who are not covered by their employers and who might return to active status with law enforcement some day.

SB 850 would have no impact on state general revenue. The crime victims' compensation fund has more than enough money to pay for this measure in addition to other fiscal 2002-03 spending plans. The attorney general estimates that the fund will end fiscal 2001 with a balance of \$252 million, not including the \$10 million set aside in its emergency reserve fund. Proposed expenditures from the fund for fiscal 2002-03 total \$231.8 million, leaving a balance of more than \$20 million available, not including additional revenue that will come into the fund during the biennium.

The \$200,000 cap on compensation for an individual officer would not overburden the fund. Since a payment would be the difference between other injury-related income and the officer's salary, the fund would be used as a last resort to pay for an officer's disability.

**OPPONENTS
SAY:**

SB 850 would violate the equal-protection provision of the crime victims' compensation fund. By allowing cost-of-living adjustments and disregarding time limitations for applying for the money, the bill would create a special class of beneficiaries. The fund is designed to help all victims of crime, including peace officers, but the rules and regulations relating to the fund were put in place to ensure that the money is spent appropriately.

It would be inappropriate for the fund to pay for disability benefits for some peace officers. An officer's county or city is responsible for paying for those benefits, and if those benefits are not offered, the Legislature should require

those counties and cities to offer their peace officers disability insurance rather than tapping into the crime victims' compensation fund.

NOTES:

According to the bill's fiscal note, the proposed compensation for disabled peace officers would cost the crime victims' compensation fund \$5.2 million in fiscal 2002-03 and between \$900,000 and \$1.1 million per year in each of the following three fiscal years.

A similar bill in the 76th Legislature, HB 2203 by Tillery, died in the House Appropriations Committee.