

BILL ANALYSIS

Senate Research Center

H.B. 3201
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

County fire marshals, as currently defined by Chapter 352 (County Fire Protection), Local Government Code, undertake responsibilities that are law enforcement related. These responsibilities include imposing criminal penalties based on fire code or outdoor burning violations, criminal code enforcement, and various other responsibilities as assigned by the commissioners court.

This bill adds the fire marshal and any related officers, inspectors, or investigators commissioned by a county for purposes of county fire protection to the list of persons who are designated as peace officers under state law. In addition, it adds railroad peace officers to the list of persons who are designated as peace officers under state law.

H.B. 3201 amends current law relating to the designation of certain fire marshals and related officers, inspectors, and investigators and certain railroad peace officers as peace officers.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the public safety director of Department of Public Safety of the State of Texas and the executive director of the Texas Commission on Law Enforcement Officer Standards and Education is modified in SECTION 2 (Article 2.121, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2.12, Code of Criminal Procedure, as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. Provides that certain individuals are peace officers, including the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B (County Fire Marshal), Chapter 352 (County Fire Protection), Local Government Code, and railroad peace officers appointed by the public safety director of the Department of Public Safety of the State of Texas (DPS) under Article 2.121, subject to the limitations imposed by that article.

SECTION 2. Amends Article 2.121, Code of Criminal Procedure, as follows:

Art. 2.121. RAILROAD PEACE OFFICERS. (a) Authorizes the public safety director of DPS (public safety director) to appoint railroad peace officers, rather than up to 250 railroad peace officers, who are employed by a railroad company to aid law enforcement agencies in the protection of railroad property and the protection of the persons and property of railroad passengers and employees. Provides that each appointed officer has all the powers, privileges, and immunities of a peace officer while carrying out duties as a railroad peace officer within the boundaries of this state.

(b) Provides that a railroad peace officer is not entitled to state benefits normally provided by the state to a peace officer. Deletes existing text authorizing a railroad peace officer, except as provided by Subsection (c) of this article, to make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving injury to passengers and employees of the railroad or damage to railroad property or to protect railroad property or property in the custody or control of the railroad.

Deletes existing Subsection (c) (relating to a prohibition against a railroad peace officer issuing a traffic citation for certain violations) Deletes existing designation (d).

(c) Prohibits a person from serving as a railroad peace officer for a railroad company unless certain actions are taken, including the Texas Railroad Association submits the person's application for appointment and certification as a railroad peace officer to the public safety director and to the executive director of the Commission on Law Enforcement Officer Standards and Education (TCLEOSE). Makes conforming and nonsubstantive changes.

(d) Provides that termination of employment with a railroad company, or the revocation of a railroad peace officer license, constitutes, rather than is required to constitute, an automatic revocation of a certificate of authority to act as a railroad peace officer. Makes conforming and nonsubstantive changes.

(e) Provides that neither the state nor any political subdivision or agency of the state is liable, rather than is required to be liable, for any act or omission by a person appointed as a railroad peace officer. Requires the employing railroad company to pay all expenses incurred by the granting or revocation of a certificate of authority to act as a railroad peace officer, rather than is required to be paid by the employing railroad company. Makes nonsubstantive changes.

(f) Makes a nonsubstantive change.

(g) Authorizes the public safety director and the executive director of the TCLEOSE to adopt, rather requires them to have the authority to promulgate, rules necessary for the effective administration and performance of the duties and responsibilities delegated to the directors by this article. Makes a nonsubstantive change.

SECTION 3. Effective date: upon passage or September 1, 2009.