

BILL ANALYSIS

Senate Research Center
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S.B. 1312
By: Staples
Criminal Justice
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DIGEST AND PURPOSE

Currently, retired peace officers cannot carry a weapon without a concealed carry license. As proposed, S.B. 1312 allows certain retired commissioned peace officers who have served not less than 15 years and satisfied weapons proficiency requirements to carry a weapon.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Commission on Law Enforcement Officer Standards and Education in SECTION 2 (Section 1701.357, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1701G, Occupations Code, by adding Section 1701.317, as follows:

Sec. 1701.317. SPECIAL RETIRED PEACE OFFICERS. (a) Authorizes the Commission on Law Enforcement Officer Standards and Education (commission) to appoint as a special retired peace officer a retired officer of the Department of Public Safety (department) or a local law enforcement agency who meets certain criteria.

(b) Provides that a special retired peace officer is subject to the orders of the commission, the governor, and the agency from which the officer retired for special duty to the same extent as other law enforcement officers, except that a special retired peace officer is prohibited from arresting a person for a violation of Title 7C (Rules of the Road), Transportation Code.

(c) Requires the officer, before issuance of a commission to a special retired peace officer, to enter into a good and sufficient bond that is executed by a surety company authorized to do business in the state in the amount of \$2,500, that is approved by the commission, and that indemnifies all persons against damages resulting from an unlawful act of the officer.

(d) Provides that a special retired peace officer is not entitled to compensation from the state for service as a special retired peace officer.

(e) Provides that a special retired peace officer commission expires January 1 of the first odd-numbered year after appointment and is renewed automatically on resubmission of a bond as required under Subsection (c). Authorizes the commission to revoke a special retired peace officer commission at any time for cause.

SECTION 2. Amends Chapter 1701H, Occupations Code, by adding Section 1701.357, as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS. (a) Requires the department or a local law enforcement agency to allow an honorably retired commissioned officer of the department or agency an opportunity to

demonstrate annually weapons proficiency as defined by the commission under Section 1701.355 if the chief law enforcement officer of the agency from which the officer retired provides the officer with a certain written statement.

(b) Requires the department or agency to issue a certificate of proficiency to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (a). Requires the department or agency to maintain records of any retired officer who holds a certificate issued under this section. Provides that a certificate issued under this section expires on the first anniversary of the date the certificate was issued.

(c) Requires the commission to adopt rules for the administration of this section and set fees that the department or agency may collect to recover the expenses the department or agency incurs in performing duties under this section.

SECTION 3. Amends Section 46.15, Penal Code, by adding Subsection (f), to provide that the provision of Section 46.02 prohibiting the carrying of a handgun does not apply to a person who was, at the time of the commission of the offense, the holder of a certificate issued under Section 1701.357, Occupations Code.

SECTION 4. Amends Article 2.12, Code of Criminal Procedure, as amended by Chapters 90, 322, 882, and 974, Acts of the 76th Legislature, Regular Session, 1999, to set forth persons who are peace officers, including special retired peace officers commissioned under Section 1701.317, Occupations Code.

SECTION 5. Requires the commission to adopt the rules and establish the fees required by Section 1701.357, Occupations Code, as added by this Act, not later than January 1, 2002.

SECTION 6. Effective date: September 1, 2001.