

SUBJECT: Requiring constables to be licensed peace officers

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — Ramsay, G. Lewis, B. Brown, Chisum, Salinas, Swinford
0 nays
3 absent — Farabee, Hilderbran, Krusee

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; Charlie Campos, Jr., South Texas Justices of the Peace, Constables Association, and Bexar County; Zane Hilger
Against — None

BACKGROUND: Art. 5, sec. 18 of the Texas Constitution provides for constables to be elected to four-year terms by the voters of each county except Mills, Reagan, and Roberts counties, where the office has been abolished.

Constables are local peace officers with jurisdiction in their home county over all criminal and civil law enforcement matters. Although constables primarily serve as officers of county commissioners courts, they have the same authority as other licensed peace officers in Texas.

The Texas Commission on Law Enforcement Officer Standards and Education requires constables to receive a peace officer license within two years after taking office. Candidates for peace officer licensing must be at least 21 years old, undergo 560 hours of training, have no felony convictions, and have a high school diploma or high school equivalency certificate.

In November 1998, Texas voters approved a constitutional amendment authorizing the Legislature to set qualifications for the office of constable. The 75th Legislature enacted HB 2071 by Gutierrez, setting minimum eligibility requirements for the office of constable. Constables must have a high school diploma or equivalency certificate, be at least 21 years old or at least 18 years old and have completed a minimum of 60 college hours, or have received an honorable discharge from the U.S. armed forces after at least

two years of service, and not have been convicted of a felony.

DIGEST: HB 2009 would require a constable to provide evidence to the county commissioners court within 270 days of taking office that the constable was a licensed peace officer under Government Code, chapter 415. A constable who failed to provide such evidence or who failed to maintain a permanent license while in office would forfeit the office and be subject to removal.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. It would apply only to a person elected or appointed constable on or after the effective date.

SUPPORTERS SAY: Constables hold a position of public trust and responsibility. Despite the responsibility vested in them, however, constables do not have to meet any eligibility requirements beyond those set for individuals seeking public office. A constable is a policymaker as well as a law enforcement officer who commands deputy constables, who themselves have been licensed as peace officers. HB 2009 would set statewide minimum requirements to ensure that constables have the basic qualifications necessary to carry out their duties satisfactorily.

HB 2009 would close a loophole in Texas law that allows a constable to hold office without meeting the minimum qualifications set for peace officers, even though constables must be licensed as peace officers within two years after taking office.

This bill would give a person elected to the office of constable 270 days to acquire a peace officer license. Peace officer training takes about six weeks.

OPPONENTS SAY: The office of constable is constitutional, and county voters decide who fills the office. Voters know the qualifications of the candidates they choose, and the decision on who is qualified to serve should be left to them.

CSHB 2009 could pose problems for some sparsely populated rural counties that might have a hard time finding a resident with the necessary eligibility requirements who was willing to serve as constable. The 75th Legislature passed minimum eligibility requirements. This bill would set requirements that are too strict.

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NOTES: The original bill would have provided that a person was not eligible to serve as constable unless the person was licensed as a peace officer, in addition to having a high school diploma or equivalency certificate.