

SUBJECT: Advisory committees for the Automobile Theft Prevention Authority

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Alexander, Hawley, Y. Davis, Edwards, Hill, Noriega, Pickett, Swinford

0 nays

1 absent — Hamric

SENATE VOTE: On final passage, March 15 — 30-0

WITNESSES: None

BACKGROUND: Article 4413(37), Revised Civil Statutes established the Automobile Theft Prevention Authority (ATPA) in the Texas Department of Transportation to combat motor vehicle theft for financial gain. This is accomplished primarily through grants to law enforcement, which are funded by a portion of the \$1 annual assessment on vehicle insurance policies.

ATPA has created three advisory committees to assist in:

- ! analyzing auto theft issues on the Texas/Mexico border;
- ! grant recipient efforts to promoting the reduction of vehicle theft; and
- ! recommending action on insurance fraud including raising public awareness.

Government Code, sec. 2110.008 requires agencies to set abolition dates for advisory committees. It sunsets advisory committees at four years unless the agencies' governing bodies set different deadlines.

Attorney General (AG) Letter Opinion No. 98-009, issued February 18, 1998, determined that the Commission of Licensing and Regulation could not create an advisory board to aid in its regulation of the staff leasing services industry absent specific statutory authority to do so. AG Opinion No. JC-0189, issued March 1, 2000, determined that state agencies' authority to

create advisory committees depends upon statutes specifically governing the agency and may be express or implied.

DIGEST: SB 648 would add sec. 12 to the ATPA statute granting it specific authority to create advisory committees on any matter under its jurisdiction. The bill also would allow expense reimbursement but not compensation. Sec. 2110.008 would not apply to advisory committees that were established for specific, immediate needs and were abolished within a year of inception.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: The ATPA has been successful in reducing vehicle theft rates in Texas. Contributing to its success have been three advisory committees on border issues, grant programs, and insurance fraud. ATPA plans to create more advisory committees to assist its work in other areas.

In recent years, AG opinions have raised questions about whether state agencies can create advisory committees. A 1998 opinion by Dan Morales determined that agencies must have specific statutory authority to do so. A 2000 opinion by John Cornyn supported that position, although it stated that statutory authority could be implied. SB 648 would dispel any confusion these opinions may have created by placing explicit authority in ATPA's statute to set up advisory committees. Continuing these bodies is vital to ATPA's ongoing effectiveness.

Because they cannot be compensated, it is important to reimburse the committee members for their service-related expenses, primarily travel, which they currently are paying themselves. Some members of one committee live in Mexico. All advisory committee travel is budgeted in ATPA's appropriation, subject to an agency cap, and closely monitored internally.

OPPONENTS SAY: Limits on the number and size of advisory committees are needed. ATPA's three committees have 50 members; one is at the maximum of 24. This dilutes the panels' effectiveness and increases their cost. Such a small

agency that mainly disburses grant money for one purpose may not need that much outside input.

The expense reimbursement provision would not maintain adequate oversight. It is unnecessary because few of the advisory committee members actually incur significant travel expenses.

OTHER
OPPONENTS
SAY:

SB 648 should go a step further by authorizing advisory committees at all state agencies to avoid any legal problems they might encounter with existing or prospective committees. Addressing this question agency by agency is an unnecessarily piecemeal approach to a potentially broader problem.

NOTES:

In 1999, the 76th Legislature considered a similar companion bill, HB 3716 by Alexander, which passed the House, but was left pending in the Senate State Affairs Committee.