

SUBJECT: Transferring duties of Commission on Private Security to board within DPS

COMMITTEE: Government Reform — favorable, without amendment

VOTE: 4 ayes — Swinford, Allen, Casteel, R. Cook

0 nays

3 absent — Gallego, Callegari, T. Smith

WITNESSES: No public hearing

BACKGROUND: The duties of the Texas Commission on Private Security include licensing private investigation companies, security guard companies, burglar alarm companies, courier companies, armored car companies, guard dog companies, and the security departments of private businesses with armed guards. The entity also commissions security officers who carry firearms and registers private investigators, unarmed guards, installers of alarm and monitor systems, and others.

The commission's eight members, appointed by the governor, include four public members, one licensed private investigator, one member licensed as an alarm systems company, one member who owns or operates a guard company, and one who holds a license, security officer commission, or registration from the commission. Each of the nonpublic members must have at least five years' experience in his or her capacity and may not be employed by a person who employs another member of the commission.

Rider 47 of the Department of Public Safety's (DPS) budget in HB 1 by Heflin, the general appropriations act for fiscal 2004-05, places the private security commission under the financial oversight of DPS. The commission remains an agency, but DPS is responsible for providing administrative support. The budget act reduces the commission's staff from 46.5 full-time employees (FTEs) to 14 and gives DPS an additional five FTEs.

DIGEST: HB 14 would abolish the Texas Commission on Private Security as an independent agency and transfer its duties to DPS, to be administered by a newly created Texas Private Security Board within DPS. The commission's functions would be transferred to the board on January 1, 2004. Until then, the current commission would continue to perform the functions.

The new board would have seven members appointed by the governor: four public members, one private investigator, one member licensed as an alarm system company, and an owner or operator of a guard company. No specific experience requirements would apply to the nonpublic members. The governor would have to make the appointments by January 1, 2004.

The bill would take effect December 1, 2003.

SUPPORTERS SAY: HB 14 is necessary to deal with financial mismanagement at the Texas Commission on Private Security and to ensure that the agency's duties are handled by an appropriate, responsible agency in the most efficient way possible. In effect, the Legislature already has voted to implement this change by placing the commission under the financial oversight of DPS in the fiscal 2004-05 state budget. HB 14 would take this decision to its next logical step by abolishing the independent agency and requiring DPS to administer the commission's statutes through a board.

In January 2003, the state auditor reported gross fiscal mismanagement at the private security commission from fiscal 1998 through August 2002, leading to budget shortfalls in violation of the current general appropriations act. The state auditor also pointed to the agency's opportunity to commit fraud and ability to conceal it.

The best way to deal with these problems is to eliminate the agency, where problems were systemic, and transfer its duties to DPS. As a professionally run, competent agency, DPS could absorb the commission's duties, which primarily involve regulating industries that deal with security functions. DPS could perform these duties more efficiently, since administrative and overhead costs could be spread over the large agency.

HB 14 would ensure that industries and entities now regulated by the commission would receive adequate oversight and services by establishing the

Texas Private Security Board as part of DPS. The board could hear contested cases concerning licensing and could handle other specialized duties. The board of gubernatorial appointees would have to include a private investigator, an alarm system company representative, an owner or operator of a guard company, and four public members to ensure that the industries and the public were represented adequately.

**OPPONENTS
SAY:**

It is unnecessary to abolish the Texas Commission on Private Security as an independent agency. The agency's fiscal and management problems have been addressed by new management and a remediation plan put in place to ensure that the problems do not recur. Any remaining issues would be addressed best by leaving the agency independent so that its actions can be scrutinized more easily. Even though the fiscal 2004-05 general appropriations act places the commission under the financial oversight of DPS, it would be best to leave current statutes intact so that the commission could return to independent status.

The specialized professions regulated by the commission would not be served well by moving oversight to DPS, a large agency whose main responsibility is law enforcement. The independent commission can provide levels of expertise and service that regulated industries and the public would miss if DPS took over those duties. Because the board created by HB 14 would not include representatives from the various industries regulated by the commission, some industries could feel they were not represented adequately.

**OTHER
OPPONENTS
SAY:**

HB 14 also should transfer regulation of personal emergency response systems to the Texas Department of Health. These systems, designed to signal medical emergencies, would be better regulated by an agency with experience and knowledge of medical issues.

NOTES:

During the first called session, the House on July 10 by nonrecord vote, one member recorded voting nay, passed a similar bill, HB 61 by Allen. HB 61 included a provision not in HB 14 that would have transferred all money, contracts, leases, property, and obligations of the Texas Commission on Private Security to the Texas Private Security Board. Both bills contain provisions transferring to the Texas Private Security Board all functions and activities and property from the commission and any unexpended and unobligated balance of any appropriations. During consideration of HB 61,

the House adopted an amendment by Rep. Wohlgemuth transferring regulation of personal emergency response alarm systems to the Texas Department of Health and an amendment by Rep. Callegari prioritizing the processing of applications by persons providing protection for critical infrastructure; neither provision is in HB 14. HB 61 died in the Senate Government Organization Committee.

Art. 8 of SB 22 by Ellis, first called session, an omnibus reorganization bill, was almost identical to HB 14 except that it included the Wohlgemuth amendment. SB 22 passed the Senate, but died in the House Government Reform Committee.