

SUBJECT: Prohibiting requirements that property owners hire off-duty peace officers

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 6 ayes — Driver, Latham, Frost, Ortiz, Vo, West

0 nays

1 absent — Allen

WITNESSES: For —David Mintz, Texas Apartment Association; (*Registered, but did not testify*: Doug DuBois, Texas Petroleum Marketers and Convenience Store Association, Walter Roberts, ASSIST)

Against — None

On —James Jones, Houston Police Department; (*Registered, but did not testify*: Chris W. Jones, Combined Law Enforcement Associations of Texas)

BACKGROUND: Occupations Code, ch. 1702 regulates the operation of private security services contractors and investigations companies. The Texas Commission on Private Security licenses and regulates commissioned security officers. Code of Criminal Procedure, Art. 2.12 defines peace officer, including sheriffs, constables, deputy sheriffs, police officers, Department of Public Safety troopers, and other sworn law officers employed by the state or political subdivisions.

Civil Practice and Remedies Code, sec. 125.002 authorizes an individual, the attorney general, or the attorney of a district, county, or city to file suit to abate a common nuisance. Suit may be filed against any person who maintains, owns, or uses a place that is a common nuisance as described in sec. 125.0015.

Sec. 125.002(e) states that if a judgment is in favor of the petitioner in a suit to abate a common nuisance, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance and may include in its

order requirements to prevent the use or maintenance of the place as a nuisance.

DIGEST: CSHB 2258 would prohibit a local political subdivision from requiring a private business to hire peace officers to provide security services.

The bill would not apply to situations where a private business contracted with peace officers to provide security at public events, conducted an escort for a public event, or directed traffic on a public roadway. It also would not apply to a court order to remedy a public nuisance under Civil Practices and Remedies Code, ch. 125.

The 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, 2007.

SUPPORTERS SAY: CSHB 2258 would grant business property owners, such as owners of multi-unit apartments, the discretion to select either off-duty peace officers or security officers to provide security at their property. Property owners must be able to weigh many factors in making the correct decision on providing security and making sound business decisions. One consideration would be the difference in cost between hiring security officers or off-duty peace officers, as well as deciding whether security personnel should be armed or not. Property owners also must consider potential liability for possible injuries to third parties or workers compensation claims because of injuries to peace officers. These decisions should be left to the property owner and not be mandated by the local government.

CSHB 2258 would keep in place requirements for private businesses to retain trained, off-duty peace officers for public events, such as the SXSW Festivals in Austin or when public roads were used for marathons or bike races. Also, the bill would allow a court to require employment of peace officers as part of a nuisance abatement order under Civil Practices and Remedies Code.

OPPONENTS SAY: No apparent opposition

NOTES: The original version of the bill would have allowed a security service to provide security for the buildings and grounds of a private business and

would have prohibited a requirement that a peace officer provide those services. The committee substitute added the exception for public events and for nuisance orders.

The companion bill, SB 949 by Hegar, passed the Senate on the Local and Uncontested Calendar on April 12 and was reported favorably, as substituted, by House Law Enforcement Committee on April 16, making it eligible to be considered in lieu of HB 2258.