

- SUBJECT:** Authorizing polygraph exams of certain DPS officers and employees
- COMMITTEE:** Law Enforcement — favorable, without amendment
- VOTE:** 7 ayes — Driver, Latham, Allen, Frost, Ortiz, Vo, West
0 nays
- SENATE VOTE:** On final passage, March 14 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** *(On House companion bill, HB 1103 by Latham:)*
For — Henry Brune, Texas Department of Public Safety Officers Association

Against — *(Registered, but did not testify:)* Donald W. Dickson, Esq., Texas State Troopers Association

On — Gary Stone, Texas DPS
- BACKGROUND:** Government Code, sec. 411.007 (c) states that Department of Public Safety (DPS) commissioned officers may not be suspended, terminated, or subjected to discrimination because of a refusal to take a polygraph examination. It also states that DPS is not authorized to require officers to take a polygraph exam.
- DIGEST:** SB 295 would authorize the Department of Public Safety to require agency commissioned or noncommissioned officers and employees to submit to polygraph examinations if:
- the officer or employee was required to work with a federal agency on national security issues; and
 - the federal agency required that the officer or employee submit to the polygraph exam.
- If an officer or employee did not submit to a polygraph exam required by an assignment described in this bill, DPS could remove the officer or employee from the assignment or refuse to assign the person to the position.

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:**

SB 295 is necessary to allow DPS officers and employees to meet federal requirements that certain personnel working on national security issues undergo a polygraph exam to obtain a security clearance. Currently DPS is prohibited from requiring officers to take polygraph exams, and without SB 295, officers would be unable to continue work on certain federal task forces.

SB 295 would authorize a narrow exception to current law for a person working with federal agencies on national security issues and only if the polygraph exam was required by the federal agency. This tightly drawn exception to current law is warranted given current national security concerns and would affect only about 30 to 40 officers. Without SB 295, these officers would not be able to continue to serve on certain joint task forces, and Texas would lose input into these efforts. While historical policies on polygraph exams should be respected, national security concerns warrant this narrow exception.

**OPPONENTS
SAY:**

Texas should not change its longstanding policy of protecting DPS officers from being compelled to undergo polygraph examinations. Current law provides a fundamental protection to our state police from intrusive, intimidating polygraph exams, which are prone to error. Any information sought about DPS officers or employees could be gained through diligent, thorough investigations

Texas should not allow the federal government to dictate a change in this important state policy. Texas should make its position of not polygraphing officers clear to the federal government and work with them on an alternative. Allowing this change in policy could result in more calls to chip away at it in the future.