

BILL ANALYSIS

Senate Research Center

H.B. 1213
By: Pitts et al. (Carona)
S/C on Higher Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a private institution of higher education (institution) is located within or immediately adjacent to a municipality, public safety would be better served if the peace officers employed by the municipality and the peace officers employed by the institution had the authority to work together in certain circumstances for purposes of enforcing state and local laws.

However, under current law, peace officers employed by institutions are only authorized to enforce the law on their respective campuses. This restriction prohibits institutions from entering into mutual assistance agreements with surrounding municipalities. A mutual assistance agreement would allow peace officers employed by an institution and peace officers employed by a neighboring municipality to cooperate for purposes of enforcing state and local laws.

H.B. 1213 allows an institution to enter into mutual assistance agreements with surrounding municipalities, provided that the institution has both a fall headcount enrollment of more than 10,000, and is either contiguous to or has any part of its property within the boundaries of a municipality with a population of more than one million people. This bill also provides for a procedure by which campus peace officers may appeal decisions to demote, suspend, or terminate an officer's employment.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.212, Education Code, as follows:

Sec. 51.212. New heading: PEACE OFFICERS AT PRIVATE INSTITUTIONS. (a) Authorizes the governing boards of private institutions of higher education (institutions), including private junior colleges, to employ and commission peace officers, rather than campus security personnel, for the purposes of enforcing state law on the campuses of institutions and state and local law, including applicable ordinances, at other locations, as permitted by Subsection (b) or Section 51.2125.

(b) Creates this subsection from existing Subsection (a). Provides that any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers if the officer is on the property under the control and jurisdiction of the respective institution or is otherwise performing duties assigned to the officer by the institution, regardless of whether the officer is on property under the control and jurisdiction of the institution or, to the extent authorized by Section 51.2125, is acting in response to a request by another law enforcement agency to provide assistance in enforcing state or local law.

(c) Creates this subsection from existing Subsection (a). Makes nonsubstantive changes.

(d) Redesignated from existing Subsection (b). Authorizes governing boards of institutions to hire and pay on a regular basis peace officers, rather than law-enforcement officers, commissioned by an incorporated city.

(e) Redesignated from existing Subsection (c). Redefines "private institution of higher education."

SECTION 2. Amends Subchapter E, Chapter 51, Education Code, by adding Sections 51.2125 and 51.2126, as follows:

Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO MUTUAL ASSISTANCE AGREEMENT. (a) Provides that this section applies only to an institution, as defined by Section 61.003 (Definitions), with a fall headcount enrollment of more than 10,000 students.

(b) Authorizes a governing board of an institution and a governing board of a municipality that is contiguous to, or the boundaries of which contain any part of, property under control and jurisdiction of the institution to enter into a written mutual assistance agreement (agreement) in which peace officers commissioned by the institution or the applicable municipality serve the public interest by assisting, without any form of additional compensation or other financial benefit, the peace officers of the other party to the agreement in enforcing state or local law, including applicable municipal ordinances if the institution has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million, in addition to exercising the authority provided under Section 51.212(d). Requires the agreement to be reviewed at least annually by the institution and the municipality and authorizes the agreement to be modified at that time by a written agreement signed by each party. Authorizes the agreement to be terminated at any time by a party to the agreement on the provision of reasonable notice to the other party to the agreement.

(c) Authorizes a mutual assistance agreement authorized by this section to designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality.

(d) Provides that this section does not affect a municipality's duty to provide law enforcement services to any location within the boundaries of the municipality.

(e) Authorizes a peace officer providing assistance under an agreement authorized by this section to make arrests and exercise all other authority given to peace officers under other state law. Provides that the municipal law enforcement agency has exclusive authority to supervise any campus peace officer operating under the agreement to assist the peace officers of the municipality. Provides that a municipal peace officer operating under the agreement to assist the campus peace officers remains under the supervision of the municipal law enforcement agency.

(f) Provides that an institution is liable for an act or omission of a campus peace officer operating under an agreement authorized by this section at a location other than property under the control and jurisdiction of the institution, in the same manner and to the same extent as a municipality is liable for an act or omission of a peace officer employed by the municipality.

(g) Provides that this section does not limit the authority of a campus peace officer to make a warrantless arrest outside the officer's jurisdiction as described by Article 14.03(d) (requiring a peace officer after making a warrantless arrest to notify a law enforcement agency in the jurisdiction where the arrest was made as soon as practicable), Code of Criminal Procedure.

Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) Authorizes a campus peace officer acting under an agreement authorized by Section 51.2125 who is

demoted, suspended, or terminated by the applicable institution or who experiences a promotional bypass by the institution to elect to appeal the institution's action to an independent third party hearing examiner under this section.

(b) Requires the campus peace officer, in order to appeal to an independent third party hearing examiner under this section, to submit to the head of the institution's law enforcement agency not later than 30 days after the date of the action being appealed a written request stating the officer's decision to appeal to such a hearing examiner.

(c) Provides that the hearing examiner's decision is final and binding on all parties. Authorizes the officer or institution to appeal the examiner's decision to a district court only as provided by Subsection (j).

(d) Requires the campus peace officer and the head of the institution's law enforcement agency or their designees (agency head) to attempt to agree on the selection of an impartial hearing examiner. Requires the parties to immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Services, or their successors in function, if the parties do not agree on the selection of a hearing examiner before 10 days after the date the appeal is filed. Authorizes the officer and the agency head to agree on one of the seven neutral arbitrators on the list. Provides that if the parties do not agree before the fifth business day after the date the parties receive the list, the parties are required to alternate striking a name from the list, and the single name remaining after all other names have been struck is selected as the hearing examiner. Requires the parties to agree on a date for the hearing.

(e) Requires the appeal to begin as soon as an appearance by the hearing examiner can be scheduled. Authorizes the campus peace officer, within 48 hours after learning of that fact, to call for the selection of a new hearing examiner using the procedure described by Subsection (d), if the hearing examiner cannot begin the hearing before 45 days after the date of selection.

(f) Provides that in a hearing conducted under this section, the hearing examiner has the same duties and powers that a civil service commission has in conducting a hearing or hearing an appeal under Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, including the right to issue subpoenas. Authorizes the hearing examiner to order the campus peace officer be reinstated to the same position or status in which the officer was employed immediately before the demotion, suspension, or termination or, in the case of a promotional bypass, to the position or status with respect to which the officer experienced the bypass and award the officer lost wages and any other compensation lost as a result of the disciplinary action or promotional bypass, as applicable.

(g) Authorizes the parties to agree to an expedited hearing procedure in a hearing conducted under this section. Requires the hearing examiner, in an expedited procedure, to issue a decision on the appeal not later than 10 days after the date the hearing is completed, unless otherwise agreed by the parties.

(h) Requires the hearing examiner, in an appeal that does not involve an expedited hearing procedure, to make a reasonable effort to issue a decision on the appeal not later than 30 days after the later of the date the hearing is completed or the briefs are filed. Provides that the hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action or promotional bypass, or the hearing examiner's final decision.

(i) Requires the hearing examiner's fees and expenses to be paid in equal amounts by the parties. Requires the costs of a witness to be paid by the party who calls the witness.

(j) Authorizes a district court to hear an appeal of a hearing examiner's decision only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the decision was procured by fraud, collusion, or other unlawful means. Requires an appeal to be brought in the district court having jurisdiction in the municipality in which the institution is located.

SECTION 3. Effective date: upon passage or September 1, 2007.