



Bill Analysis

Author: Burke and Irwin

Sponsor:

Bill Number: AB 846

Analyst: Cristina Perfino

Phone: (916) 845-4313

Amended: June 25, 2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Public Officers or Employees Declared to be Peace Officers

SUMMARY

This bill would, under the Government Code (GC), modify the minimum standards for public officers and peace officers and require a study, review, and update of related regulations and screening materials.

Under the Penal Code (PC), this bill would require entities that employ peace officers to review and modify peace officer job description to emphasize community-based, collaborative policing.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

The June 25, 2020, amendments removed provisions of the bill related to consumer privacy and replaced them with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to ensure peace officers are free from bias against race, or ethnicity, gender, nationality, religion, disability or sexual orientation.

ANALYSIS

This bill would, under the GC, modify the minimum standards for public officers and peace officers to also require an individual be free from bias against race, ethnicity, gender, nationality, religion, disability, or sexual orientation that would adversely affect the exercise of a peace officer's powers.

This bill would under the GC, by January 1, 2022, require the Commission of Peace Officer Standards and Training to study, review, and update their regulations and associated screening materials to incorporate the identification of explicit and implicit bias towards race or ethnicity, gender, nationality, religion, disability, or sexual orientation. For the purpose of this activity, race or ethnicity, gender, nationality, religion, disability, and sexual orientation would be defined by reference to Section 422.55 of the PC.

Under the PC, this bill would require police departments, sheriff's offices, or other entities that employ peace officers to review and make appropriate changes to job descriptions to emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving, while de-emphasizing the paramilitary aspects of the job. The bill states that there is no intent to alter the required duties of any peace officer.

Effective/Operative Date

Assuming enactment before September 30, 2020, this bill would become effective and operative January 1, 2021.

Federal/State Law

Federal Law

Because this bill would add additional vetting requirements for the state's public officers or peace officers, a review of federal income tax law would not be relevant.

State Law

Under current state law, the Franchise Tax Board (FTB) special agents are sworn peace officers charged with the investigation of individuals suspected of committing income tax related crimes or crimes against the FTB and are subject to the state's laws applicable to sworn peace officers absent an exemption.

Existing state law, requires each class of public officers or employees declared by law to be peace officers to meet all of the following minimum standards:

- Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship.
- Be at least 18 years of age.
- Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.
- Be of good moral character, as determined by a thorough background investigation.

- Be a high school graduate, pass the General Education Development Test, or other high school equivalency test approved by the State Department of Education as specified.
- Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer, as specified.

Implementation Considerations

Implementing this bill would not significantly impact the department's programs and operations.

Technical Considerations

Page 5, line 34 needs to be amended where the phrase "incorporated by Section 422.55" appears, as it should be "defined by Section 422.56."

Policy Concerns

None noted.

LEGISLATIVE HISTORY

SB 826 (Greene, Chapter 704, Statutes of 1997) among other things, designated specified FTB staff as peace officers under the Penal Code. SB 826 contained double joining language related to the peace officers designation with SB 951 (Johnson, Chapter 670, Statutes of 1997) and was chaptered after SB 951.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill, as amended on June 25, 2020, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

None noted.

LEGISLATIVE STAFF CONTACT

Cristina Perfino
Legislative Analyst, FTB
(916) 845-4313
cristina.perfino@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov