

Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair  
SB 872 (Hall) – As Amended May 19, 2016

**SENATE VOTE:** 38-0

**SUBJECT:** Local law enforcement: supplemental services

**SUMMARY:** Allows counties or cities to provide supplemental law enforcement services to private schools, colleges or universities. Specifically, **this bill:**

- 1) Allows the board of supervisors (board) of any county to contract on behalf of the sheriff of that county, and the legislative body of any city to contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to private schools, private colleges, or private universities on an occasional or ongoing basis.
- 2) Allows these services to be rendered by any category of peace officer, including reserve peace officers, who are authorized to exercise the powers of a peace officer, as specified, upon mutual agreement between the provider and the private school, private college, or private university.
- 3) Applies to these contracts existing provisions of law governing supplemental law enforcement services that counties and cities may provide to other private individuals and entities.
- 4) Provides that nothing in this bill shall prevent a University of California (UC) or California State University (CSU) police department that has been certified by the Commission on Peace Officer Standards and Training (Commission), as specified, from entering into agreements with private schools, private colleges, or private universities to provide law enforcement services.

**EXISTING LAW:**

- 1) Allows a county board to contract on behalf of the sheriff of that county, and the legislative body of a city to contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to the following private entities for the following purposes:
  - a) Private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis;
  - b) Private nonprofit corporations that are recipients of federal, state, county, or local government low-income housing funds or grants to preserve the peace on an ongoing basis; and,
  - c) Private entities at critical facilities on an occasional or ongoing basis. A “critical facility” means any building, structure, or complex that, in the event of a disaster, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel power plants.

- 2) Requires these contracts to provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city.
- 3) Generally requires services provided pursuant to these contracts to be rendered by regularly appointed full-time peace officers, as specified. However, services provided in connection with special events or occurrences that happen on an occasional basis may be rendered by Level I reserve peace officers who are authorized to exercise the powers of a peace officer, as specified, if there are no regularly appointed full-time peace officers available to fill the positions as required in the contract.
- 4) Requires peace officer rates of pay under these contracts to be governed by a memorandum of understanding (MOU).
- 5) Requires these contracts to encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined.
- 6) Prohibits these contracts from reducing the normal and regular ongoing service that the county, agency of the county, or city otherwise would provide.
- 7) Requires, prior to contracting for these services, the board or legislative body to discuss the contract and the requirements governing it at a duly noticed public hearing.
- 8) Allows the UC and the CSU to create their own police departments, designates employees of those departments as peace officers, and generally limits their authority to headquarters and campuses, including a one-mile radius of headquarters and campuses; other properties of each institution; and, any area of the state, provided that the primary duty of the peace officer is the enforcement of the law in the aforementioned areas.
- 9) Creates the Commission to develop regulations and professional standards for the operation of law enforcement agencies, which shall serve as a basis for the uniform operation of law enforcement agencies throughout the state to best serve the interests of the people of this state.
- 10) Defines categories of peace officers with varying levels of authority, duties, supervision and training.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Bill Summary.** This bill allows counties or cities to provide supplemental law enforcement services to private schools, colleges or universities on an occasional or ongoing basis. These services can be rendered by any category of peace officer, including reserve peace officers, who are authorized to exercise the powers of a peace officer, upon mutual agreement between the provider and the private school, college, or university.

Before entering into a contract, a county board or a city legislative body must discuss the contract and the requirements that govern it at a duly noticed public hearing. The bill

specifies that it does not prevent a UC or CSU police department that has been certified by the Commission from entering into agreements with private schools, colleges, or universities to provide law enforcement services.

These contracts would generally have to abide by the requirements for supplemental law enforcement services that existing law allows counties and cities to provide to a limited set of private individuals and entities. This bill is sponsored by the Los Angeles County Sheriff's Department.

- 2) **Author's Statement.** According to the author, "Schools, colleges and universities throughout the United States have seen a tragic increase in acts of violence and domestic terrorism on campus. In 2015 alone, there were 23 shootings on college campuses across the country that caused the deaths of 17 people and injured another 27. In response to these tragic events, some individuals have irresponsibly suggested that schools should arm faculty or administrative staff with guns as a line of defense on campus. Going even further, there has been a suggestion that students on college campuses should be allowed to openly carry loaded weapons. Such reckless decisions fly in the face of the intent of California's Gun Free School Zones and would only make school campuses less safe by increasing the number of firearms in the hands of untrained and unprepared individuals.

"SB 872 would authorize a local law enforcement agency to enter into contracts with private schools, colleges, and universities to provide law enforcement services. Just as local law enforcement can currently contract with public school districts, colleges, and universities to provide on campus security services, SB 872 will allow a private school, college, or university to also benefit from the professionalism and skill offered by trained law enforcement officers, should they desire."

- 3) **Background.** Counties and cities were first granted authority to provide supplemental law enforcement services to private individuals or entities in 1982, when the Legislature allowed counties and cities to provide these services under contract to preserve the peace at special events or occurrences that happen on an occasional basis. This authority was apparently granted for the Los Angeles Summer Olympics. These services were required to be provided by regularly appointed full-time peace officers.

This authority was substantially expanded by SB 1313 (Margett), Chapter 224, Statutes of 2002. SB 1313 added two new private groups for which counties or cities may provide supplemental law enforcement services:

- a) Private nonprofit corporations that are recipients of federal, state, county, or local government low-income housing funds or grants; and,
- b) Private entities at critical facilities, defined as any building, structure, or complex that, in the event of a disaster, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel power plants.

SB 1313 also allowed these two new categories of contracts to occur on an ongoing basis, rather than being limited to an occasional basis.

- 4) **Reserve Peace Officers.** AB 2164 (La Suer), Chapter 87, Statutes of 2006, was introduced to allow all of these services to be provided by Level I reserve peace officers if no regularly appointed full-time peace officers were available to fill the positions as required by the contract. The rationale for AB 2164 was as follows: "Sheriff's and Police Departments throughout the State receive requests to provide supplemental law enforcement services such as providing services to special events like sporting events, carnivals, fairs, or other citywide events. Due in large part to a statewide shortage of full time peace officers, a number of these events are going understaffed or have to be cancelled due to manpower shortages. A quick remedy would be [to] allow reserve peace officers to work these special contracts." The Senate Public Safety Committee, in its analysis of AB 2164, noted:

"This bill would increase the opportunities for local government to enter contracts 'to provide supplemental law enforcement services to private individuals or private entities' by allowing these supplemental services to be provided not only by full-time peace officers but also by Level I reserve peace officers. Given the 58 county boards and 477 cities in California who would be able to contract out the use of reserve officers under (SB 2164), is it clear in what circumstances this bill might be utilized? Is it possible that there is at least some risk that this bill is likely to lead to law enforcement decisions on the basis of the ability to pay for at least some sites and locations? Is there realistically any way for those services to be provided on an ongoing basis without impacting 'the normal and regular ongoing services' as is prohibited in the existing statute...?"

"In an opinion letter issued in 1985, the Attorney General stated some of the policy concerns that arise from any public entity contracting to provide supplemental law enforcement services with private parties on a pay-as-you-go basis:

*When the police act, then, they perform public governmental functions that are fundamental to the principal purpose of any representative government, to wit, the protection of the people. And when they act, they do so on behalf and in the name of the people. In short, they and other law enforcement agencies act as the people's representatives in the enforcement of the people's laws, and the duty they own in that regard is to the public generally (within a respective territorial jurisdiction) and not to any particular segment or person. An assault or theft works the same duty on the police whether the victim be prince or pauper. Thus while it is true that with finite resources a sheriff or chief of police can provide but a limited degree of protection from crime, the duty nonetheless remains to provide that degree, as appropriate, throughout the city or county without unjustifiably deploying protective services in one area at the expense of another.*

*The sale of police services is not only antithetical to the notion of a public law enforcement function, but it also violates sound public policy, expressed in Penal Code Section 70, subdivision (a), by making law enforcement services subservient to those who would pay for them. If the policeman when acting in an official capacity cannot be paid by the bank for arresting the bank robber – neither should the city be paid for posting the officer in front of the bank. The influence of such payments is as potentially corrupting on city or county officials deploying their police forces as it is on the actions of the individual officers, and time and again we have inveighed against it as providing fertile field for a possible conflict of interest. Inevitably too, such payments lead to the concentration of police services for those who make the*

*payments and a diminution of police services for the rest of the community. The end result would be a system of law enforcement which could not rightly be called a public service.* 68 Op. Atty. Gen. Cal. 175 (1985) (citations omitted.)

"Since the issuance of the Attorney General's Opinion in 1985, the authority granted to local governments to enter into contracts with private parties to provide 'supplemental police services' has been substantially expanded by SB 1313. This bill would result in a further expansion of that authority. Although the author's statement refers only to provision of these supplemental law enforcement services at 'special events like sporting events, carnivals, fairs, or other citywide events,'...the bill would also permit use of reserve peace officers to provide these services on an ongoing basis (for all types of private entities specified in existing law).

"Because these services may currently only be provided by full-time peace officers, there is, of necessity, some built-in limitation on the degree to which local governments can enter into these contracts due to the limited number of full-time peace officers available to be hired out. Allowing reserve peace officers to be utilized for these private contracts will substantially expand the ability of local governments to enter into such contracts. Members may wish to consider whether this practice is one that, while occasionally necessary, should not become commonplace and whether the risks of a conflict of interest, as identified in the Attorney General's opinion, are magnified by allowing the expansion of these services to include reserve peace officers."

AB 2164 was subsequently amended to allow the use of Level 1 reserve officers only for services provided in connection with special events or occurrences on an occasional basis.

- 5) **Policy Considerations.** As noted above, existing law requires most contracts for supplemental law enforcement services to be met with regularly appointed full-time peace officers. There is one exception, which allows supplemental law enforcement services at special events or occurrences that happen on an *occasional* basis to be provided by Level 1 reserve peace officers, if no regularly appointed full-time peace officers are available. Contracts for *ongoing* services are limited to regularly appointed full-time peace officers. This bill allows contracted services at private schools, colleges and universities – which can be occasional or ongoing – to be rendered by *any* category peace officer, as long as the county or city and the private institution mutually agree. Given concerns raised by AB 2164 and the Attorney General's 1985 opinion, the Committee may wish to consider whether contracting for supplemental law enforcement services for private entities should be expanded, and whether all categories of peace officers should be allowed to provide supplemental law enforcement services to private educational institutions.
- 6) **Arguments in Support.** The Los Angeles County Sheriff's Department, sponsor of this measure, states, "In the wake of the recent tragic school shooting, more schools, colleges and universities are reviewing their school safety plans and are looking at ways to provide the best level of protection for our children. Due to this, schools, both public and private, have recently expressed interest in contracting with local law enforcement agencies for police services.

"SB 872 would...(allow) local law enforcement to contract with private schools, private colleges, or private universities in order to provide supplemental law enforcement services on

an occasional or ongoing basis. SB 872 ensures that trained law enforcement officers, not untrained civilians, are able to promptly address an act of violence or domestic terrorism on a school campus and is a responsible step to keep students, faculty, staff and the public safe while on a school or university campus."

- 7) **Arguments of Concern.** The California Association of Private School Organizations (CAPSO), which represents K-12 non-profit private educational institutions, writes, "We are concerned that the opportunity to offer law enforcement services through a contract can introduce a financial incentive that might induce a law enforcement agency to delay, reduce, or withhold the normal and regular ongoing services to which all Californians are entitled. Moreover, our Public Policy Committee is unaware of any CAPSO-affiliated private K-12 school that is currently seeking additional law enforcement services that are not already permissible under existing law."

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Los Angeles County Sheriff's Department [SPONSOR]  
Association for Los Angeles Deputy Sheriffs  
California Association of Code Enforcement Officers  
California College and University Police Chiefs Association  
California Narcotic Officers Association  
California Police Chiefs Association  
California State Association of Counties  
California State Sheriffs' Association  
Los Angeles County Professional Peace Officers Association  
Los Angeles Police Protective League  
Riverside Sheriffs Association

##### **Concerns**

California Association of Private School Organizations

##### **Opposition**

None on file

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