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SFA**BILL ANALYSIS**

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Senate Bill 553 (as introduced 6-4-97)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 10-21-97

CONTENT

The bill would amend the Michigan Law Enforcement Officers Training Council Act to rename it the "Commission on Police Standards Act" and reestablish the Law Enforcement Council as the "Commission on Police Standards" in the Department of State Police. The bill also would do all of the following:

- Provide for the Commission to grant certification to a person who met the Commission's standards.
- Require the Commission to promulgate rules for the revocation of certification.
- Authorize the Commission to investigate alleged violations of the Act.
- Require a law enforcement agency to maintain an employment history record for each officer employed by the agency.
- Allow the Commission to establish and charge certain fees.
- Revise provisions regarding the allocation of money in the Law Enforcement Officer Training Fund.

Council/Commission

The bill would replace the current Law Enforcement Council with the proposed "Commission on Police Standards". The Commission would consist of the same number of members as the Council and appointment would be in the same manner, except that appointments of the Governor would no longer be subject to the advice and consent of the Senate. The terms of Council members would expire on the date that Commission members were appointed under the bill.

Commission meetings would have to be conducted in the same manner as currently provided for the Council, except that the minimum four meetings each year would not have to be held in Lansing.

Currently, the Council is required to "prepare and publish minimum employment standards"; under the bill, the Commission would have to "promulgate rules to establish law enforcement officer minimum standards". Currently, the minimum employment standards must include, among other things, minimum courses of study with attendance requirements of at least 240 instructional hours. The bill specifies, instead, that the law enforcement officer minimum standards would have to include minimum courses of study, attendance requirements, and instructional hours, with at least four instructional hours on crime victims' rights. In addition, the rules promulgated by the Commission could include the establishment of preservice basic training programs at colleges and universities.

Certification

The bill would require the Commission to grant certification to a person who met the law enforcement officer minimum standards at the time he or she was employed as a law enforcement officer. The Commission also would have to grant certification to a person who was employed as a law enforcement officer before January 1, 1977, and who failed to meet the standards, if the person were authorized to be employed as a law enforcement officer under the Act. (The Act allows such an officer to continue employment and participate in training programs on a voluntary or assigned basis; if the person discontinues employment as a law enforcement officer, he or she may be employed again in that capacity if the service has been for five years or more and the new employment occurs within two years after the person discontinues employment as a law enforcement officer.)

Certification would be valid until it was either revoked or became void because the person discontinued employment as a Commission-certified law enforcement officer.

The Commission would have to issue a certificate to a person who had received certification. A certificate would remain the property of the Commission, however. Upon the request of the Commission, a person whose certificate was revoked or became void because of discontinued employment as a Commission-certified law enforcement officer would have to return the certificate to the Commission. A violation of this provision would be a misdemeanor, punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both.

Revocation

The Commission would have to promulgate rules to provide for the revocation of certification of law enforcement officers. The rules would have to consider the minimum standards relating to the moral fitness of the law enforcement officer. The rules would have to provide for the revocation of certification for one or more of the following:

- Conviction by a judge or jury of a felony.
- Conviction by a plea of guilty to a felony.
- Conviction by a plea of no contest to a felony.
- Making a false statement or committing fraud during the application for certification process.

If a final decision or order, issued in the Commission's proper discretion, revoked an officer's certification, the decision or order would be subject to judicial review pursuant to the Administrative Procedures Act (APA). A petition for judicial review could be filed only in the Circuit Court for Ingham County.

The Commission could issue a subpoena in a contested case to revoke a law enforcement officer's certification. The subpoena would have to be issued as provided in the APA.

Violations

The Commission could investigate alleged violations of the Act or rules promulgated under it. In conducting an investigation, the Commission could hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A hearing would have to be conducted in accordance with the APA. A final decision order issued by the Commission would be subject to judicial review pursuant to the APA.

The Commission could issue a subpoena to do either of the following:

- Compel the attendance of a witness to testify at a hearing or deposition and give testimony.
- Produce books, papers, documents, or other items.

If a subpoena issued by the Commission were not obeyed, the Commission could petition the circuit court to require the attendance of a witness or the production of the books, papers, documents, or other items. The circuit court could issue an order requiring the appearance or production. Failure to obey an order of the court could be punished as contempt of court.

Employment History

The bill would require a law enforcement agency to maintain an employment history record for each law enforcement officer employed by that agency, in the manner prescribed by the Commission. An agency would have to report the date on which each person commenced or terminated employment as a law enforcement officer for that agency, in the manner prescribed by the Commission.

Fees

The bill would specifically allow the Commission to establish and charge a fee to recover the cost of testing and training individuals who were not employed by a Michigan law enforcement agency. The Commission also could establish and charge a fee to recover the cost of issuing and reissuing certificates for individuals who were certified as law enforcement officers in Michigan.

The fees charged under the bill would have to be deposited into the Law Enforcement Officer Training Fund created in the Act.

Fund Allocation

The Act currently provides for allocation of appropriated amounts from the Law Enforcement Officer Training Fund for training costs and living expenses incurred by an officer that are necessitated by training requiring the officer to be away from his or her residence overnight. The bill also would require allocation for the maintenance and administration of police officer testing and certification. The bill specifies, however, that money in the Fund to be appropriated by the Legislature for police officer testing and certification could not exceed the revenue generated from fees collected under the bill for the cost of testing and training and for issuing certificates.

MCL 28.601 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have a minimal fiscal impact on State and local government. Additional administrative responsibilities assigned to the State could be performed using existing resources. Some local law enforcement agencies could be required to increase clerical efforts in order to comply with the requirement that they maintain an employment history record for each law enforcement officer hired. The establishment of testing and training fees for individuals not employed by a Michigan law enforcement agency and a fee to recover the cost of issuing and reissuing certificates for certified law enforcement officers would result in additional restricted funds available for testing and certification activities. Should the State set these fees at \$50, the additional funds for testing and certification could total \$65,000 or more annually.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.