

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 553 (as enrolled)  
Sponsor: Senator William Van Regenmorter  
Senate Committee: Judiciary  
House Committee: Judiciary

**PUBLIC ACT 237 of 1998**

Date Completed: 7-15-98

**RATIONALE**

The Law Enforcement Officers Training Council was created in statute over 30 years ago, and has been responsible for establishing minimum employment standards for police officers. The standards must cover such matters as physical and educational requirements, minimum courses of study at approved police training schools, and basic training requirements. Although Michigan's standards are said to be among the most comprehensive in the nation, new demands apparently have made it necessary to revisit the Council's enabling Act. For example, there has been no system under which law enforcement agencies could track the employment history of police officers or learn the reason for a prior discharge. The Act also did not contain sanctions for misconduct, and did not authorize the Council to recover the cost of training. It was suggested that these and other needs should be addressed in the Act.

**CONTENT**

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

- Requires the Commission to promulgate rules for minimum standards of certification.
- Requires the Commission to promulgate rules for the revocation of certification.
- Authorizes the Commission to investigate alleged violations of the Act.
- Requires a law enforcement agency to maintain an employment history record for each officer employed by the agency.

- Allows the Commission to establish and charge certain fees.
- Revises provisions regarding the allocation of money in the Law Enforcement Officers Training Fund.
- Includes in the term "law enforcement officer" a member of a police force or other law enforcement organization of a State university or community college.

**Commission/Minimum Standards**

The bill replaced the former Law Enforcement Officers Training Council with the Commission on Law Enforcement Standards. The Commission is to consist of the same number of members as the Council (the Attorney General, or his or her designee; the Director of the Department of State Police, or his or her designee; and nine members appointed by the Governor, with the advice and consent of the Senate, from specified police officer organizations). The bill provides that an appointed individual may serve as a Commission member only while serving as a member of the respective organization. The terms of Council members expire on the date that Commission members are appointed under the bill.

Previously, the Council was required to "prepare and publish minimum employment standards"; under the bill, the Commission must "promulgate rules to establish law enforcement officer minimum standards". As already provided, the minimum standards must include minimum standards of physical, educational, mental, and moral fitness that govern the recruitment, selection, and appointment of police officers; the bill also requires minimum standards for the certification of law enforcement officers. Previously, the minimum employment standards had to include, among other things, minimum courses of study with attendance requirements of at least 240

instructional hours; the bill deleted the 240-hour minimum. The bill also requires the rules to include the establishment of preservice basic training programs at colleges and universities, and the approval of police training schools administered by a city, county, township, village, corporation, college, community college, or university. (Previously, the Act referred to instruction at approved city, county, township, village, or corporation police training schools.)

In addition, under the bill, the Commission must promulgate rules regarding the minimum qualifications for instructors at approved police training schools, and the minimum facilities and equipment required at these schools. (Previously, the minimum employment standards also had to include equipment and facilities, and minimum instructor qualifications.)

Under the Act, the requirement for instruction at an approved police training school must be waived under certain circumstances involving previous employment as a law enforcement officer. The bill also requires the Commission to waive the instruction requirement for a person who met the minimum standards when he or she was employed as a law enforcement officer, if the person has successfully completed the mandatory training and has been continuously employed as a law enforcement officer, but through no fault of that person the employing agency failed to obtain certification for him or her as required by the Act.

The bill provides that the rules do not apply to a member of a sheriff's posse or a police auxiliary temporarily performing his or her duty under the direction of the sheriff or police department. (Previously, the required instructional hours at a police training school did not apply to such a person.)

#### Certification

The bill requires the Commission to grant certification to a person who meets the law enforcement officer minimum standards at the time he or she is employed as a law enforcement officer. Certification is valid until it either is revoked or becomes void because the person discontinues employment as a Commission-certified law enforcement officer. The bill defines "certification" as either of the following:

- A determination by the Commission that a person meets the law enforcement officer minimum standards to be employed as a

Commission-certified law enforcement officer and that the person is authorized under the Act to be employed as a law enforcement officer.

- A determination by the Commission that a person was employed as a law enforcement officer before January 1, 1977, and that the person is authorized under the Act to be employed as a law enforcement officer.

The bill requires the Commission to grant certification to a person who was employed as a law enforcement officer before January 1, 1977, and who fails to meet the standards, if the person is authorized to be employed as a law enforcement officer under Section 9 of the Act. (Section 9 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.)

In addition, the bill requires the Commission to grant certification to an elected sheriff. That certification will remain valid only while the sheriff is in office.

Under the bill, the Commission must issue a certificate to a person who has received certification. A certificate remains the property of the Commission, however. Upon the request of the Commission, a person whose certificate is revoked or becomes void because of discontinued employment as a Commission-certified law enforcement officer must return the certificate to the Commission. A violation of this provision is a misdemeanor, punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both.

#### Revocation

The bill requires the Commission to promulgate rules that provide for the revocation of certification of law enforcement officers 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.

(The bill defines “felony” as a violation of a penal law of this State or another state that is either punishable by a term of imprisonment greater than one year, or expressly designated a felony by statute.)

The rules also must provide for the suspension of a law enforcement officer from use of the Law Enforcement Information Network (LEIN) in the event the officer wrongfully discloses information from the network.

If the Commission issues a final decision or order to revoke an officer’s certification, the decision or order is subject to judicial review pursuant to the Administrative Procedures Act (APA). A petition for judicial review may be filed only in the Circuit Court for Ingham County.

The Commission may issue a subpoena in a contested case to revoke a law enforcement officer’s certification. The subpoena must be issued as provided in the APA.

#### Violations

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

The Commission also may 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 is not obeyed, the Commission may 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 may issue an order requiring the appearance or production. Failure to obey an order of the court may be punished as contempt of court.

#### Employment History

The bill requires 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 must report the date on which each person commences or terminates employment as a law enforcement officer for that agency, in the manner prescribed by the Commission.

#### Fees

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

The fees charged under the bill must be deposited into the Law Enforcement Officers Training Fund created in the Act.

#### Fund Allocation

The Act provides for allocation of appropriated amounts from the Law Enforcement Officers 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 requires allocation for the maintenance and administration of law enforcement officer testing and certification. The bill specifies, however, that expenditures from the Fund to be appropriated by the Legislature for this purpose may 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.

#### ARGUMENTS

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### Supporting Argument

Although the original Act served its purpose well, it was outdated in some respects. Under the bill, the name change better reflects the purpose of the law, the new definitions bring clarity to the statute, and the Commission has enhanced authority and responsibilities. Among other things, the Commission must promulgate rules for the revocation of certification under certain

circumstances, and may investigate alleged violations. The Commission also may recover the costs of training and assessing competency. Moreover, law enforcement agencies are required to maintain an employment history record for each officer employed, and to report employment changes as required by the Commission. This will enable agencies to track the employment history of certified officers, and will enable officers to transfer more freely between agencies.

According to testimony before the Senate Judiciary Committee, Michigan is nationally recognized for its police officer training delivery system. While the original Act recognized the honorable profession of police officers, the bill will bring even greater respectability to the law enforcement community.

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

The bill will have a minimal fiscal impact on State and local government. Additional administrative responsibilities assigned to the State may be performed using existing resources. Some local law enforcement agencies might 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 will 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.