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*Bill Analysis*  
*Legislative Service Commission*

**H.B. 277**  
126th General Assembly  
(As Introduced)

**Reps. Trakas, Yuko**

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**BILL SUMMARY**

- Authorizes the board of trustees of a regional water and sewer district to establish a police department to provide police services within or at facilities that are owned, operated, or leased by the district within one or more political subdivisions if the district has entered into an authorizing agreement with each political subdivision within which it intends to provide police services.
- Requires a regional water and sewer district that seeks to establish a police department to enter into a separate authorizing agreement with each political subdivision within which the district intends to provide police services.
- Requires that a regional water and sewer district police officer be certified as having successfully completed a training program approved by the Ohio Peace Officer Training Commission.
- Prohibits employment as a regional water and sewer district police officer of a person who has been convicted of a felony and requires the termination of employment of a district police officer who is convicted of a felony.
- Authorizes a regional water and sewer district police officer to act as a peace officer concurrently with police officers of a political subdivision with which the district has an authorizing agreement within the geographical territory of the political subdivision to the same extent as police officers of the political subdivision, except as limited by the authorizing agreement.

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## CONTENT AND OPERATION

### *Regional water and sewer districts*

Any area situated in any unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, may be organized as a regional water and sewer district by the political subdivisions within the proposed district to supply water to users within and without the district, to provide for the collection, treatment, and disposal of waste water within and without the district, or to do both. After a district's board of trustees has been qualified and its officers elected, the district may acquire real property by purchase or condemnation, levy taxes and special assessments, issue bonds, construct facilities for water resource projects, exercise other powers enumerated in R.C. 6119.06, and generally do all acts necessary or proper to carry out the powers granted in R.C. Chapter 6119. (R.C. 6119.01, 6119.02, and 6119.06 and Chapter 6119.)

### *Regional water and sewer district police department*

#### *Authority to establish police department*

The bill authorizes the board of trustees of a regional water and sewer district (subject to the requirements and limitations of the bill) to establish a police department to provide police services within or at facilities that are owned, operated, or leased by the district within one or more political subdivisions if the district has entered into an authorizing agreement with each political subdivision within which it intends to provide police services. As used in the bill, "political subdivision" means a county, township, or municipal corporation. (R.C. 6119.61 and 6119.60(C).)

### **Authorizing agreement**

The bill requires a regional water and sewer district that seeks to establish a police department to enter into an authorizing agreement with each political subdivision within which the district intends to provide police services. The district board of trustees must enter into the agreement with the chief of police of the political subdivision. The agreement applies only to that political subdivision. The district must enter into a separate authorizing agreement with each political subdivision within which the district police department will provide police services. (R.C. 6119.62(A).)

An authorizing agreement may include, but is not limited to, both of the following (R.C. 6119.62(B)):

(1) An identification of the geographic territory within the political subdivision in which the district police department may provide police services;

(2) Standards and criteria governing the interaction between the police officers employed by the district police department and the law enforcement officers employed by the political subdivision. The standards and criteria may include, but are not limited to, either or both of the following:

(a) Provisions governing the reporting of offenses discovered by the district's police officers to the police department of the political subdivision;

(b) Provisions governing the processing and confinement of persons arrested by the district's police officers.

An authorizing agreement may not require, or contain any provision granting authority to, the chief of police or any other officer, official, or employee of a political subdivision to appoint, or to approve or disapprove the appointment of, a district police officer. An authorizing agreement must comply with any applicable provisions of the Revised Code and with any charter, ordinance, resolution, or regulation of the applicable political subdivision that may apply to it. (R.C. 6119.62(C).)

### **Employment of district police officers**

The bill authorizes the board of trustees of a regional water and sewer district that establishes a police department to appoint and employ police officers. District police officers have the power and duty to act as peace officers within or at facilities that are owned, operated, or leased by the district, to protect the regional water and sewer district's property, to preserve the peace, and to enforce all laws of the state and all charter provisions, ordinances, resolutions, and

regulations of political subdivisions with which the district has authorizing agreements. (R.C. 6119.63(A).)

A person who is appointed and employed as a district police officer may not engage in any duties or activities as a police officer within a political subdivision unless both of the following apply (R.C. 6119.63(A)):

(1) The person has successfully completed a training program approved by the Ohio Peace Officer Training Commission (OPOTC) and has been certified by the OPOTC as having successfully completed the training program, or the person previously has successfully completed a police officer basic training program certified by the OPOTC and has been awarded a certificate to that effect by the OPOTC.

(2) The district has entered into an authorizing agreement with the chief of police of the political subdivision.

A district police officer may act as a police officer only to the extent and in the manner described in the bill's provisions and in rules of the district when directly engaged in the discharge of that person's duties as a police officer for the district. Before exercising powers of arrest and other powers and duties of a peace officer, a district police officer must take an oath and give bond to the state, in an amount prescribed by the district's board of trustees, for the proper exercise of those powers. (R.C. 6119.63(B).)

The district board of trustees may not appoint a person as a police officer on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony. Under the bill, "felony" means an offense committed in Ohio that is a felony under Ohio law or an offense committed in another state or under federal law that would be a felony under Ohio law if committed in Ohio (R.C. 6119.60(B) by reference to R.C. 109.511). The board must terminate the employment of a police officer who pleads guilty to a felony or who pleads guilty to a misdemeanor pursuant to a negotiated plea agreement in which the police officer agrees to surrender the training certificate awarded under R.C. 109.77. The board must suspend from employment a police officer who is convicted, after trial, of a felony. If the police officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the police officer does not file a timely appeal, the board must terminate the police officer's employment. If the police officer files an appeal that results in the police officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the police officer, the board must reinstate the police officer. A police officer who is reinstated may not receive any back pay unless the police officer's conviction of the felony was reversed on appeal, or the felony

charge was dismissed, because the court found insufficient evidence to convict the police officer of the felony. (R.C. 6119.63(C).)

### **Powers and duties of district police officers**

If a regional water and sewer district establishes a police department, the district exercises power concurrently with the political subdivision with which the district has entered into an authorizing agreement to preserve the peace, protect persons and property, enforce the laws of the state, and enforce the charter provisions, ordinances, resolutions, and regulations, as applicable, of the political subdivision that apply within the geographical territory of the political subdivision. Except as limited by the terms of the authorizing agreement, a district police officer is vested, while directly in the discharge of that police officer's duties, with the same powers and authority as are vested in a police officer of a political subdivision under R.C. Title 29 and the Rules of Criminal Procedure and with the same powers and authority, including the operation of a public safety vehicle, as are vested in a police officer of a political subdivision under R.C. Chapter 4511. (Traffic Laws). In addition, a district police officer may render emergency assistance to another peace officer if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the peace officer who is assisted requests emergency assistance or it appears that the peace officer who is assisted is unable to request emergency assistance and the circumstances observed by the district police officer reasonably indicate that emergency assistance is appropriate. (R.C. 6119.64.)

### **Training of regional water and sewer district police officers**

Existing law contains many provisions related to the training of persons who serve in a law enforcement capacity. Most of them are set forth in a series of Revised Code sections, contained in R.C. 109.71 to 109.803, that relate to OPOTC and the Attorney General. Most of them use terminology that includes references to "peace officers," as defined in R.C. 109.71 (see **COMMENT 1**).

### **Definition of "peace officer"**

**Existing law.** Existing law specifies that, as used in R.C. 109.71 to 109.77, "peace officer" means (R.C. 109.71(A)):

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force, or township constable, who is commissioned and employed as a peace officer by an Ohio political subdivision or

by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce Ohio laws, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A police officer employed by a railroad company and appointed and commissioned by the Governor pursuant to R.C. 4973.17 to 4973.22;

(3) Employees of the Department of Taxation engaged in the enforcement of R.C. Chapter 5743. and designated by the Tax Commissioner for peace officer training for purposes of the delegation of investigation powers under R.C. 5743.45;

(4) An undercover drug agent;

(5) Enforcement agents of the Department of Public Safety designated by the Director of Public Safety under R.C. 5502.14;

(6) An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer;

(7) An employee of a park district who is designated pursuant to R.C. 511.232 or 1545.13;

(8) An employee of a conservancy district who is designated pursuant to R.C. 6101.75;

(9) A police officer employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the Governor pursuant to R.C. 4973.17 to 4973.22;

(10) Veterans' homes police officers designated under R.C. 5907.02;

(11) A police officer employed by a qualified nonprofit corporation police department pursuant to R.C. 1702.80;

(12) A state university law enforcement officer appointed under R.C. 3345.04 or serving as such an officer on a permanent basis on June 19, 1978, who has been awarded a certificate by OPOTC attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;

(13) A special police officer employed by the Department of Mental Health pursuant to R.C. 5119.14 or the Department of Mental Retardation and Developmental Disabilities pursuant to R.C. 5123.13;

(14) A member of a private college or university campus police department appointed under R.C. 1713.50;

(15) A member of a police force employed by a regional transit authority under R.C. 306.35(Y);

(16) Investigators appointed by the Auditor of State pursuant to R.C. 117.091 and engaged in the enforcement of R.C. Chapter 117.;

(17) A special police officer designated by the Superintendent of the State Highway Patrol pursuant to R.C. 5503.09 or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by OPOTC attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;

(18) A special police officer employed by a port authority under R.C. 4582.04 or 4582.28 or a person serving as a special police officer employed by a port authority on a permanent basis on May 17, 2000, who has been awarded a certificate by OPOTC attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;

(19) A special police officer employed by a municipal corporation who has been awarded a certificate by OPOTC for satisfactory completion of an approved peace officer basic training program and who is employed on a permanent basis on or after March 19, 2003, at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in a specified provision of federal law, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation;

(20) A police officer who is employed by an amusement park that has an average yearly attendance in excess of 600,000 guests and that employs and maintains its own proprietary police department or security department and who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to R.C. 4973.17.

**Operation of the bill.** The bill expands the definition of "peace officer" that applies to R.C. 109.71 to 109.77 to also include a police officer of a police

department of a regional water and sewer district who is appointed under R.C. 6119.63 (R.C. 109.71(A)(20)).

**Peace Officer Training Commission recommendation of rules regarding peace officer training and related matters**

**Existing law.** Existing law requires OPOTC to recommend rules to the Attorney General with respect to a number of matters, including all of the following (R.C. 109.73(A)(1) to (7)):

(1) The approval, or revocation of approval, of peace officer training schools administered by the state, counties, municipal corporations, public school districts, technical college districts, and the Department of Natural Resources;

(2) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved state, county, municipal, and Department of Natural Resources peace officer training schools;

(3) Minimum qualifications for instructors at approved state, county, municipal, and Department of Natural Resources peace officer training schools;

(4) The requirements of minimum basic training that peace officers appointed to probationary terms or not appointed for probationary terms but appointed on other than a permanent basis must complete in order to be eligible for continued employment or permanent appointment, which requirements must include a minimum of 15 hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under R.C. 2919.26 or 3113.31, a minimum of six hours of crisis intervention training, and a specified amount of training in the handling of missing children and child abuse and neglect cases, and the time within which such basic training must be completed following such appointment to a probationary term or on other than a permanent basis;

(5) Categories or classifications of advanced in-service training programs for peace officers, including programs in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under R.C. 2919.26 or 3113.31, in crisis intervention, and in the handling of missing children and child abuse and neglect cases, and minimum courses of study and attendance requirements with respect to such categories or classifications;

(6) Permitting persons who are employed as members of a private college or university campus police department appointed under R.C. 1713.50, who are

employed as police officers by a qualified nonprofit corporation police department pursuant to R.C. 1702.80, who are appointed and commissioned as railroad police officers or hospital police officers pursuant to R.C. 4973.17 to 4973.22, or who are appointed and commissioned as amusement park police officers pursuant to R.C. 4973.17 to attend approved peace officer training schools, including the Ohio Peace Officer Training Academy, and to receive certificates of satisfactory completion of basic training programs, if the private college or university that established the campus police department, qualified nonprofit corporation police department, railroad company, or hospital sponsoring the police officers pays the entire cost of the training and certification and if trainee vacancies are available;

(7) Certain other matters, not relevant to the bill, that are set forth in **COMMENT 2**.

Existing R.C. 109.74, not in the bill, authorizes the Attorney General to adopt and promulgate any or all of the rules recommended by OPOTC pursuant to R.C. 109.73, as described above.

**Operation of the bill.** The bill expands the existing provision that requires OPOTC to recommend rules to the Attorney General with respect to permitting persons who are employed as members of a campus police department, who are employed as police officers by a qualified nonprofit corporation police department, who are appointed and commissioned as railroad police officers or hospital police officers, or who are appointed and commissioned as amusement park police officers to attend approved peace officer training schools, including the Ohio Peace Officer Training Academy, and to receive certificates of satisfactory completion of basic training programs (see (7) under "**Existing law**," above), by adding to the list of specified officers police officers who are employed as members of a regional water and sewer district police department under the bill's provisions described above, if the district pays the entire cost of the training and certification and if trainee vacancies are available (R.C. 109.73(A)(7)).

As a result of the bill's expansion of the definition of "peace officer" to include police officers of a regional water and sewer district police department who are appointed under the bill's provisions described above (see "**Operation of the bill**" under "**Definition of "peace officer"**," above), all references in the existing provision regarding OPOTC's recommendation of rules to the Attorney General that refer to "peace officers" also include within their scope the district police officers.

### **Required certification**

**Existing law.** Existing R.C. 109.77 generally requires certain specified law enforcement officers to successfully complete an approved state, county,

municipal, or Department of Natural Resources peace officer basic training program before they may serve in a permanent, temporary, probationary, or other than permanent capacity as such an officer or to complete the training within the time prescribed by the Attorney General's rules if not appointed on a permanent basis. The law enforcement officers who are subject to the requirement are those who are identified in paragraphs (1), (5), (6), (7), (8), (12) (permanent only), (13), (15), (18), and (19) of the existing definition of "peace officer" that is set forth above in "Existing law" under "Definition of 'peace officer'."

**Operation of the bill.** The bill adds regional water and sewer district police officers to the list of law enforcement officers who must receive certification of completion of an approved peace officer training program before they may serve in a permanent, temporary, probationary, or other than permanent capacity as such officers or must complete the training within the time prescribed by the Attorney General's rules if not appointed on a permanent basis (R.C. 109.77(B)(1)(j) and (B)(2)(i)).

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## COMMENT

1. R.C. 109.71 and 109.73 have been amended since this bill was drafted. The bill will have to be updated to reflect the amendments.

2. Existing law also requires OPOTC to recommend rules to the Attorney General with respect to all of the following matters, not relevant to the bill (R.C. 109.73(A)(8) to (12)):

(a) Permitting undercover drug agents to attend approved peace officer training schools, other than the Ohio Peace Officer Training Academy, and to receive certificates of satisfactory completion of basic training programs, if, for each undercover drug agent, the county, township, or municipal corporation that employs that undercover drug agent pays the entire cost of the training and certification;

(b) The requirements for basic training programs for bailiffs and deputy bailiffs of Ohio courts of record and for criminal investigators employed by the State Public Defender that those persons must complete before they may carry a firearm while on duty;

(c) The requirements for any training received by a bailiff or deputy bailiff of an Ohio court of record or by a criminal investigator employed by the State Public Defender prior to June 6, 1986, that is to be considered equivalent to the training described in **COMMENT (2)(b)**, above.

(d) Establishing minimum qualifications and requirements for certification for dogs utilized by law enforcement agencies;

(e) Establishing minimum requirements for certification of persons who are employed as correction officers in a full-service jail, five-day facility, or eight-hour holding facility or who provide correction services in such a jail or facility;

(f) Establishing requirements for the training of agents of a county humane society under R.C. 1717.06, including, without limitation, a requirement that the agents receive instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>	<b>JOURNAL ENTRY</b>
Introduced	05-24-05	p. 869

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