



Phil Mullin

## *Bill Analysis*

Legislative Service Commission

### **H.B. 691**

126th General Assembly  
(As Introduced)

Rep. Schaffer

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#### **BILL SUMMARY**

- Repeals the existing program administered by the Ohio Peace Officer Training Commission (OPOTC) for the reimbursement, out of the Law Enforcement Assistance Fund, of (1) sheriffs, constables, and chiefs of police of municipal and township police departments, township police district police forces, and university and college police departments for the costs of peace officer basic training programs, advanced peace officer training programs, basic jailer training programs, and firearms requalification training programs successfully completed by them or by peace officers under their supervision, (2) the Superintendent of the State Highway Patrol and the Director of the Department of Natural Resources for the costs of peace officer basic training programs, advanced peace officer training programs, and basic jailer training programs successfully completed by them or the peace officers under their supervision, and (3) the Chief of the Adult Parole Authority and the chief probation officer of a county probation department, multicounty probation department, or municipal court department of probation for the costs of basic firearm training programs and firearms requalification programs successfully completed by them or by parole or probation officers under their supervision.
- Replaces the repealed program with a program administered by the OPOTC for the reimbursement, out of the Law Enforcement Assistance Fund, of public appointing authorities of peace officers or State Highway Patrol troopers for the costs of *continuing professional training* that is successfully completed by their peace officers or troopers.
- Requires every appointing authority to require each of its peace officers or troopers to complete up to 24 hours of continuing professional training each calendar year, and provides that a peace officer or trooper who fails

to complete the minimum required hours of that training in any calendar year or who fails to comply with the existing firearms requalification law or any other required training cannot carry a firearm during the course of official duties or perform the functions of a peace officer or trooper until evidence of compliance with those requirements is filed with the OPOTC.

- Requires each agency or entity that appoints or employs one or more State Highway Patrol troopers to annually provide to the OPOTC a roster of all troopers in any full-time, part-time, reserve, auxiliary, or other capacity who are serving, or during the year covered by the report have served, the agency or entity in any of those capacities.
- Makes an appropriation.

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## CONTENT AND OPERATION

### Background

#### Training requirement for appointments

Under existing law, no person may receive an *original appointment on a permanent basis* to any of a list of specified law enforcement positions unless the person has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission (OPOTC) attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources (DNR) peace officer basic training program. The provision applies regarding a "peace officer" of a county, township, municipal corporation, regional transit authority, or metropolitan housing authority; a DNR natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer; an employee of a township or metropolitan park district; a specified type of employee of a conservancy district; a state university law enforcement officer; a Department of Mental Health or Department of Mental Retardation and Developmental Disabilities special police officer; a Department of Public Safety enforcement agent in a designated position; a port authority special police officer; and a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility of a specified nature. A similar training requirement applies regarding the continued employment of a person *appointed on a temporary basis*, for a *probationary term*, or on *other than a permanent basis* to any of the specified law enforcement positions, other than a state university law enforcement officer. Law enforcement officers serving in certain of the specified positions prior to a specified date are exempt from the

training requirements. The provision also imposes certain training requirements regarding veterans' home police officers, bailiffs and deputy bailiffs of a court of record, and State Public Defender criminal investigators. (R.C. 109.71 and 109.77--not in the bill.)

### **Advanced training**

Existing law specifies that the OPOTC's Executive Director has certain specified powers and duties that must be exercised with the general advice of the OPOTC and only in accordance with specified statutory provisions and rules. The powers and duties include, among others, consulting and cooperating with state, county, and municipal peace officer training schools *for the development of advanced in-service training programs for peace officers* (R.C. 109.75--not in the bill).

### **Firearms requalification programs**

Existing law provides that, each year, any person serving in any of a list of specified law enforcement positions must complete successfully a firearms requalification program approved by the OPOTC's Executive Director in accordance with rules adopted by the Attorney General (AG). The provision applies to any sheriff, deputy sheriff, marshal, deputy marshal, township constable, chief of police or member of an organized police department of a municipal corporation or township, chief of police or member of a township police district police force, Superintendent, trooper, or special police officer of the State Highway Patrol, Department of Public Safety enforcement agent, or chief of police of a university or college police department or state university law enforcement officer; any parole or probation officer who carries a firearm in the course of official duties; any DNR natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer who carries a firearm in the course of official duties; the House of Representatives Sergeant at Arms if he or she has arrest authority; any assistant House of Representatives Sergeant at Arms; any Department of Youth Services employee designated as being authorized to carry a firearm while on duty; and any special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility. No person included in that list may carry a firearm during the course of official duties if the person does not comply with the training requirements described in this paragraph. (R.C. 109.801--not in the bill.)

## Law Enforcement Assistance Fund

### Existing law

Existing law creates in the state treasury the Law Enforcement Assistance Fund. The Fund is used to pay reimbursements for law enforcement training as described in the analysis' **COMMENT**, the compensation of any AG employees required to administer those provisions, and any other administrative costs the AG incurs to administer those provisions. (R.C. 109.802.)

### Changes proposed by the bill

**In general.** The bill retains the Law Enforcement Assistance Fund in the state treasury but replaces the current uses that may be made of the Fund and the current reimbursement program with a new use and a new reimbursement program (see **COMMENT** for the replaced uses and program). Under the bill, the Fund may be used to pay reimbursements for specified *continuing professional training* for peace officers and troopers (see below), the compensation of any AG employees required to administer the provisions, and any other administrative costs the AG incurs to administer the provisions. The AG must adopt rules in accordance with the Administrative Procedure Act establishing application procedures, standards, and guidelines, and prescribing an application form, for the reimbursement of public appointing authorities for the cost of continuing professional training for their peace officers or troopers. The rules must include, but are not limited to, all of the following: (1) a requirement that applications for reimbursement be submitted on a *calendar-year basis*, (2) the documentation required to substantiate any costs for which the applicant seeks reimbursement, and (3) any other requirements necessary for the proper administration of the reimbursement program. (R.C. 109.802(A) and (B).)

**OPOTC reimbursement program.** The bill repeals the existing OPOTC reimbursement program (repeal of current R.C. 109.803 in Section 2 of the bill) and replaces it with a new program. The bill requires the OPOTC to administer a program for reimbursing public appointing authorities for the costs of continuing professional training that is successfully completed by their peace officers or troopers. The OPOTC must administer the reimbursement program in accordance with the rules adopted by the AG as described in the preceding paragraph.

Each public appointing authority may apply each calendar year to the OPOTC for reimbursement for the costs of continuing professional training programs that are successfully completed by its peace officers or troopers. Each application must be made in accordance with, be on an application form prescribed in, and be supported by the documentation required by, the AG's rules. The OPOTC, in accordance with the AG's rules, must review each application to

determine if the applicant is entitled to reimbursement for the training programs for which the applicant seeks it.

A public appointing authority that applies for reimbursement is entitled to it only if all of the appointing authority's peace officers or troopers comply with (1) the continuing professional training requirement by completing the minimum number of hours of training directed by the OPOTC and (2) other related requirements. If the applicant is entitled to reimbursement, for each peace officer or trooper who successfully completes a training program, the OPOTC must approve reimbursing the appointing authority for the cost of the program. The actual amount of reimbursement for continuing professional training is to be determined by the AG's rules.

Each appointing authority that receives funds under the new reimbursement program is required to keep them separate from any other funds of the appointing authority and must use the funds only for paying the costs of continuing professional training programs (R.C. 109.802(C) to (F)).

**Definitions.** As used in the bill's provisions described above, "peace officer" has the same meaning as in the general definition of that term for the OPOTC Law, "trooper" means an individual appointed as a State Highway Patrol trooper under continuing law, and "appointing authority" means any agency or entity that appoints a peace officer or trooper (R.C. 109.802(G)).

### **Continuing professional training for peace officers and troopers**

Under the bill, every appointing authority must require each of its appointed peace officers or troopers (see definitions above) to complete up to 24 hours of continuing professional training each calendar year, as directed by the OPOTC. The bill specifies that the number of hours directed by the OPOTC, up to 24 hours, is intended to be a minimum requirement, and appointing authorities are encouraged to exceed the number of hours the OPOTC directs as the minimum. But, the OPOTC must set the required minimum number of hours based upon *available funding for reimbursement*. And, *if no funding is available*, no continuing professional training will be required. If (1) an appointing authority *complies* with (a) *this training requirement* by requiring each of its appointed peace officers or troopers to complete the number of hours of training the OPOTC directs as the minimum and (b) *the roster-provision requirement* described below and (2) the appointed peace officers or troopers of the appointing authority comply with the existing firearms requalification law to the extent that they are subject to that law and comply with all other training mandated by the General Assembly or the OPOTC, *the AG must reimburse the appointing authority* for the successful training costs of each of its appointed peace officers or troopers as provided in the

bill (note that those provisions specify that the OPOTC is to administer the reimbursement program). (R.C. 109.803(A).)

The bill specifies that an appointed peace officer or trooper who fails to complete the minimum required hours of continuing professional training in any calendar year or who fails to comply with the existing firearms requalification law or any other required training *cannot carry a firearm* during the course of official duties or perform the functions of a peace officer or trooper until evidence of compliance with those requirements is filed with the OPOTC's Executive Director (R.C. 109.803(B)).

Finally, the bill requires the AG, with the advice of the OPOTC, to adopt in accordance with the Administrative Procedure Act rules setting forth minimum standards for continuing professional training for peace officers and troopers and governing the administration of that training. The AG must transmit a certified copy of any rule adopted under this provision to the Secretary of State. (R.C. 109.803(C).)

### **Provision of reports regarding, and roster of, peace officers**

#### **Existing law**

Under existing law, each agency or entity that appoints or employs one or more "peace officers" (as defined for the OPOTC Law) must report to the OPOTC all of the following that occur on or after February 20, 2002: (1) the appointment or employment of any person to serve the agency or entity as a peace officer in any full-time, part-time, reserve, auxiliary, or other capacity, and (2) the termination, resignation, felony conviction, or death of any person who is so serving. An agency or entity must make each such report not later than ten days after the occurrence of the event being reported and must make it in the manner and format prescribed by the OPOTC's Executive Director. (R.C. 109.761(A).)

Existing law also requires each agency or entity that appoints or employs one or more peace officers to annually provide to the OPOTC *a roster* of all persons who have been appointed to or employed by the agency or entity as peace officers in any full-time, part-time, reserve, auxiliary, or other capacity and are serving, or during the year covered by the report have served, the agency or entity in any of those peace officer capacities. The agency or entity must provide the roster in the manner and format, and by the date, prescribed by the OPOTC's Executive Director. (R.C. 109.761(B).)

### **Changes proposed by the bill**

The bill expands the roster-provision requirement to agencies and entities that appoint or employ any State Highway Patrol trooper (i.e., the State Highway Patrol). Specifically, the bill requires each agency or entity that appoints or employs State Highway Patrol troopers to annually provide to the OPOTC a roster of all troopers in any full-time, part-time, reserve, auxiliary, or other capacity who are serving, or during the year covered by the report have served, the agency or entity in any of those trooper capacities. As under existing law, the agency or entity must provide the roster in the manner and format, and by the date, prescribed by the OPOTC's Executive Director. (R.C. 109.761.)

### **Appropriation**

The bill requires the Director of Budget and Management to transfer \$5 million in FY 2007 from the Attorney General Claims Fund to the Law Enforcement Assistance Fund and appropriates that money (Sections 3, 4, and 5).

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## **COMMENT**

Existing law provides for the use of the Law Enforcement Assistance Fund to pay reimbursements for law enforcement training. The provisions governing the use of the Fund are as follows:

### **AG rules for reimbursement for training**

The AG is required to adopt rules under the Administrative Procedure Act establishing application procedures, standards, and guidelines, and prescribing an application form, for the reimbursement of sheriffs, constables, chiefs of police of organized municipal and township police departments, chiefs of police of township police district police forces, and chiefs of police of university or college police departments for the costs of "peace officer" basic training programs, *advanced peace officer training programs*, basic jailer training programs, and firearms requalification programs successfully completed by them or the peace officers under their supervision, for the reimbursement of the Superintendent of the State Highway Patrol and DNR's Director for the costs of peace officer basic training programs, *advanced peace officer training programs*, and basic jailer training programs successfully completed by them or the peace officers under their supervision, and for the reimbursement of the Chief of the Adult Parole Authority (the APA) and the chief probation officer of a county probation department, multicounty probation department, and municipal court department of probation for the costs of basic firearm training programs and firearms requalification programs successfully completed by them or by parole or probation officers under their supervision. The rules must include, but are not limited to, all of the

following: (i) a requirement that applications for reimbursement be submitted on a *fiscal year basis*, (ii) the documentation required to substantiate any costs for which the applicant seeks reimbursement, (iii) the procedure for prorating reimbursements if the amount of money appropriated for reimbursement for any fiscal year is not sufficient to pay all of the costs approved for reimbursement for that fiscal year, and (iv) any other requirements necessary for the proper administration of the reimbursement program. (R.C. 109.802(B).)

Each sheriff, constable, and chief of police of an organized municipal or township police department, township police district police force, or university or college police department may apply *each fiscal year* to the OPOTC for reimbursement for the costs of peace officer basic training programs, *advanced peace officer training programs*, basic jailer training programs, and firearms requalification training programs that are successfully completed by the sheriff, constable, or chief or a peace officer under the sheriff's, constable's, or chief's supervision. The Superintendent of the State Highway Patrol and DNR's Director may apply each fiscal year to the OPOTC for reimbursement for the costs of peace officer basic training programs, *advanced peace officer training programs*, and basic jailer training programs successfully completed by them or the peace officers under their supervision. And, the APA's Chief and each chief probation officer of a county probation department, multicounty probation department, or municipal court department of probation may apply each fiscal year to the OPOTC for reimbursement for the costs of basic firearm training programs and firearms requalification programs successfully completed by that chief or by parole or probation officers under the chief's supervision. Each application must be made in accordance with, on an application form prescribed in, and be supported by the documentation required by, the AG's rules adopted as described above. (R.C. 109.802(C).)

### **OPOTC reimbursement program**

Existing law requires the OPOTC to administer a program for reimbursing sheriffs, constables, and chiefs of police of organized municipal and township police departments, township police district police forces, and university and college police departments for the costs of "peace officer" basic training programs, *advanced peace officer training programs*, basic jailer training programs, and firearms requalification training programs that are successfully completed by them or by peace officers under their supervision, for reimbursing the Superintendent of the State Highway Patrol and DNR's Director for the costs of peace officer basic training programs, *advanced peace officer training programs*, and basic jailer training programs that are successfully completed by them or the peace officers under their supervision, and for reimbursing the APA's Chief and the chief probation officer of a county probation department, multicounty probation

department, or municipal court department of probation for the costs of basic firearm training programs and firearms requalification programs that are successfully completed by them or by parole or probation officers under their supervision. The OPOTC must administer the reimbursement program in accordance with rules adopted by the AG. (R.C. 109.803--repealed by the bill.)

The OPOTC, in accordance with the AG's rules, must review each application for reimbursement to determine if the applicant is entitled to reimbursement for the programs for which the applicant seeks it. The OPOTC must approve for reimbursement any program for which reimbursement is authorized in the AG's rules, if the program was successfully completed by the applicant or a peace officer, parole officer, or probation officer supervised by the applicant. The actual amount of reimbursement for each authorized program is to be determined as follows :

First, the OPOTC is required to prepare in a specified manner a basic peace officer training reimbursement voucher for each applicant for whom it approves reimbursement for all or some of the peace officer basic training programs, basic jailer training programs, basic firearms training programs, and firearms requalification programs for which the applicant applied for reimbursement. Second, if the amount of money appropriated by the General Assembly in any fiscal year to reimburse the costs of basic peace officer training programs, basic jailer training programs, basic firearm training programs, and firearms requalification programs is not sufficient to pay all peace officer training reimbursement vouchers prepared in the specified manner, the OPOTC must reduce all of the vouchers by a *pro rata* amount.

Third, the OPOTC is required to prepare in a specified manner an advanced peace officer training reimbursement voucher for each applicant for whom it approves reimbursement for all or some of the advanced peace officer training programs for which the applicant applied for reimbursement. Fourth, the advanced peace officer training reimbursement voucher for each applicant cannot exceed 75% of the total costs expended by the applicant for all approved advanced peace officer training programs that were successfully completed by the applicant and the peace officers under the applicant's supervision. (R.C. 109.803--repealed by the bill.)

### **"Peace officer" definition**

As used in the provisions described above, "peace officer" includes a sheriff, deputy sheriff, marshal, deputy marshal, chief of police and member of a municipal or township police department, chief of police and member of a township police district police force, chief of police of a university or college police department, state university law enforcement officer, Superintendent or

trooper of the State Highway Patrol, and DNR natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer (R.C. 109.802(D)).

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## **HISTORY**

ACTION	DATE
Introduced	11-28-06

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