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Bill Analysis
Legislative Service Commission

S.B. 281

126th General Assembly
(As Introduced)

Sens. Stivers, Padgett, Mumper, Goodman, Austria, Spada

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- Replaces the repealed program described in the preceding dot point with a program administered by OPOTC for the reimbursement, out of the Law Enforcement Assistance Fund, of "appointing authorities" (i.e., any public agency or entity that appoints or employs a peace officer) for the costs of continuing professional training that is successfully completed by the appointing authority's paid peace officers.
- Requires every "appointing authority" (see the preceding dot point) to require each of its paid peace officers to complete up to 24 hours of

continuing professional training each calendar year and provides that no paid peace officer who fails to complete the minimum required hours of law enforcement training in any calendar year or who fails to comply with the existing firearms requalification law or any other required training may carry a firearm during the course of official duties or perform the functions of a peace officer until evidence of the peace officer's compliance with those requirements is filed with OPOTC.

- Requires each agency or entity that appoints or employs one or more State Highway Patrol troopers annually to provide to OPOTC a roster of all persons who have been appointed to or employed by the agency or entity as troopers 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 trooper capacities.

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CONTENT AND OPERATION

Background

Under existing law, no person may receive an 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" (see **COMMENT 1**) 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 specified type of 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. 109.77.)

Existing law specifies that OPOTC's Executive Director has certain specified powers and duties, which must be exercised with the general advice of 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).

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 OPOTC's Executive Director in accordance with rules adopted by the 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, enforcement agent employed under R.C. 5502.14, 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.)

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 **COMMENT 2**, 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.)

Operation of 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 2** for a discussion of the replaced uses and program). Under the bill, the Fund may be used to pay reimbursements for continuing professional training for paid "peace officers" (see **"Peace officer" and "appointing authority" definitions,** below) as provided in this part of the analysis and the provisions described below in **"Continuing professional training for paid peace officers,"** the compensation of any AG employees required to administer those provisions, and any other administrative costs the AG incurs to administer those 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 appointing authorities for the cost of continuing professional training for paid peace officers. 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 R.C. 109.803 in Section 2) and replaces the repealed program with a new OPOTC reimbursement program. The bill requires OPOTC to administer a program for reimbursing "appointing authorities" for the costs of continuing professional training that is successfully completed by the appointing authority's paid "peace officers" (see **"Peace officer" and "appointing authority" definitions,** below). OPOTC must administer the reimbursement program in accordance with rules adopted by the AG as described in the preceding paragraph. The bill authorizes each appointing authority to apply each calendar year to OPOTC for reimbursement for the costs of continuing professional training that is successfully completed by the appointing authority's paid peace officers. Each application must be made in accordance with, on an

application form prescribed in, and be supported by the documentation required by, rules adopted by the AG. OPOTC, in accordance with rules of the AG, must review each application for reimbursement to determine if the applicant is entitled to reimbursement for the training for which the applicant seeks it. If the appointing authority complies with the bill's requirements described in this part of the analysis, OPOTC must approve reimbursing the appointing authority for the cost of continuing professional training. The actual amount of reimbursement for continuing professional training must be determined by rules adopted by the AG. In uncodified law, the bill specifies that an appointing authority that "provides" continuing professional training in the 2006 calendar year is eligible to apply to OPOTC for reimbursement for the costs of that training, in accordance with the above-described provisions.

Each appointing authority that receives funds under the bill's reimbursement program is required to keep those funds separate from any other funds of the appointing authority. No appointing authority that receives funds under the program may use those funds to supplant or offset existing budgets for continuing professional training. The appointing authority must use the funds received under the program only for continuing professional training and associated costs. (R.C. 109.802(C) to (F), and Section 3.)

"Peace officer" and "appointing authority" definitions. As used in the provisions described above in "**In general**" and "**OPOTC reimbursement program**," "peace officer" has the same meaning as in R.C. 109.71 (see **COMMENT 1**) and includes State Highway Patrol troopers, and "appointing authority" means any public agency or entity that appoints or employs a peace officer (R.C. 109.802(G)).

Continuing professional training for paid peace officers

The bill requires every "appointing authority" (see below) to require each of its paid "peace officers" (see below) to complete up to 24 hours of continuing professional training each calendar year. OPOTC may specify the content of up to eight of the hours of training. If an appointing authority complies with the roster-provision requirement described below in "**Provision of reports regarding, and roster of, peace officers**" and if the paid peace officers of the appointing authority comply with the existing firearms requalification law (see "**Background**," above) to the extent that they are subject to that law and comply with all other training mandated by the General Assembly or OPOTC, *the AG must reimburse the appointing authority* for the successful training costs of each of its paid peace officers as provided in the bill's provisions described above in "**OPOTC reimbursement program**" (note that those provisions specify that OPOTC is to administer the reimbursement program).

The bill specifies that no paid peace officer who fails to complete the minimum required hours of law enforcement training in any calendar year or who fails to comply with the existing firearms requalification law (see "Background," above) or any other required training may carry a firearm during the course of official duties or perform the functions of a peace officer until evidence of the peace officer's compliance with those requirements is filed with OPOTC's Executive Director.

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

As used in the provisions described in the preceding three paragraphs, "peace officer" has the same meaning as in R.C. 109.71 (see **COMMENT 1**) and includes State Highway Patrol troopers, and "appointing authority" means any public agency or entity that appoints or employs a peace officer (R.C. 109.802(G)).

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" (see **COMMENT 1**) must report to 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 has been appointed to or employed by the agency or entity as a peace officer in any full-time, part-time, reserve, auxiliary, or other capacity and is serving the agency or entity in any of those peace officer capacities. 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 OPOTC's Executive Director.

Existing law also requires each agency or entity that appoints or employs one or more peace officers annually to provide to 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 OPOTC's Executive Director.

Existing law requires OPOTC to prescribe the manner and format of making reports and providing annual rosters under the provisions described in the two preceding paragraphs and to prescribe the date by which the annual rosters must be provided. (R.C. 109.761.)

Operation of the bill

The bill expands the roster-provision requirement that applies under existing law to each agency or entity that appoints or employs one or more peace officers so that the requirement also applies to agencies and entities that appoint or employ any State Highway Patrol trooper (i.e., the State Highway Patrol). Specifically, under the bill, the provision requires each agency or entity that appoints or employs one or more peace officers or *State Highway Patrol troopers* annually to provide to OPOTC a roster of all persons who have been appointed to or employed by the agency or entity as peace officers *or troopers* 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 *or 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 OPOTC's Executive Director. (R.C. 109.801.)

COMMENT

1. Existing R.C. 109.71 provides that, as used in R.C. 109.71 to 109.77, "peace officer" means:

(a) 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 police force employed by a metropolitan housing authority under R.C. 3735.31(D), 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 the laws of Ohio, 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;

(b) A police officer employed by a railroad company and appointed and commissioned under R.C. 4973.17 to 4973.22;

(c) 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 the delegation of investigation powers under R.C. 5743.45;

- (d) An undercover drug agent;
- (e) Enforcement agents of the Department of Public Safety whom the Director of Public Safety designates under R.C. 5502.14;
- (f) A DNR natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer designated under R.C. 1501.013, 1541.10, 1503.29, 1517.10, 1531.13, or 1547.521, whichever is applicable;
- (g) An employee of a park district designated under R.C. 511.232 or 1545.13;
- (h) An employee of a conservancy district designated under R.C. 6101.75;
- (i) A police officer employed by a hospital that employs and maintains its own proprietary police department or security department, who is appointed and commissioned under R.C. 4973.17 to 4973.22;
- (j) Veterans' homes police officers designated under R.C. 5907.02;
- (k) A police officer employed by a qualified nonprofit corporation police department under R.C. 1702.80;
- (l) A state university law enforcement officer appointed under R.C. 3345.04;
- (m) A special police officer employed by the Department of Mental Health or Department of Mental Retardation and Developmental Disabilities under R.C. 5119.14 or 5123.13, whichever is applicable;
- (n) A member of a campus police department appointed under R.C. 1713.50;
- (o) A member of a police force employed by a regional transit authority under R.C. 306.35(Y);
- (p) Investigators appointed by the Auditor of State under R.C. 117.091 and engaged in the enforcement of R.C. Chapter 117.;
- (q) A special police officer designated by the Superintendent of the State Highway Patrol under R.C. 5503.09;
- (r) A special police officer employed by a port authority under R.C. 4582.04 or 4582.28;

(s) A special police officer employed by a municipal corporation who has been awarded a certificate by OPOTC's Executive Director 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 and that is required to be under a security program and is governed by aviation security rules of the U.S. Transportation Security Administration;

(t) A police officer employed by an owner or operator of 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, who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to R.C. 4973.17;

(u) A police officer employed by a bank; savings and loan association; savings bank; credit union; or association of banks, savings and loan associations, savings banks, or credit unions and appointed and commissioned under R.C. 4973.17 to 4973.22.

2. 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 for the purpose are as follows:

(a) **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" (see "**COMMENT 2(c) \"Peace officer\" definition,**" below) 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.

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 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 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. 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 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 rules adopted by the AG, as described above. (R.C. 109.802(A) to (C).)

(b) **OPOTC reimbursement program.** Existing law requires 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" (see "**COMMENT 2(c) \"Peace officer\" definition,**" below) 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. OPOTC must administer the reimbursement program in accordance with rules adopted by the AG.

OPOTC, in accordance with the rules of the AG, must review each application for reimbursement to determine if the applicant is entitled to reimbursement for the programs for which the applicant seeks it. 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 determined pursuant to the provisions described in the next four paragraphs:

First, OPOTC is required to prepare 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. To compute the amount of the voucher for each applicant, OPOTC must do all of the following: (i) for each application for reimbursement for a peace officer basic training program, approve an amount equal to 75% of the costs, not to exceed \$800, of each approved program successfully completed by the applicant or a peace officer under the applicant's supervision, (ii) for each application for reimbursement for a basic jailer training program, approve an amount equal to 75% of the costs, not to exceed \$400, for each approved program successfully completed by the applicant or a peace officer under the applicant's supervision, (iii) for each application by a sheriff, constable, or chief of police for reimbursement for a firearms requalifications program, approve an amount equal to the full amount of the costs, not to exceed \$50, for each approved program successfully completed by the applicant or a peace officer under the applicant's supervision, (iv) for each application by the APA's Chief or a chief probation officer of a county probation department, multicounty probation department, or municipal court department of probation for reimbursement for a basic firearm training program or a firearms requalification program, approve an amount equal to the full amount of the costs, not to exceed \$50, for each approved program successfully completed by the applicant or a parole or probation officer under the applicant's supervision, and (v) add the total of all amounts approved under clauses (i), (ii), (iii), and (iv) of this paragraph for all approved programs for each applicant and, subject to the provisions described the next paragraph, prepare a peace officer training reimbursement voucher for the applicant for that total amount.

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 pursuant to the provisions described in the preceding paragraph, OPOTC must reduce all of the vouchers by a *pro rata* amount.

Third, OPOTC is required to prepare 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. To compute the amount of the voucher for each applicant, OPOTC must do all of the following: (i) determine the number of full-time peace officers, parole officers, or probation officers working for each applicant, (ii) for a 26-week period designated by the AG in the rules adopted as described above, determine the total number of hours worked by peace officers, parole officers, or probation officers who are under the supervision of the applicant, are not considered full-time peace officers, parole officers, or probation officers, and are not included under clause (i) of this paragraph and divide that number by 520, (iii) determine a total number of shares for each applicant by adding the two numbers determined for the applicant under clauses (i) and (ii) of this paragraph, (iv) determine the reimbursement amount to be paid per share by dividing the total amount of money appropriated in the fiscal year for the reimbursement of the costs of advanced training programs by the total number of all shares receivable by all applicants for the fiscal year, and (v) subject to the provision described in the next paragraph, determine the amount of the advanced peace officer training reimbursement voucher by multiplying the total number of shares for each applicant determined under clause (iii) of this paragraph by the reimbursement amount per share determined under clause (iv) of this paragraph.

Fourth, the advanced peace officer training reimbursement voucher for each applicant cannot exceed 75% of the total costs expended by the applicant for all advanced peace officer training programs that were approved as described in the preceding paragraph and were successfully completed by the applicant and the peace officers under the applicant's supervision. (R.C. 109.803.)

(c) **"Peace officer" definition.** As used in the provisions described above in "COMMENT 2(a) **AG rules for reimbursement for training**" and "(b) **OPOTC reimbursement program,**" "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 appointed under R.C. 3345.04, 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. "Chief of police of an organized municipal police department" includes the chief of police of a village police department, "chief of police of a village police department" means the village marshal, and "chief of police of a university or college police department" means the person who has direct supervisory authority over the state university law enforcement officers who are appointed for the university or college by its board of trustees. (R.C. 109.802(D).)

HISTORY

ACTION	DATE
Introduced	03-02-06

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