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FISCAL IMPACT REPORT

SPONSOR Rehm and Rue **ORIGINAL DATE** 02/15/11
LAST UPDATED _____ **HB** 153
SHORT TITLE Reserve Officer Act **SB** _____
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$75.0	\$75.0	\$150.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 153 creates the Reserve Officer Act that provides for the certification of reserve officers to assist law enforcement agencies on a temporary, part-time or volunteer basis

FISCAL IMPLICATIONS

The authority and responsibility for this bill is directed to the New Mexico Law Enforcement Academy Board (Board), but the DPS Training and Recruiting Division (TRD) is the operational agent for the Board so TRD will have the responsibility for implementation of this Act.

DPS states the following:

This bill, in essence, duplicates the process, rules, and procedures in place under Title 10, Chapter 29, of the New Mexico Administrative Code (NMAC) for regular law enforcement officers. The resources and staff to develop the operational components related to this bill include the creation of new NMAC reserve officer rules in the areas of reserve officer standards for basic certification, standards for maintenance of reserve certification, design /development of reserve curriculum for basic certification, and the design/development of reserve curriculum for a biennial in-service training program. This will require a significant commitment of staff and resources from TRD that currently do not exist.

The additional fiscal impacts that are of concern are several, and begin with the creation of a new service activity and the related commitment of staffing and resources for the processing of reserve officer applications for attending a 500 hour basic training program.

The bill also allows for a waiver of requirements based on previous training and for a tailoring of the 500-hour certification program through the recognition of prior training. Based on experience with the Officer Transition Program under 10.29.8 NMAC, the resources required to comply with these requirements will be significant requiring at least one additional FTE position.

Once reserve officers are certified, long term resource commitment for oversight of the certified reserve officers in order to ensure compliance with basic training certification requirements and annual compliance with training standards for maintenance of their certification will be required.

The fiscal impact of this bill represents a significant impact on operations, staffing and available resources and once established the long term maintenance of the program will require the creation of at least one FTE position.

SIGNIFICANT ISSUES

DPS provided the following:

The major significant issue relates to the vagueness and lack of definition of the content of what training topics the 500-hour training curriculum will consist of for reserve officer certification.

The current minimum standard of training for certification of law enforcement officers that has been established by the NMLEA Board is 800 hours. This 800-hour curriculum is based on a job task analysis completed on the duties and responsibilities of a police officer in New Mexico.

The next area of concern relates to the vagueness of Section 3, Paragraph F. Under 29-7-6-A (5) & (6) NMSA, and section 10.29.1.10.A (5) & (6) NMAC, the statute and rules requires that a police officer must be examined by a licensed physician and by a certified psychologist. This section of the bill does not specifically require a medical or psychological exam. The section should duplicate the same language as in statute 29-7-6 in order to ensure that a full medical exam and psychological evaluation is completed on each reserve officer.

In Section 4, paragraph A it is not clear what “when working with supervision” means. This is a cause for concern as almost all regular officers today are “under supervision” in some form. The key question is whether a reserve officer will be able to work independently, or must they ride with a full-time salaried on-duty certified police officer? This needs to be clarified.

Section 5, paragraph B states that the reserve officer training program “...may be taught at a location designated by the head of a local law enforcement agency.” This conflicts with 29-7-7-H, Definitions. Under this section of state statute a training facility that delivers a program of basic law enforcement certification must be certified by the Director and approved by the Board. This bill usurps the Director and Board’s authority.

Section 5, Paragraph C The paragraph states that a reserve officer shall not be required to meet the physical fitness and agility requirements required for certification, and it is unclear what is meant by the part “provided that a reserve officer completes the fitness tests at 50%...” This conflicts with NMAC Section 10.29.9.8.C Police Officer Minimum Standards of Training. This section of NMAC states that the student will be expected to successfully complete both entrance and exit standards of fitness and successfully complete exit job-related agility courses.

The concern is that the bill does not require a reserve officer to pass a fitness entrance standard, but seems to reference an exit standard of the 50th percentile. It also makes no reference to the required two exit agility courses which must currently be passed in order to achieve state certification. The two exit agility courses are directly related to the job task analysis and simulate a required minimum job performance standard, while the 1.5 mile run and 300 meter sprint represent a minimum fitness level for aerobic and anaerobic capacity related to performance and survivability in physical conflicts. It presents a difficulty in reconciling the difference between existing fitness certification standards and what is proposed in this bill.

Section 6, paragraph A, this paragraph establishes a waiver process for achieving reserve certification, but it conflicts with the similar existing certification by waiver rule under 10.29.6 (NMAC). The conflict is substantial. Under the existing NMAC rule, the completion of a prior basic law enforcement training program very specifically requires that the applicant must have “...successfully completed an accredited law enforcement academy from another state, but has never been certified, must secure a law enforcement position with a recognized New Mexico law enforcement agency within three years of academy completion and must meet all other qualifications and requirements as determined by the director to be eligible for certification by waiver.”

The issue here is twofold. First, is the prior basic law enforcement training program being referenced under paragraph A, “accredited” by a recognized State Police Officer Standards and Training office? If it was not accredited it should not be considered as an equivalent training program. Secondly, is the issue of the amount of time that has elapsed since the training was completed? Under the cited NMAC rule the State will not recognize the completion of a basic training program if three years have elapsed since the training was completed. To be consistent with the existing rule prior training older than three years should not be allowed for achieving reserve certification.

As no standards existed prior to 2011 for the training of reserve officers, this paragraph renders meaningless the statutory and administrative code training requirements for state law enforcement officer certification. This will enable an arbitrary exercise of certification power by the director.

While it is clear that law enforcement agencies will benefit from such a program there might be a long term concern that if successful, such a program as this might result in an agency reducing the cost of employing full time salaried officers by the expansion and use of a reserve officer program.

ADMINISTRATIVE IMPLICATIONS

This bill will have a significant negative impact on current operations, staffing, and available resources, and once established, the long term maintenance of the program will be manageable, but will require the creation of at least one FTE position.

POSSIBLE QUESTIONS

This bill will result in reserve officers achieving equivalent certification with 300 fewer hours of training. What training topics are being eliminated by this reduction of 300 hours? Why does the regular fulltime salaried officer with the equivalent power and authority have to have this additional 300 hours, but not the reserve officer?

Section 4, paragraph A also identifies “state or local law enforcement” agencies but not county agencies. Are county agencies and their reserve programs not covered by this Act?

DW/bym