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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/11

SPONSOR Rehm and Rue LAST UPDATED _____ HB _____

SHORT TITLE Reserve Officer Act SB 174

ANALYST Hanika-Ortiz

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

New Mexico Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 174 creates the “reserve officer act” (act) that provides for the certification of reserve officers to assist law enforcement agencies on a temporary, part-time or volunteer basis.

More specifically, the act provides for:

Section 2: definitions such as *reserve officer* which is a “volunteer or temporary or part-time employee of a state or local law enforcement agency...who is not a member of the New Mexico mounted patrol”;

Section 3: qualifications for certification including being “of good moral character”;

Section 4: scope of authority that includes the same “...powers of a police officer when working with supervision from a full-time salaried on-duty certified police officer”;

Section 5: an initial training no more than 500 hours and completion of fitness tests at fifty percent of what would be required for law enforcement;

Section 6: a waiver of the initial training requirement for reserve officers that have had equivalent training;

Section 7: in-service trainings every two years;

Section 8: reporting requirements and maintenance of rosters of reserve officers;

Section 9: guidance for refusal to issue, suspension or revocation of certification;

Section 10: acknowledges a sheriff’s power to issue special deputy commissions;

Section 11: expands the definition of *police officer* in the Criminal Procedure Act to include a reserve officer;

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Section 12: includes a reserve officer in those exempted from paying magistrate court costs if filing a complaint;

Section 13: expands the definition of law enforcement officer as used in the Tort Claims Act to include a reserve officer;

Section 15: requires a reserve officer to wear a uniform to make an arrest punishable as a misdemeanor and pursuant to laws relating to motor vehicles; and

Section 16: includes a reserve officer as one who may arrest without warrant under certain conditions.

FISCAL IMPLICATIONS

DPS reports the bill will require a significant commitment of staff and resources for 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 DPS's experience with the Officer Transition Program under 10.29.8 NMAC, the resources required to comply with these requirements will include one additional FTE position. The estimate in the table above reflects that one FTE plus benefits.

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

SIGNIFICANT ISSUES

This bill would result in reserve officers achieving equivalent certification of law enforcement officers with 300 fewer hours of training.

The bill is unclear as to the content for the 500-hour training curriculum for reserve officer certification. The current minimum standard of training for certification of law enforcement officers established by the New Mexico Law Enforcement Academy Board (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 bill does not define the components of a 500-hour training curriculum for reserve officer certification.

A synopsis of DPS concerns follows:

Concerns with Section 3 include:

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 require a medical or psychological exam.

Concerns with Section 4 include:

Paragraph A: "...when working with supervision...". It is unclear if a reserve officer will work independently, or be required to ride with a full-time salaried on-duty certified police officer.

Concerns with Section 5 include:

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.” Under 29-7-7-H, a training facility that delivers a program of basic law enforcement certification must be certified by the director and approved by the NMLEA Board. The purpose of these requirements is to ensure that training is delivered by certified staff and that the facility has the appropriate classrooms, equipment, driving track, firearms range, obstacle course, and defensive tactics training area.

Paragraph C: states that a reserve officer shall not be required to meet the physical fitness and agility requirements required for certification, provided that “...a reserve officer completes the fitness tests at fifty percent...” NMAC Section 10.29.9.8.C *Police Officer Minimum Standards of Training* 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.

Concerns with Section 6 include:

Paragraph A: 1) establishes a waiver process for achieving reserve certification that conflicts with the similar existing certification by waiver rule under 10.29.6 (NMAC); 2) if a law enforcement training program is not “accredited” by a recognized State Police Officer Standards and Training Office, DPS believes it should not be considered as an equivalent training program; and, 3) under NMAC rule the State will not recognize the completion of a basic training program if three years have elapsed since the training was completed.

Paragraph B: the training review outlined here would require a significant expenditure of resources currently not available.

Paragraph C: establishes an arbitrary exercise of certification power by the director.

PERFORMANCE IMPLICATIONS

DPS advises that the bill directs authority to the NMLEA Board; however, DPS is the operational agent for the Board therefore would assume responsibility for implementation of the act.

ADMINISTRATIVE IMPLICATIONS

This bill creates new administrative oversight requirements for DPS and each agency that operates a reserve program.

TECHNICAL ISSUES

DPS suggests that an apparent technical issue involves the resulting 500-hour curriculum and program development required by the bill that ignores the existing 800-hour training standard for law enforcement certification. The restriction of a reserve officer to being in the presence of a full time salaried and certified law enforcement officer during their tour of duty would appear to support a 500-hour training standard as it limits the power and authority of the reserve officer which otherwise seems to be equivalent and unlimited.

OTHER SUBSTANTIVE ISSUES

If the areas of concern listed can be reconciled DPS states it could support the intent of his bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Reserve Officers Act and its provisions will not be enacted.

AHO/mew