



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5906 (Substitute H-1 as passed by the House)
House Bill 5907 (Substitute H-3 as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 9-21-04

CONTENT

House Bill 5906 (H-1) would create the "Public Body Law Enforcement Agency Act" and House Bill 5907 (H-3) would amend the Commission on Law Enforcement Standards (COLES) Act to do all of the following:

- Allow a "public body" to create a law enforcement agency by resolution of its governing entity.
- Require the approval of the prosecuting attorney, and the city, township, or chief of police, or one or more county sheriffs, before a public body could create a law enforcement agency.
- Require a public body to hold public hearings before creating a law enforcement agency.
- Require a public body that created a law enforcement agency to appoint a law enforcement oversight committee.
- Specify funding and organizational requirements for a law enforcement agency created by a public body.
- Require a public body that created a law enforcement agency to comply with certain requirements of the COLES Act.
- Allow a multicounty metropolitan district to adopt rules, regulations, and ordinances, as well as establish and enforce penalties.
- Establish the jurisdictional limits of law enforcement officers appointed under House Bill 5906 (H-1).

- Require a law enforcement agency created by a public body to submit monthly uniform crime reports to the State Police.
- Revise the COLES Act's definition of "police officer" or "law enforcement officer".
- Prohibit a multicounty metropolitan district law enforcement officer, other than one employed by a law enforcement agency created under House Bill 5906 (H-1), from exercising the authority of a peace officer unless he or she met COLES Act standards and was deputized by a county sheriff.
- Specify that a public body that created a law enforcement agency under House Bill 5906 (H-1) and employed at least one law enforcement officer would be considered a law enforcement agency under the COLES Act.

House Bill 5907 (H-3) is tie-barred to House Bill 5906.

Under House Bill 5906 (H-1), "public body" would mean either 1) a multicounty metropolitan district authorized and established pursuant to State law by two or more counties with a combined population of at least 3 million, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks; or 2) a school district that has a membership of at least 20,000 pupils and that includes in its

territory a city with a population of at least 180,000 as of the most recent Federal decennial census (i.e., Detroit and Grand Rapids school districts).

"Governing entity" would mean the governing board of the public body. In the case of a public body that is a qualifying school district under Part 5a of the Revised School Code (Detroit Public Schools), the school district's chief executive officer would be the governing entity, subject to the concurrence of the school district's school reform board.

Under House Bill 5907 (H-3), "multicounty metropolitan district" would mean an entity authorized and established pursuant to State law by two or more counties with a combined population of at least 3 million, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

House Bill 5906 (H-1)

Law Enforcement Agency Creation

The bill would allow a public body to create a law enforcement agency by resolution of its governing entity. The public body could grant to that law enforcement agency's law enforcement officers the same powers, immunity, and authority as are granted by law to peace officers and police officers to detect crime and to enforce the criminal laws of the State and to enforce State laws, local ordinances, and the public body's ordinances and regulations. Law enforcement officers to whom this authority was granted would be considered peace officers of this State and would have the authority of police officers provided under the Michigan Vehicle Code and the Code of Criminal Procedure.

A public body could not create a law enforcement agency unless the governing entity first obtained the approval of the prosecuting attorney of each county within which the public body owned, maintained, or controlled property. If the public body's property were located entirely within one city, township, or village, the public body also would have to obtain the approval of the chief of police. Otherwise, the public body also would have to obtain the approval of the sheriff of each county within which it owned, maintained, or controlled property.

Before granting approval, the prosecuting attorney, sheriff, and, if required, the chief of police, would have to determine that the proposed law enforcement agency was needed to assure adequate public safety on the public body's property and that the proposed agency could comply with the bill's minimum guidelines.

In addition, before creating a law enforcement agency, the governing entity would have to hold at least two public hearings in the proposed agency's jurisdiction on the question of creating the agency. The governing entity would have to make a record of the hearing and provide copies of that record to all of the prosecuting attorneys, sheriffs, and chiefs of police from whom approval would be required.

Oversight Committee

A public body that created a law enforcement agency would have to appoint a law enforcement agency oversight committee before it could begin operations. The committee would have to consist of at least six individuals nominated and appointed by the public body's governing entity, as follows:

- Two elected officials from a city, village, township, or county in which all or part of the public body's property was located.
- At least two representatives of local law enforcement, including one who was not of supervisory or management rank.
- Two individuals representing the general public who lived within the proposed law enforcement agency's jurisdiction.

The committee would have to receive and address public complaints concerning the law enforcement agency or its officers. The committee could recommend to the public body that an investigation be conducted regarding alleged misconduct by any law enforcement officer from that agency.

Funding & Organizational Requirements

A law enforcement agency created under the bill could be funded only by the appropriation of public funds and would have to maintain liability insurance; develop and maintain an organization chart describing the agency's structure and the responsibilities and authority within the agency; and develop and maintain written

employment position descriptions for all agency personnel. The agency would have to establish and abide by written policies pertaining to the authority of its law enforcement officers, including the extent of their authority to enforce the criminal laws of this State and other State laws, local ordinances, and the public body's ordinances and regulations. If the agency's law enforcement officers were granted any additional authority through deputization by a county sheriff or chief of police, the written policies would have to describe that authority.

The agency also would have to establish and abide by written policies pertaining to all of the following:

- The specific geographic boundaries of the agency's jurisdiction.
- The authority and responsibility of the agency's chief law enforcement officer.
- Employee discipline.
- The legal status of agencies and personnel who respond to mutual aid requests.
- Any other written policy or procedure consistent with a policy or procedure implemented by the sheriff or chief of police whose approval would be required under the bill.
- Requirements of Section 9d of the COLES Act (described below).
- Any other policy or procedure required by statute.

A public body that created a law enforcement agency under the bill would have to present to each county prosecuting attorney and sheriff, or chief of police when applicable, written documentation of compliance with the bill's requirements before approval of those officials was granted. A copy of the documentation, along with written approval from all affected prosecuting attorneys, sheriffs, or chiefs of police, would have to be filed with the Commission on Law Enforcement Standards.

A public body's failure to maintain compliance with the bill's minimum standards would constitute just cause for the county prosecuting attorneys and sheriffs or local chiefs of police, by unanimous written approval, to withdraw the approval granted under the bill. Before doing so, however, they would have to hold at least two public hearings in the law

enforcement agency's jurisdiction on the question of whether the public body had failed to maintain minimum standards.

A public body that created a law enforcement agency under the bill would have to comply with the requirements of Section 9d of the COLES Act. (That section requires a law enforcement agency to maintain an employment history record for each officer it employs and to report to the Commission on Law Enforcement Standards the starting and termination date of each officer's employment.) Law enforcement officers to whom the powers and authority of peace and police officers were granted under the bill would have to meet the COLES Act's minimum employment standards.

Multicounty Metropolitan District Ordinances

The governing board of a multicounty metropolitan district could adopt and amend all necessary rules, regulations, and ordinances for the management, government, and use of any property under its control; establish penalties for the violation of the rules, regulations, and ordinances; and enforce the penalties. The governing board also could adopt and enact rules, regulations, and ordinances designed to safeguard the public peace and health and for the safety of people and property upon or within the limits of the property under its control. The subjects of the rules, regulations, and ordinances could include the proper policing and supervision of people and property; the regulation or prohibition of parking; and the regulation of signs and other things that could impede or make dangerous the use of roads, lanes, or thoroughfares, within the limits of the property under the governing board's control.

The governing board of a public body that adopted an ordinance under these provisions would have to provide in each ordinance a sanction for its violation. Violations could be punishable by up to 93 days' imprisonment, a maximum fine of \$500, or both, if the violation substantially corresponded to a violation of State law that was a misdemeanor for which the maximum period of imprisonment is 93 days. To the extent permitted by State law, the governing board also could adopt an ordinance that designated a violation as a State civil infraction and provided a civil fine for it.

House Bill 5907 (H-3)

An ordinance passed by the governing board would have to be published once in a newspaper of general circulation within the public body's territory. An ordinance would be effective immediately upon its publication, unless a specific effective date that was later. The publication of a summary or a true copy of an ordinance after final passage, as a part of the published proceedings of the governing board, would constitute publication of the ordinance.

Jurisdiction

The jurisdiction of law enforcement officers appointed under the bill would be limited to property owned or leased by the public body that created the law enforcement agency, wherever situated in the State, and would extend to any public right-of-way traversing or immediately contiguous to the property. The officers' jurisdiction could be extended by State law governing peace officers or through deputization by a county sheriff, if authorized by the governing entity.

The jurisdiction of law enforcement officers who were employed by a school district would include all territory within the boundaries of the district and all property outside the boundaries that was owned, leased, or rented by or was otherwise under the legal control of the school district that employed the public safety officers.

A public law enforcement agency established under the bill and each local law enforcement agency with which it had overlapping jurisdiction would have to enter into a memorandum of understanding that established reasonable communication and coordination efforts between those agencies. If the public law enforcement agency were a qualifying school district under Part 5a of the Revised School Code, the memorandum of understanding also would have to establish the jurisdiction of the public law enforcement agency.

The bill states that it would not limit the jurisdiction of State, county, or municipal peace officers.

Currently, the COLES Act's definition of "police officer" or "law enforcement officer" includes, among others, a regularly employed member of a "police force or other organization of a city, county, township, or village, of the State, or of a state university or community college" who is responsible for the prevention and detection of crime and the enforcement of the State's general criminal laws. Under the bill, that definition would refer instead to a regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law.

In addition, the bill would add the following to the definition of "police officer" or "law enforcement officer":

- Until December 31, 2007, a law enforcement officer of a multicounty metropolitan district, subject to limitations specified in the bill.
- A county prosecuting attorney's investigator sworn and fully empowered by the county sheriff.
- Until December 31, 2007, a law enforcement officer of a school district that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent Federal decennial census (i.e., the Detroit and Grand Rapids school districts).
- A fire arson investigator from a fire department within a city with a population of at least 750,000 (i.e., Detroit) who is sworn and fully empowered by the city's chief of police.

A law enforcement officer of a multicounty metropolitan district law enforcement, other than an officer employed by a law enforcement agency created under the proposed Public Body Law Enforcement Agency Act, would not be empowered to exercise the authority of a peace officer and could not be employed in a position for which that authority was granted unless all of the following requirements were met:

- The officer had met or exceeded minimum standards for certification under the COLES Act.
- The officer was deputized by the sheriff or sheriffs of the county or counties in which the land of the multicounty

metropolitan district employing the officer was located and in which the officer would work, pursuant to a sheriff's appointment under the Revised Statutes of 1846 (MCL 51.70).

- The officer's deputation or appointment was made pursuant to a written agreement that included terms that the deputizing authority required between the State or local law enforcement agency and the governing board of the multicounty metropolitan district employing the officer.
- The written agreement was filed with Commission on Law Enforcement Standards.

A public body that created a law enforcement agency under the proposed Public Body Law Enforcement Agency Act and that employed one or more law enforcement officers certified under the COLES Act would be considered to be a law enforcement agency under the COLES Act.

MCL 28.602 & 28.609 (H.B. 5907)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5906 (H-1)

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local government. There could be an indeterminate cost to the two eligible school districts (Detroit and Grand Rapids) associated with the administrative costs of creating and operating the law enforcement agency oversight committee. The newly created law enforcement agency also could incur some minimal costs associated with the submission of the monthly crime reports to the Department of State Police, as the bill would require.

While the bill would allow multicounty metropolitan park districts located in two or more counties to create a law enforcement agency, as long as the combined population of the counties exceeded 3.0 million, the only two-county grouping that currently would meet the criteria would be a joint district between Wayne and Oakland Counties. For such a district, to the extent that it did not already provide some level of public safety services and/or that the cost of meeting the minimum requirements of the

bill exceeded the current costs of providing those services, the bill would increase local unit costs by an indeterminate amount. Because the bill would not provide additional taxing authority and would require the costs to be paid from appropriated public funds, any costs would be paid from existing revenue sources.

House Bill 5907 (H-3)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker
Joe Carrasco
David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.