

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1117

Auxiliary Law Enforcement Officers

**SPONSOR(S):** Tobia

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1842

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Public Safety & Domestic Security Policy Committee		Crocker	Kramer
2)	Criminal & Civil Justice Policy Council			
3)	Policy Council			
4)				
5)				

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**SUMMARY ANALYSIS**

Currently Florida law requires that auxiliary law enforcement officers complete basic recruit training, and allows for no exemptions for persons who have served as an auxiliary officer in another state.

This bill proposes to allow individuals who want to become Florida-certified part-time auxiliary law enforcement officers to be exempted from Florida’s basic recruit training if the individual can provide documentation that he or she has had comparable training in another state and worked as an auxiliary officer for at least one year in another state, with no more than an eight year break. The applicant must still, however, demonstrate proficiency in high-liability areas (e.g., firearms, vehicle operations, defensive tactics). The auxiliary law enforcement officer also cannot be employed in a full-time capacity.

This bill has an indeterminate fiscal impact.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Law**

Under Florida law, an auxiliary law enforcement officer is defined as:

Any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.<sup>1</sup>

In order to become an auxiliary law enforcement officer, individuals must complete a 109-hour basic course at a Criminal Justice Standards and Training Commission-certified training school and complete high liability training in firearms, defensive tactics, and vehicles operations at either a training school or with a criminal justice agency.<sup>2</sup> These high liability training courses are 80-hours minimum for the firearms and defensive tactics courses, and 48-hours minimum for the vehicles operations courses. There is no exemption from this training for an *out-of-state auxiliary officer* to become a Florida auxiliary law enforcement officer.

There are exemptions for from basic training for becoming a Florida auxiliary law enforcement officer if the individual served as a *full-time law enforcement officer* in another state or the federal government.<sup>3</sup> These individuals must provide written documentation of comparable basic recruit training to the commission and have served for at least one year, in a full-time capacity as a sworn officer. Also, there cannot be more than an eight-year break in employment. An applicant who is exempt from the basic training requirement must demonstrate, within one year, proficiency in high-liability areas and must pass the officer certification examination. If the applicant fails to meet these requirements within one year, the exemption lapses and the applicant must complete the basic recruit training program.

##### **Effect of Proposed Bill**

This bill provides that a part-time auxiliary law enforcement officer would be exempt from the basic recruit training program requirement<sup>4</sup> if the applicant meets certain standards. Specifically, the applicant must not be employed in a full-time capacity and would have to submit verification that the applicant

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<sup>1</sup> s. 943.10(8), F.S.

<sup>2</sup> s. 943.13(9), F.S.

<sup>3</sup> s. 943.131, F.S.

<sup>4</sup> s. 943.13(9), F.S.

has successfully completed a comparable basic auxiliary law enforcement training program in another state; demonstrate proficiency in high-liability areas; have served as an auxiliary law enforcement officer in another state for at least one year, with a maximum eight-year break in service; and complied with the first eight requirements listed under the "Officers' minimum qualifications for employment or appointment" statute.<sup>5</sup>

Also, if the individual who qualifies as an auxiliary officer pursuant to the proposed bill wants to be employed in any capacity as a paid law enforcement officer or correctional officer in Florida, he or she must comply with the statutory requirements he/she was previously exempt from and thus complete a commission-approved basic recruit training program.<sup>6</sup>

**B. SECTION DIRECTORY:**

Section 1 creates s. 943.1305, F.S., relating to part-time auxiliary law enforcement officer.

Section 2 provides an effective date of July 1, 2009.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Indeterminate.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to

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<sup>5</sup> s. 943.13(1)-(8), F.S. These requires are: (1) be at least 19 years of age; (2) be a citizen of the U.S.; (3) be a high school graduate or its "equivalent"; (4) not have been convicted of any felony or of a misdemeanor involving perjury or a false state, or have received a dishonorable discharge from any of the Armed Forces of the U.S.; (5) have documentation of having his or her fingerprints processed; (6) have passed a physical examination; (7) have good moral character; (8) execute and submit an affidavit attesting to his or her compliance with the first seven requirements.

<sup>6</sup> s. 943.13(9), F.S.

raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

This bill authorizes the Criminal Justice Standards and Training Commission to create rules to define what “demonstrates proficiency in high-liability areas.” It appears that the Commission has sufficient authority to promulgate these rules.<sup>7</sup>

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**Concerns of the Florida Department of Law Enforcement**

Exemption from Continuing Training and/or Education Requirements

Every full-time, part-time, and auxiliary officer is required to comply with the 40-hours of continuing training or education requirements to maintain their certification, pursuant to law.<sup>8</sup> Because the bill only cites to the first eight requirements under the minimum qualifications statute (see n. 5), this would presumably create a different standard for auxiliary officers who obtain Florida certification via an exemption from basic training and exempt them from the requirement of continuing education.

Exemption from Officer Certification Examination

Because the proposed legislation provides for an auxiliary officer to become a paid law enforcement or correctional officer by complying with the basic recruit training program<sup>9</sup> it seemingly excludes the auxiliary officer from having to complete the officer certification examination.<sup>10</sup> Florida-trained law enforcement officers are not exempt from this examination, and thus this would create a different standard for auxiliary officers who obtain Florida certification via an exemption from basic recruit training.

Others Concerns of the Florida Department of Law Enforcement

According to the FDLE, there are vast differences in auxiliary law enforcement officers across the nation. For example, in California there are three levels of auxiliary law enforcement officers, ranging from those who can only perform security functions, to those that perform law enforcement functions under the supervision of a full-time officer, to those that are able to perform law enforcement duties independently. In Florida, auxiliary officers are used differently throughout the state; their functions range from crowd control/traffic at special events to the Sheriff’s Posse. Allowing auxiliary officers trained in another state with differing work experiences to become a Florida auxiliary officer with no training compounds the differences in training and experience.

The FDLE says that the proposed legislation will essentially allow an individual to forego the Commission-approved 109-hour basic training course to complete a proficiency demonstration course through a certified training school. These proficiency demonstration courses are 80-hours minimum.

There is no time limitation on how long after receiving an exemption from the 109-hour course that the individual has to demonstrate proficiency in the high liability areas. Individuals who were full-time law enforcement officers in another state only have one year to demonstrate proficiency in the high liability areas and pass the certification examination. The certification examination ensures that individuals who received their basic training in another state and have worked as a full-time officer have the minimum

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<sup>7</sup> s. 943.12(1), F.S.

<sup>8</sup> s. 943.13(11), F.S., provides that the officer must comply with the continuing training or education requirements of s. 943.135, F.S.

<sup>9</sup> Pursuant to s. 943.13(9), F.S.

<sup>10</sup> Pursuant to s. 943.13(10).

competencies to perform the job. The FDLE believes that auxiliary officers should be held to the same standards and time constraints as full-time officers.

Also, because auxiliary law enforcement officers incur the same liability for the local agency as full-time and part-time officers, the FDLE has stated that it is possible that litigation could arise from actions taken by these auxiliary officers.

### **Concerns of the Criminal Justice Standards and Training Commission**

The Criminal Justice Standards and Training Commission have expressed the same concerns as the FDLE.

## **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**