

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5906

(As amended, September 29, 2004)

A bill to allow certain public bodies to create law enforcement agencies and grant certain powers and authority to law enforcement officers employed by those agencies; to require those law enforcement officers to meet certain standards; to prescribe certain powers and duties of those law enforcement agencies; to provide for certain powers of public bodies; and to provide for certain powers and duties of state and local agencies and officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "public body law enforcement agency act".

3 Sec. 2. As used in this act:

4 (a) "Governing entity" means either of the following, as
5 applicable:

6 (i) For any public body except a public body described in

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1 subparagraph (ii), the governing board of the public body.

2 (ii) In the case of a public body that is a qualifying
3 school district under part 5a of the revised school code, 1976 PA
4 451, MCL 380.371 to 380.376, the chief executive officer of the
5 school district, subject to the concurrence of the school reform
6 board of the school district.

7 (b) "Public body" means <<either>> of the following, within this
8 state:

9 (i) A multicounty metropolitan district authorized and
10 established pursuant to state law by 2 or more counties with a
11 combined population of not less than 3,000,000, for the purpose
12 of cooperative planning, promoting, acquiring, constructing,
13 owning, developing, maintaining, or operating parks.

14 (ii) A school district in this state that has a membership of
15 at least 20,000 pupils and that includes in its territory a city
16 with a population of at least 180,000 as of the most recent
17 federal decennial census.

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21 Sec. 3. A public body may create a law enforcement agency
22 by resolution of its governing entity. The public body may grant
23 to law enforcement officers of that law enforcement agency the
24 same powers, immunities, and authority as are granted by law to
25 peace officers and police officers to detect crime and to enforce
26 the criminal laws of this state and to enforce state laws, local
27 ordinances, and the ordinances and regulations of the public

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1 body. Law enforcement officers to whom the authority of peace
2 officers and police officers is granted under this section are
3 considered peace officers of this state and have the authority of
4 police officers provided under the Michigan vehicle code, 1949 PA
5 300, MCL 257.1 to 257.923, and as provided under the code of
6 criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

7 Sec. 4. (1) A public body shall not create a law
8 enforcement agency under this act unless, before that agency is
9 created, the governing entity obtains the approval of the
10 prosecuting attorney of each county within which the public body
11 owns, maintains, or controls property. If the property of the
12 public body is located entirely within 1 city, the public body
13 also shall obtain the approval of the chief of police of that
14 city. If the property of the public body is not located entirely
15 within 1 city, the public body also shall obtain the approval of
16 the sheriff of each county within which the public body owns,
17 maintains, or controls property. <<If all the property of the public
18 body is located within a county which does not have a first class school
19 district as defined in 1976 PA 451, the public body shall also obtain the
20 approval of the county sheriff.>> Before granting that approval,
21 the prosecuting attorney, <<the sheriff, if required, and>> the chief of
22 police<<, if required,>> shall make a determination that the proposed law
23 enforcement agency is needed to assure adequate public safety on
24 the property of the public body and that the proposed agency can
25 comply with the minimum guidelines established under section 6.

26 (2) In addition to the requirements of subsection (1), before
27 creating a law enforcement agency under this act, the governing
entity shall hold not fewer than 2 public hearings in the
proposed law enforcement agency's jurisdiction on the question of
creating the proposed law enforcement agency. The governing

1 entity shall make a record of the hearing and shall provide
2 copies of the record to all of the prosecuting attorneys,
3 sheriffs, and chiefs of police from whom approval is required by
4 this section.

5 Sec. 5. (1) A public body that creates a law enforcement
6 agency under this act shall appoint a law enforcement agency
7 oversight committee consisting of not less than 6 individuals
8 nominated and appointed by the governing entity of the public
9 body, as follows:

10 (a) Two elected officials from a city, village, township, or
11 county in which all or part of the property of the public body is
12 located.

13 (b) Not less than 2 representatives of local law enforcement,
14 1 of whom shall not be of supervisory or management rank.

15 (c) Two individuals representing the general public who
16 reside within the proposed law enforcement agency's
17 jurisdiction.

18 (2) A law enforcement agency oversight committee shall
19 receive and address public complaints concerning that law
20 enforcement agency or its officers. The committee may recommend
21 to the public body that an investigation be conducted regarding
22 alleged misconduct by any law enforcement officer from that law
23 enforcement agency.

24 (3) A law enforcement agency created under this act shall not
25 begin operations until the oversight committee for that law
26 enforcement agency is appointed and takes office.

27 Sec. 6. (1) A law enforcement agency created under this act

1 shall comply with all of the following:

2 (a) The agency shall be funded by the appropriation of public
3 funds only.

4 (b) The agency shall maintain liability insurance.

5 (c) The agency shall establish and abide by written policies
6 pertaining to all of the following:

7 (i) The authority of its law enforcement officers, including
8 the extent of those officers' authority to enforce the criminal
9 laws of this state and other state laws, local ordinances, and
10 ordinances and regulations of the public body. If the law
11 enforcement officers of that agency are granted any additional
12 authority through deputation by a county sheriff or chief of
13 police, the written policies shall describe that authority.

14 (ii) The specific geographic boundaries of the agency's
15 jurisdiction.

16 (iii) The authority and responsibility of the chief law
17 enforcement officer of the agency.

18 (iv) Employee discipline.

19 (v) The legal status of agencies and personnel who respond to
20 mutual aid requests.

21 (vi) Any other written policy or procedure consistent with a
22 policy or procedure implemented by the sheriff or chief of police
23 whose approval is required under section 4.

24 (vii) The requirements of section 9d of the commission on law
25 enforcement standards act, 1965 PA 203, MCL 28.609d.

26 (viii) Any other policy or procedure required by statute.

27 (d) The agency shall develop and maintain an organizational

1 chart describing the structure of the agency and the
2 responsibilities and authority within the agency and shall
3 develop and maintain written employment position descriptions for
4 all personnel in the agency.

5 (2) A public body that creates a law enforcement agency under
6 this act shall present written documentation of compliance with
7 this section to each county prosecuting attorney and sheriff, or
8 chief of police when applicable, before approval is granted under
9 section 4. A copy of this documentation shall be filed with the
10 commission on law enforcement standards along with written
11 approval from all affected prosecuting attorneys, sheriffs, or
12 chiefs of police.

13 (3) The public body shall maintain compliance with the
14 requirements of this section. Failure to maintain these minimum
15 standards shall constitute just cause for the county prosecuting
16 attorneys and sheriffs or chiefs of police, by unanimous written
17 approval, to withdraw the approval granted under section 4.
18 Before withdrawal of that approval, the prosecuting attorney and
19 sheriff or chief of police shall hold not fewer than 2 public
20 hearings in the law enforcement agency's jurisdiction on the
21 question of whether maintenance of minimum standards has failed.

22 Sec. 7. (1) A public body that creates a law enforcement
23 agency under this act shall comply with the requirements of
24 section 9d of the commission on law enforcement standards act,
25 1965 PA 203, MCL 28.609d.

26 (2) Law enforcement officers to whom the powers and authority
27 of peace and police officers are granted under section 3 shall

1 meet the minimum employment standards of the commission on law
2 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

3 Sec. 8. (1) The governing board of a public body that is a
4 multicounty metropolitan district may do the following:

5 (a) Adopt and amend all necessary rules, regulations, and
6 ordinances for the management, government, and use of any
7 property under its control, establish penalties for the violation
8 of the rules, regulations, and ordinances, and enforce the
9 penalties.

10 (b) Adopt and enact rules, regulations, and ordinances
11 designed to safeguard the public peace and health and for the
12 safety of persons and property upon or within the limits of the
13 properties under its control. The subjects of the rules,
14 regulations, and ordinances may include, but not be limited to,
15 the proper policing and supervision of persons and property, the
16 regulation or prohibition of parking, and the regulation of signs
17 and other things which may impede or make dangerous the use of
18 roads, lanes, or thoroughfares, within the limits of the
19 properties under the governing board's control.

20 (2) The governing board of the public body that adopts an
21 ordinance under this section shall provide in each ordinance a
22 sanction for violation of the ordinance. Violations may be
23 punishable by imprisonment for not more than 93 days or a fine of
24 not more than \$500.00, or both, if the violation substantially
25 corresponds to a violation of state law that is a misdemeanor for
26 which the maximum period of imprisonment is 93 days. To the
27 extent permitted by state law, the governing board may adopt an

1 ordinance that designates a violation of the ordinance as a state
2 civil infraction and provides a civil fine for that violation.

3 (3) An ordinance passed by the governing board of a public
4 body under this section shall be published once in a newspaper of
5 general circulation within the territory of the public body. An
6 ordinance is effective immediately upon its publication, unless a
7 specific effective date that is subsequent to the date of the
8 publication of the ordinance is provided for in the ordinance.
9 The publication of a summary or a true copy of an ordinance after
10 final passage, as a part of the published proceedings of the
11 governing board, constitutes publication of the ordinance.

12 Sec. 9. (1) Except as provided in subsection (2), the
13 jurisdiction of law enforcement officers appointed under section
14 3 is limited to property owned or leased by the public body,
15 wherever situated in this state, and shall extend to any public
16 right-of-way traversing or immediately contiguous to the
17 property. The jurisdiction of those law enforcement officers may
18 be extended by state law governing peace officers or through
19 deputization by a county sheriff if authorized by the governing
20 entity.

21 (2) Notwithstanding subsection (1), the jurisdiction of law
22 enforcement officers who are granted powers and authority under
23 section 3 and are employed by a school district shall include all
24 territory within the boundaries of the school district and all
25 property outside the boundaries of the school district that is
26 owned, leased, or rented by or is otherwise under the legal
27 control of the school district that employs the public safety

1 officers.

2 (3) A public law enforcement agency established under section
3 3 and each local law enforcement agency with which it has
4 overlapping jurisdiction shall enter into a memorandum of
5 understanding that establishes reasonable communication and
6 coordination efforts between those law enforcement agencies. If
7 the public law enforcement agency is a qualifying school district
8 under section 2(b) (ii), the memorandum of understanding shall
9 also establish jurisdiction of the public law enforcement
10 agency.

11 (4) This act does not limit the jurisdiction of state,
12 county, or municipal peace officers.

13 Sec. 10. A law enforcement agency created under this act
14 shall submit monthly uniform crime reports pertaining to crimes
15 occurring within the agency's jurisdiction to the department of
16 state police in the manner prescribed in section 1 of 1968 PA
17 319, MCL 28.251.