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JUSTICE TRAINING FUNDS

House Bill 4104 (Substitute H-3)
First Analysis (2-23-89)

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Sponsor: Rep. Perry Bullard
Committee: Judiciary

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THE APPARENT PROBLEM:

The justice training act, Public Act 302 of 1982, establishes a framework for the distribution of certain criminal justice training funds. The money is generated by \$5 assessments on fines for civil infractions (other than parking fines and penalties of under \$10) of the Michigan Vehicle Code. The justice training fund is administered by a six-member commission consisting of the directors of the Departments of State Police and Corrections, and the presidents of the Prosecuting Attorneys' Association of Michigan, the Michigan Sheriffs' Association, and the Michigan Association of Chiefs of Police, along with one person appointed by the governor and representing the interests of nonmanagerial police officers. Sixty percent of the fund is earmarked for in-service criminal justice training of police officers. It is distributed annually on a per capita basis to the state police, local units of government, and educational institutions based on the number of full-time sworn police officers employed. The balance of the fund, except for money needed for commission expenses, is dedicated to community colleges and state and local agencies for in-service criminal justice training programs, based on the quality and cost-effectiveness of the programs and the criminal justice needs of the state.

The justice training program has received much scrutiny of late, starting with an auditor general's report issued in October 1987. Problems identified by the auditors included inadequate accounting procedures, failure to deposit investment earnings from the fund back into the fund, failure on the part of police agencies to spend the grants they were receiving, inaccuracies and inconsistencies in reports made by police agencies, and the use of justice training funds to attend training programs in other states and other countries. In addition, the report suggested that the Office of Criminal Justice (which provides staff support for the commission) obtain an opinion from the attorney general clarifying whether the "forty percent grants," earmarked for community colleges and state and local agencies, could properly be awarded for training judges, court employees, prosecuting attorneys, state appellate defender attorneys, and state police civilian employees, as the commission had been doing. (The report noted that the office could seek amendatory legislation as an alternative to an attorney general opinion.)

The attorney general's opinion was sought, and in a letter opinion dated March 31, 1988, the attorney general said that judges, court employees, and state appellate defender attorneys do not qualify as employees of "state or local agencies" but that county prosecutors and civilian employees of the state police do. The attorney general further opined that "forty percent" funds could not be subgranted to a private contractor to provide training services, and that the commission is not authorized to distribute funds to a police professional association to distribute general publications to criminal justice agencies.

Finally, in the summer of 1988, public attention was brought to problems with the justice training program when newspapers reported that two Detroit Police Department administrators used justice training funds to attend an anti-terrorist conference in Cairo, Egypt, and police labor representatives charged that funds were not being focused sufficiently on line officer training.

In response to these various criticisms and developments, amendments have been proposed to the justice training act.

THE CONTENT OF THE BILL:

The bill would amend the justice training act to revise the membership of the commission which administers the justice training fund, and establish new standards for the distribution and use of grants from the fund. Definitions of "in-service criminal justice training" and "criminal justice training" would allow justice training funds to be spent on training offered by a contractual service provider. A more detailed explanation follows.

Commission matters. The bill would expand the commission from six to ten members by adding the state appellate defender, the president of the Michigan Community College Association, another gubernatorial appointee representing nonmanagerial police officers, and a gubernatorial appointee representing the public. In addition, the bill would require that the two appointees representing nonmanagerial police officers be elected by nonmanagerial police officers.

The bill would forbid a commission member from serving more than two consecutive years as chairperson. Commission members could not be reimbursed for alcohol or for meal expenditures in excess of the per diem meal allowance authorized for members of the state civil service.

"Sixty percent" grants. Sixty percent of the fund is earmarked for in-service criminal justice training of police officers. It is distributed annually on a per capita basis to the state police, local units of government, and educational institutions (termed "eligible entities" under the bill) based on the number of full-time sworn police officers employed. The bill would specify that distributions be based on the number of full-time equated officers who had been certified under the Michigan Law Enforcement Officers Training Council Act. For each year, the percentage of officers who provide direct police service and who received training under the act would have to be at least equal to the percentage of administrative officers receiving training. Each eligible entity receiving money from this portion of the fund would have to use the entire distribution within two years after receiving it. Failure to do so would make the entity ineligible to receive additional distributions until the prior distribution was spent. Each eligible entity would receive a minimum distribution of \$500.

"Forty percent" grants. The balance of the fund, except for money needed for commission expenses, goes to

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community colleges and state and local agencies for in-service criminal justice training programs, based on the quality and cost-effectiveness of the programs and the criminal justice needs of the state. The bill would require that this portion of the fund be distributed through a competitive grant process. Under the bill, these grants would go to state and local agencies, but that term would be redefined to include community colleges and entities of the judicial branch of government, in addition to state-supported colleges and universities and agencies of the state and local units of government. A professional association would be specifically barred from receiving a grant. A grant recipient could obtain funds either for in-service training or to supplement other funds used to provide criminal justice training to the employees or the contractual service providers of other state or local agencies.

Other fund distributions. The act at present designates a portion of the fund for the Office of Criminal Justice (within the Department of Management and Budget) to cover its expenses in providing staff support for the commission. The bill would direct this money to the department, and would have it be used to cover the expense of maintaining a register of criminal justice training programs in Michigan, in addition to the expense of staff services.

Any material printed using funds distributed under the act would have to bear a statement that Michigan justice training funds had been used to print that material.

Prohibited uses of funds. Distributions from the fund may not be used for out-of-state training, or for training conducted by an out-of-state provider, unless first approved by the commission. Under the bill, the commission could not approve a distribution for any out-of-state training program unless the prospective recipient had exhausted all reasonable efforts to locate a similar program in Michigan, and the commission was satisfied that a similar program was not available in Michigan. The bill would in addition prohibit distributions for criminal justice training in another country, and for meal expenditures in excess of the per diem meal allowance authorized for civil service employees.

Fund management. Investment earnings from fund assets would have to be deposited in the fund. The commission's books and records would be audited by the auditor general every two years. In its required annual report to the commission, each recipient of fund money would have to separately identify each training program financed in whole or in part by a distribution from the fund.

MCL 18.421 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications for the state. (2-22-89)

ARGUMENTS:

For:

The bill would establish greater accountability in the justice training program with provisions requiring more detailed annual reports from grant recipients, mandating that grants be spent within two years, restricting out-of-state travel, limiting reimbursements for food, and requiring biennial audits of the program. Program flexibility would be preserved by overriding the attorney general opinion with amendments allowing agencies and entities of the judicial branch of government to receive the "forty percent" criminal justice grants, and allowing contractual training services to be funded. The commission itself would be made more representative of the criminal justice system by tempering the law enforcement majority with minority representation from community colleges, the defense bar, and the general public.

Against:

There is no need to alter the commission. Expanding the commission as proposed by the bill would reduce its efficiency and dilute the emphasis that is now properly given to the needs of law enforcement. Police and prosecutors have the burden of proof, and proper training for them is the main focus of the act. The problems with the act have not been with the commission, but rather with the inappropriate use of (or failure to use) funds, the lack of thoroughgoing administrative oversight, and the act's failure to explicitly authorize the sorts of programs contemplated by its early proponents. The makeup of the commission has not been a problem, and there is no need to change it.

POSITIONS:

The State Appellate Defender's Office supports the bill. (2-21-89)

A representative of the Michigan Community College Association testified in support of the bill. (2-21-89)

The Michigan Education Association supports community college representation on the justice training commission and supports allowing community college consortiums to receive funds and provide training. (2-21-89)

The Prosecuting Attorneys Association of Michigan supports the effort to clarify which agencies are eligible for funds, but has concerns about technical provisions of the bill. (2-21-89)

The Executive Office opposes expanding the commission in the manner proposed by the bill. (2-22-89)

The Department of State Police opposes the bill. (2-21-89)

The Kent County Law Enforcement Administrators Association opposes the bill. (2-21-89)

The Michigan Association of Chiefs of Police opposes the bill. (2-22-89)

The Michigan Justice Training Commission opposes the bill. (2-22-89)

The Michigan Sheriffs' Association opposes the bill. (2-21-89)

The West Michigan Association of Chiefs of Police opposes the bill. (2-22-89)