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House Bill 4021 (Substitute S-2 as reported)

Sponsor: Representative Michael E. Nye

House Committee: Judiciary

Senate Committee: Criminal Justice and Urban Affairs

Date Completed: 5-25-89

RATIONALE

Public Act 302 of 1982 created the Michigan Justice Training Commission and established a framework for the distribution of money from the Michigan Justice Training Fund. Revenue credited to the Fund is generated by \$5 assessments added to fines for civil infractions of the Michigan Vehicle Code, other than parking fines and penalties of under \$10. The Fund is administered by the six-member Commission. Of the Fund's balance, 60% 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, after the distributions for in-service training of police officers, payments to the Office of Criminal Justice for staff service, and reimbursements to Commission members for their expenses, is dedicated to community colleges and State and local agencies for criminal justice training programs, based on the quality and cost-effectiveness of the programs and on Michigan's criminal justice needs.

The Fund has received considerable scrutiny in recent years, including a 1987 audit by the Auditor General's Office and a subsequent Attorney General Opinion regarding proper uses of the Fund. The Auditor General's inquiry reportedly revealed several problems including inadequate accounting procedures, failure to deposit investment earnings back into the

Fund, failure of police agencies to spend their grants, and the use of Fund distributions to attend training programs in other states and countries. The Attorney General's opinion reportedly stated that judges, court employees, and State appellate defender attorneys did not qualify for training distributions intended for employees of "state and local agencies". Some people feel that the Act should be more specific about which entities can receive money from the Fund, practices for which such distributions can be used, and required accounting practices of the Fund.

CONTENT

The bill would amend Public Act 302 of 1982 to expand the membership of the Commission and to provide further guidelines for the distribution of money in the Fund.

Justice Training Commission

Currently, the Commission, which was created within the Department of Management and Budget (DMB), consists of six members: the Directors of the Departments of State Police and Corrections, or their representatives; the presidents of the Prosecuting Attorneys Association, the Michigan Sheriffs' Association, and the Michigan Association of Chiefs of Police; and one person, appointed by the Governor, who represents the interests of police officers other than those in administrative or

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managerial positions. The bill would remove the Corrections Director and the Governor's appointee and add the Detroit Chief of Police and the presidents of the Michigan State Police Troopers Association and the Fraternal Order of Police.

The Commission annually would have to elect a chairperson, who could not serve as chairperson more than two consecutive years. The Act requires that Commission members be reimbursed "for actual expenses, including travel expense" from the Michigan Justice Training Fund. The bill would prohibit reimbursements for money spent on alcohol and meals whose price exceeded the per diem meal rate authorized for members of the State civil service.

Fund Distribution

The Commission is required to distribute money in the Fund and promulgate rules to provide for distribution with the assistance of the Office of Criminal Justice. The bill, instead, would require the assistance of the DMB. Sixty percent of the Fund must be distributed annually to cities, villages, townships, counties, junior colleges, community colleges, State-supported colleges and universities, and the Department of State Police for in-service criminal justice training of police officers. Money so distributed that is not spent must be retained for the same type of training in future fiscal years. The bill would require that an eligible entity that received such training distributions use the entire amount within two years of receiving the money. If it failed or refused to comply, the entity would not be eligible to receive additional Fund distributions until the prior award was used for in-service training of the entity's police officers.

The Act requires that the distributions from the Fund be awarded based on the number of full-time sworn police officers employed. The bill specifies, instead, that funds would have to be distributed based on the number of full-time equated sworn police officers certified under the Michigan Law Enforcement Officers Training Council Act. The bill also would require that each eligible entity receive a minimum distribution of \$500. The number of full-time equated, certified officers would have to be determined by dividing the total number of

paid work hours actually worked by certified officers by 2,080 hours and rounding down to the nearest whole number. The bill would further require that the percentage of police officers who provided direct police service and received training under the Act be equal to or greater than the percentage of officers who were full-time administrators and received training.

The Commission also is required to distribute the remainder of the Fund, after the distributions for in-service training, payments to the DMB for staff services, and reimbursements to Commission members for their expenses. This portion of the Fund currently must be distributed to junior colleges, community colleges, or State or local agencies providing in-service criminal justice training programs for employees of the State or local agencies. The bill would require that this portion of the Fund be distributed through a competitive grant process. Under the bill, these grants could go to the State and local agencies, but "state or local agency" would be redefined to include community colleges and agencies and entities of the judicial branch of State government, in addition to State-supported colleges and universities and agencies of State and local units of government. The bill would specifically bar a professional association from receiving a grant, and the Commission would have to attempt to provide equity in funding for training programs for prosecutors and assigned criminal defense counsel. 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 Provisions

The Act requires that the Commission distribute an amount from the Fund to the Office of Criminal Justice (which is within the DMB) to cover the Office's reasonable expenses in providing staff services to the Commission. The bill, instead, would direct the money to the DMB, and would require it to be used also to cover the expenses of maintaining a register of criminal justice training programs in Michigan.

Distributions from the Fund could not be used for out-of-state training, or for training

conducted by an out-of-state provider, unless first approved by the Commission. The Commission could not approve such a distribution unless the prospective recipient demonstrated to the Commission that it had exhausted all reasonable efforts to locate a similar program in Michigan. Travel costs could be covered only if the program were for the sole purpose of training or offered at least six hours of training within a 24-hour period. Distributions from the Fund could not be used for criminal justice training in another country.

Materials printed using Fund distributions would have to bear a statement that Michigan justice training funds were used to print the material.

The bill would require that investment earnings from Fund assets be deposited in the Fund, and that the Commission's books and records 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 identify separately each training program financed in whole or in part by a distribution from the Fund.

MCL 18.421-18.426 et al.

SENATE COMMITTEE ACTION

As it passed the House, the bill would have retained all the current Commission members, added a second representative of police officers' interests, and required that the two appointees be elected by police officers other than those in administrative or managerial positions. It also would have added all of the following members to the Commission:

- One person, appointed by the Governor, who was employed by a police agency that employed at least 20% of the police officers in Michigan.
- The State Appellate Defender, or his or her representative.
- The President of the Michigan Community College Association, or his or her representative.
- One person, appointed by the Governor, who represented the interests of crime victims and who was not, and had never

been, an officer, employee, or agent of an "eligible entity" (i.e., a city, village, township, county, junior college, community college, State-supported college or university, or the Department of State Police).

In addition, the House-passed version of the bill included neither a provision to require the Commission to attempt to provide equity in funding for training programs for prosecutors and assigned criminal defense counsel, nor a prohibition on covering travel costs unless the program were for the sole purpose of training or offered at least six hours of training within a 24-hour period.

FISCAL IMPACT

The bill would result in an increase in expenditures from the Fund for Commission member expenses. In FY 1987-88 Commission member expenses totaled \$6,914, costing the Fund an average of \$1,152 per member. Adding one member to the Commission, as the bill proposes, would result in additional payments from the Fund of approximately \$1,152.

ARGUMENTS

Supporting Argument

The bill would establish greater accountability in the justice training program with provisions that would require more detailed annual reports from grant recipients, mandate that grants be spent within two years, restrict out-of-state travel, limit reimbursements for food, and require biennial audits of the program. In addition, by specifically allowing agencies and entities of the judicial branch of government to receive criminal justice training grants and allowing contractual services to be funded, the bill would ensure that Fund distributions were available to the various facets of the criminal justice system.

Opposing Argument

The Commission itself should be made more representative of the criminal justice system by tempering the majority representation of the law enforcement community with minority representation of the defense bar, training programs, and the general public.

Response: Enlarging the Commission

extensively, as proposed by the House-passed version of 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) Fund distributions, the lack of thorough administrative oversight, and the Act's failure to authorize explicitly the sorts of judicial-branch training programs advocated by the Fund's early proponents. The makeup of the Commission has not been a problem, and there is no need change it drastically

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