

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date March 8, 2013
Bill No: HB 221 (CS)--305

Sponsor: Rep. William "Bill" Rehm **Reviewing** Attorney General's Office
Short Reserve Law Enforcement **Person Writing** Rick Word, AAG
Title: Officers **Phone:** 827-6029 **Email** rword@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis: The House Judiciary Committee Substitute HB 221 makes numerous changes to the original bill. Substantive changes include the following:

- 1) Section 3H of the committee substitute requires attestation of completion of “approved basic law enforcement training” instead of the original bill’s reference to an “approved reserve officer law enforcement training program.”
- 2) Section 5A of the committee substitute eliminates the original bill’s requirement of a minimum of 400 hours training. In its stead, the committee substitute imposes a cap of no more than 500 hours of training.
- 3) Section 10 of the committee substitute deletes the original bill’s authorization for Sheriffs to utilize uncertified volunteer staff members.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

There are no fiscal implications for this agency.

SIGNIFICANT LEGAL ISSUES

As pointed out by the Department of Public Safety its analysis, Section 5 of both the original and committee substitute bills appear to allow the head of a local law enforcement agency to specify that the training will occur at facilities not certified by the LEA Director or approved by the LEA Board.

The committee substitute removes the original bill’s requirement of a minimum of 400 hours training, replacing it with a cap. This is in conflict with the Law Enforcement Training Act, which defines basic law enforcement training to be a course consisting of not less than 400 hours of instruction. See NMSA 1978, Section 29-1-7(B).

Also, as in with the original bill, an issue could arise under Section 4 of the bill regarding a certified reserve officer’s scope of authority. The bill currently states that “[t]he powers and authority of a reserve officer extend only to the scope and for the duration of the reserve officer’s specific assignment.” It is not clear what the scope and duration of a reserve officer’s specific assignment might entail, and this ambiguity could give rise to claims based on the reserve officer acting outside the scope of his or her authority.

No other significant legal issues are noted for the committee substitute.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

There are no performance implications for this agency.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

No administrative implications are noted for the agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

None are noted.

TECHNICAL ISSUES OR DRAFTING ERROR

None are noted.

OTHER SUBSTANTIVE LEGAL ISSUES

No other substantive legal issues are noted.

ALTERNATIVES TO ENACTING THIS BILL

No alternatives to enacting this bill are noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

None noted.