COMMITTEE REPORT

April 29, 2015

**H. 3168**

Introduced by Reps. Tallon, McCoy and Weeks

S. Printed 4/29/15--S.

Read the first time February 12, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3168) to amend the Code of Laws of South Carolina, 1976, by adding Article 6 to Chapter 9, Title 25 so as to enact the “South Carolina Emergency Management Law Enforcement Law”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

House Bill 3168 adds Article 6 to Chapter 9, Title 25 so as to enact the South Carolina Emergency Management Law Enforcement Act. The bill also defines necessary terms and provides qualifications, powers, duties, and limitations of out-of-state special law enforcement officers who are deployed to South Carolina in accordance with the provisions of the Emergency Management Assistance Compact.

**South Carolina Law Enforcement Division.**

The agency indicates this bill would have no expenditure impact on the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 25 SO AS TO ENACT THE “SOUTH CAROLINA EMERGENCY MANAGEMENT LAW ENFORCEMENT ACT”, TO DEFINE NECESSARY TERMS, AND PROVIDE QUALIFICATIONS, POWERS, DUTIES, AND LIMITATIONS OF SPECIAL LAW ENFORCEMENT OFFICERS SERVING PURSUANT TO THIS ARTICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 25 of the 1976 Code is amended by adding:

“Article 6

South Carolina Emergency Management Law Enforcement Act

Section 25‑9‑500. This act may be cited as the ‘South Carolina Emergency Management Law Enforcement Act’.

Section 25‑9‑510. The purpose of this article is to provide procedures for the use of out‑of‑state officers who are deployed to the State of South Carolina in accordance with the provisions of the Emergency Management Assistance Compact, which is codified in Section 25‑9‑420. The use of out‑of‑state law enforcement personnel pursuant to the Emergency Management Assistance Compact is designed solely for situations when South Carolina’s law enforcement resources have been exhausted or will be exhausted subsequent to a declaration of a state of emergency or disaster by the Governor of the State of South Carolina.

Section 25‑9‑520. As used in this article:

(1) ‘Special law enforcement officer’ means a law enforcement officer of a member state to the Emergency Management Assistance Compact who meets the qualifications set forth in this chapter and is deployed to the State of South Carolina upon a request for assistance pursuant to Article III(B) of the Emergency Management Assistance Compact.

(2) ‘Home agency’ means the agency or law enforcement entity where the special law enforcement officer is currently employed.

Section 25‑9‑530. To serve as a special law enforcement officer pursuant to this article, a person must have:

(1) reached twenty‑one years of age;

(2) graduated from an accredited law enforcement academy or received other law enforcement training to the satisfaction of the Chief of the South Carolina Law Enforcement Division, or his designee; and

(3) served a minimum of two years as a full‑time law enforcement officer.

Section 25‑9‑540. Prior to performing law enforcement activities in the State of South Carolina, a special law enforcement officer must take and subscribe to the oath of office set forth in Section 5, Article VI of the South Carolina Constitution in the presence of either the Chief of the South Carolina Law Enforcement Division, or his designee. The Chief of the South Carolina Law Enforcement Division, or his designee, shall maintain a written record of all special law enforcement officers who take and subscribe to the oath of office required pursuant to this article.

Section 25‑9‑550. A special law enforcement officer appointed pursuant to this article is authorized to:

(1) preserve the peace and protect the people of this State;

(2) detain and arrest individuals without a warrant for criminal offenses occurring within the officer’s presence or view and necessary to maintain and establish public peace, health, or safety in the State;

(3) exercise the same powers, duties, rights, privileges, and immunities that are afforded law enforcement officers of this State;

(4) possess and carry firearms and other weapons as authorized while on duty; and

(5) exercise statewide jurisdiction.

Section 25‑9‑560. A special law enforcement officer appointed pursuant to this article shall serve at all times at the pleasure of and under the operational control of the Chief of the South Carolina Law Enforcement Division, or his designee, and is subject to the rules and regulations established by the Chief of the South Carolina Law Enforcement Division, or his designee. In the event of a conflict between the rules and regulations established for a special law enforcement officer and the officer’s home agency rules and regulations, the special law enforcement officer immediately shall notify the Chief of the South Carolina Law Enforcement Division, or his designee, and attempt to resolve the conflict.

Section 25‑9‑570. (A) The powers and duties granted to a special law enforcement officer pursuant to this article shall terminate immediately upon:

(1) the cancellation of the state of emergency or disaster declaration; or

(2) notice from either the Chief of the South Carolina Law Enforcement Division, or his designee, that a special law enforcement officer’s powers and duties in this State have been terminated.

(B) A person who knowingly exercises or knowingly attempts to exercise the powers of a special law enforcement officer after his powers and duties have been terminated pursuant to subsection (A) is guilty of a misdemeanor pursuant to Section 16‑17‑720.

Section 25‑9‑580. Nothing in this article is intended to waive existing or future immunity. Neither the State of South Carolina, nor any of its political subdivisions, agencies, or employees are liable or accountable in any way for the appointment of a special law enforcement officer or for any act or omission on the part of a special law enforcement officer.

Section 25‑9‑590. Compensation for special law enforcement officers must be made in accordance with the Emergency Management Assistance Compact.

Section 25‑9‑600. (A) A special law enforcement officer serving pursuant to this article remains the employee of his home agency and does not become an employee of the State of South Carolina, or an agency or political subdivision of this State.

(B) Special law enforcement officers do not hold office in South Carolina.

(C) Notwithstanding another provision of law, a special law enforcement officer is not subject to certification requirements for law enforcement personnel set forth in South Carolina law, and a special law enforcement officer is not required to post a bond.”

SECTION 2. This act takes effect upon approval by the Governor.

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