~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 18, 2016

**H. 3653**

Introduced by Reps. Pope, Quinn, Huggins, Allison, Spires, Hardee, Gagnon, Yow, Stavrinakis, H.A. Crawford, Kirby, McEachern, Anthony, Corley, Bales, Kennedy, Erickson, Hosey, Whitmire, Crosby, Southard, Tallon, McCoy, Burns, Atwater, Ballentine, Bannister, Bedingfield, Bernstein, R.L. Brown, Chumley, Clary, Collins, Felder, Finlay, Forrester, Funderburk, Gambrell, Hamilton, Herbkersman, Hicks, Hiott, Hixon, Hodges, Loftis, Long, V.S. Moss, Norman, Norrell, Pitts, Ridgeway, Riley, Sandifer, Simrill, G.R. Smith, Taylor, Thayer, Toole, Weeks, Wells, Willis, Mitchell, W.J. McLeod and Rivers

S. Printed 5/18/16--S.

Read the first time February 16, 2016.

**A** **BILL**

TO AMEND SECTION 23‑1‑210, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TEMPORARY TRANSFER OF A LAW ENFORCEMENT OFFICER TO WORK IN A MULTIJURISDICTIONAL TASK FORCE, SO AS TO AUTHORIZE A LAW ENFORCEMENT AGENCY TO ENTER INTO MUTUAL AID AGREEMENTS OR MULTIJURISDICTIONAL TASK FORCE AGREEMENTS WITH OTHER LAW ENFORCEMENT PROVIDERS FOR ANY LENGTH OF TIME, TO PROVIDE THAT A SHERIFF MAY ENTER INTO AN AGREEMENT AS LONG AS THE AGREEMENT DOES NOT OBLIGATE HIS COUNTY’S GOVERNING BODY TO ANY ADDITIONAL RESOURCES BEYOND THOSE APPROVED WITHIN HIS ANNUAL BUDGET, TO PROVIDE THE CONDITIONS UPON WHICH AN AGREEMENT MAY BE TERMINATED, TO PROVIDE CERTAIN LIMITS PLACED UPON A LOCAL GOVERNING BODY WHEN IT ATTEMPTS TO PROHIBIT A LAW ENFORCEMENT AGENCY FROM TRANSFERRING OR ASSIGNING LAW ENFORCEMENT OFFICERS TO OTHER JURISDICTIONS, AND TO SPECIFY THE DIFFERENCES BETWEEN AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION AND UNDER THE LAW ENFORCEMENT ASSISTANCE SUPPORT ACT; AND TO REPEAL SECTION 23‑1‑215, AS AMENDED, RELATING TO AGREEMENTS THAT MAY BE ENTERED INTO BETWEEN MULTIPLE LAW ENFORCEMENT JURISDICTIONS FOR THE PURPOSE OF CRIMINAL INVESTIGATIONS.

Amend Title To Conform

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

SECTION 1. Chapter 20, Title 23 of the 1976 Code is amended to read:

“Chapter 20

Law Enforcement Assistance and Support Act

Section 23-20-10. This chapter may be cited as the ‘Law Enforcement Assistance and Support Act’.

Section 23-20-20. As used in this chapter:

(1) ‘Law enforcement agency’ means any state, county, municipal, or local law enforcement authority that enters into ~~a contractual~~ an agreement for the procurement of law enforcement support services.

(2) ‘Law enforcement provider’ means any in‑state or out‑of‑state law enforcement authority that provides law enforcement services to a law enforcement agency pursuant to this chapter.

(3) ‘Law enforcement services’ means any law enforcement assistance or service ~~for which a fee is paid based on a contractual agreement~~ performed by a certified law enforcement officer.

(4) ‘Mutual aid agreement’ means any agreement entered into on behalf of a law enforcement agency in this State for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines, including, but not limited to, multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations. Such agreements must not be permitted for the sole purpose of speed enforcement.

Section 23‑20‑30. (A) ~~The General Assembly recognizes the need to promote public safety and further recognizes that there may be situations where additional law enforcement officers are needed to maintain the public peace and welfare. Therefore, the General Assembly authorizes a law enforcement agency~~ Any county, incorporated municipality, or other political subdivision of this State ~~to~~ may enter into ~~contractual~~ mutual aid agreements ~~with other law enforcement providers~~ as may be necessary for the proper and prudent exercise of public safety functions. ~~Public safety functions include traditional public safety activities which are performed over a specified time period for patrol services, crowd control and traffic control, and other emergency service situations.~~ All ~~contractual~~ agreements ~~shall~~ must adhere to the requirements contained in Section 23‑20‑40.

(B) Nothing in this chapter may be construed to alter, amend, or affect any rights, duties, or responsibilities of law enforcement authorities established by South Carolina’s constitutional or statutory laws or established by the ordinances of South Carolina’s political subdivisions, except as expressly provided for in this chapter.

Section 23‑20‑40. (A) All ~~written contractual~~ mutual aid agreements for law enforcement services must be in writing and include, but may not be limited to, the following:

~~(a)~~(1) a statement of the specific services to be provided;

~~(b)~~(2) specific language dealing with financial agreements between the parties;

~~(c)~~(3) specification of the records to be maintained concerning the performance of services to be provided to the agency;

~~(d)~~(4) language dealing with the duration, modification, and termination of the ~~contract~~ agreement;

~~(e)~~(5) specific language dealing with the legal contingencies for any lawsuits or the payment of damages that arise from the provided services;

~~(f)~~(6) a stipulation as to which law enforcement authority maintains control over the law enforcement provider’s personnel; ~~and~~

~~(g)~~(7) specific arrangements for the use of equipment and facilities~~.~~; and

(8) specific language dealing with the processing of requests for information pursuant to the Freedom of Information Act for public safety functions performed or arising under these agreements.

(B) Except as provided in subsection (C), a mutual aid agreement entered into on behalf of a law enforcement authority must be approved by the appropriate governing bodies of each concerned county, incorporated municipality, or other political subdivision of this State. Agreements entered into are executed between governing bodies, and, therefore, may last until the agreement is terminated by a participating party of the agreement.

(C) An elected official whose office was created by the Constitution or by general law of this State is not required to seek approval from the elected official’s governing body in order to participate in mutual aid agreements.

(D) Provided the conditions and terms of the mutual aid agreements are followed, the chief executive officers of the law enforcement agencies in the concerned counties, incorporated municipalities, or other political subdivisions have the authority to send and receive such resources, including personnel, as may be needed to maintain the public peace and welfare.

(E) The officers of the law enforcement provider have the same legal rights, powers, and duties to enforce the laws of this State as the law enforcement agency requesting the services.

Section 23‑20‑60. The Governor, upon the request of a law enforcement authority or in his discretion, may by executive order, waive the requirement for a written ~~contractual~~ agreement for law enforcement services required by this chapter during a natural disaster or other emergency affecting public safety.”

SECTION 2. Sections 23-1-210, 23-1-215, and 23-20-50 of the 1976 Code are repealed.

SECTION 3. This act takes effect upon approval by the Governor.

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