COMMITTEE REPORT

March 23, 2016

**S. 650**

Introduced by Senators Scott, Malloy, Williams and Matthews

S. Printed 3/23/16--S.

Read the first time April 14, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 650) to amend the Code of Laws of South Carolina, 1976, by adding Section 23‑3‑90 so as to grant the South Carolina Law Enforcement Division specific and exclusive, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑90. (A) Except as otherwise provided in this section, the South Carolina Law Enforcement Division (SLED) shall have specific and exclusive jurisdiction and authority in the investigation of:

(1) the shooting of or discharge of a weapon at a person by a law enforcement officer acting in the line of duty; and

(2) the unexpected death of an arrestee while in the care, custody, or control of a law enforcement officer or correctional officer; the unexpected death of an arrestee shortly after being in the care, custody, or control of a law enforcement officer or correctional officer; and the unexpected death of an intended arrestee during an arrest attempt by a law enforcement officer. For purposes of this section, ‘unexpected death’ includes all deaths which, before investigation, appear possibly to have been caused by trauma, suspicion, or obscure circumstances.

(B) If the officer is employed by SLED, the sheriff of the county in which the shooting, discharge, or unexpected death occurred shall investigate the shooting, discharge, or unexpected death, regardless of whether the shooting, discharge, or unexpected death occurred within an incorporated jurisdiction. If the sheriff does not employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations, the sheriff shall defer the investigation to a law enforcement agency that employs a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper investigation. All forensic evidence collected at the scene of the shooting, discharge, or unexpected death must be submitted to and analyzed by an accredited state law enforcement laboratory outside of South Carolina.

(C) If an officer employed by SLED and an officer employed by the sheriff of the county in which the shooting, discharge, or unexpected death occurred are both involved in the shooting, discharge, or unexpected death, the solicitor of the county in which the shooting, discharge, or unexpected death occurred shall defer the investigation to a law enforcement agency that employs a unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper investigation. All forensic evidence collected at the scene of the shooting, discharge, or unexpected death must be submitted to and analyzed by an accredited state law enforcement laboratory outside of South Carolina.

(D) An officer investigating the shooting, discharge, or unexpected death pursuant to this section has the same authority as the officer has in the officer’s home jurisdiction for the duration of the investigation.

(E) Upon completion, all investigations must be forwarded to the solicitor’s office in the jurisdiction where the shooting, discharge, or unexpected death occurred prior to the initiation or declination of any formal criminal action.

(F) A person who knowingly and wilfully violates the provisions of subsection (A), (B), or (C) is subject to punishment as provided for in Section 8‑1‑80, even if the person’s authority extends beyond a single election or judicial district.” /

Renumber sections to conform.

Amend title to conform.

GERALD MALLOY for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

The South Carolina Law Enforcement Division indicates that Senate Bill 650 is expected to impact state expenditures by $463,740 in recurring general funds and $321,290 in nonrecurring general funds. This bill is expected to have a minimal impact on municipal governments. Since the Revenue and Fiscal Affairs Office received no responses from county governments, the exact expenditure impact on county governments cannot be determined.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill adds Section 23-3-90 to exclusively authorize the South Carolina Law Enforcement Division to investigate officer-involved shootings that result, or have the potential to result, in bodily injury or death. It also allows for investigation of such cases by separate law enforcement agencies under certain circumstances and establishes the authority of the investigating officers.

**South Carolina Law Enforcement Division.** The South Carolina Law Enforcement Division reports that implementation of this bill will increase the number of officer-involved shooting cases investigated by the agency since it does not currently process all such cases within the state. The agency would need to hire six additional forensic personnel to process the anticipated number of increased cases, which will cost $463,740 in recurring expenditures and incur a $321,290 one-time cost for equipment and vehicles.

**Local Expenditure**

The Revenue and Fiscal Affairs Office (RFA) contacted the Municipal Association of South Carolina and forty-six county governments regarding the expenditure impact of this bill. The Municipal Association indicates this bill will have minimal impact on municipal governments. Since our office received no responses from county governments, we cannot determine the expenditure impact on county governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑3‑90 SO AS TO GRANT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION SPECIFIC AND EXCLUSIVE JURISDICTION AND AUTHORITY TO CONDUCT AN INVESTIGATION OF ALL OFFICER‑INVOLVED SHOOTINGS THAT RESULT, OR COULD HAVE RESULTED, IN BODILY INJURY OR DEATH, TO ALLOW FOR AN INVESTIGATION OF AN OFFICER‑INVOLVED SHOOTING TO BE COMPLETED BY A SEPARATE LAW ENFORCEMENT AGENCY IN CERTAIN CIRCUMSTANCES, TO ESTABLISH A PROTOCOL FOR EVIDENCE COLLECTION AND PROCESSING IN CERTAIN CIRCUMSTANCES, TO GRANT AN INVESTIGATING OFFICER THE SAME AUTHORITY AS HE WOULD HAVE IN HIS HOME JURISDICTION FOR THE DURATION OF THE INVESTIGATION, TO ESTABLISH A PROCEDURE FOR THE FORWARDING OF THE EVIDENCE TO THE CIRCUIT SOLICITOR UPON COMPLETION OF THE INVESTIGATION, AND TO ESTABLISH PENALTIES FOR THE FAILURE TO COMPLETE AN INDEPENDENT INVESTIGATION PURSUANT TO THE PROVISIONS OF THIS SECTION.

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

SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑90. (A) The South Carolina Law Enforcement Division shall have specific and exclusive jurisdiction and authority in the investigation of all officer‑involved shootings that result, or could have resulted, in bodily injury or death. However, if the officer is employed by the South Carolina Law Enforcement Division, the sheriff of the county in which the officer‑involved shooting occurred must investigate the officer‑involved shooting, regardless of whether the shooting occurred within an incorporated jurisdiction. If the sheriff of the county in which the officer‑involved shooting occurred does not employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations, the sheriff must defer the investigation to a law enforcement agency that does employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper death investigation.

(B) In the event an officer‑involved shooting occurs that includes both an employee of the South Carolina Law Enforcement division and the sheriff, or one of his deputies, of the county in which the officer‑involved shooting occurred, the solicitor of the county in which the officer‑involved shooting occurred must defer the investigation to a law enforcement agency that employs a unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper death investigation.

(C) When an officer‑involved shooting occurs that involves an officer who is employed by the South Carolina Law Enforcement Division all forensic evidence collected at the scene of the shooting must be submitted to and analyzed by an accredited state law enforcement laboratory outside the State of South Carolina.

(D) An officer, or officers, investigating an officer‑involved shooting pursuant to this section shall have the same authority as he has in his home jurisdiction, for the duration of such investigation.

(E) Upon completion, all investigations of officer‑involved shootings shall be forwarded to the solicitor’s office in the jurisdiction where the shooting occurred prior to the initiation or declination of any formal criminal action.

(F) A person who knowingly and wilfully violates the provisions of subsection (A) or (B) is subject to punishment as provided for in Section 8‑1‑80, even if the person’s authority extends beyond a single election or judicial district.”

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

‑‑‑‑XX‑‑‑‑