CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H.61   Name of Bill: <u>AN ACT RELATING TO LAW ENFORCEMENT OFFICER LICENSING AND REGULATION</u>

Agency/ <u>Dept</u>: <mark>Vermont State Police</mark>   Author of Bill Review: <mark>Capt. David Notte</mark>
Date of Bill Review: <u>01.28.13</u>   Status of Bill: (check one):

__<mark>xxx</mark>___Upon Introduction   _____ As passed by 1st body   _____As passed by both bodies   _____ Fiscal

<mark>**Referred to Committee on Government Operations- 01.23.12**</mark>

Recommended Position:

_____Support   __<mark>xxxx</mark>__Oppose   _____Remain Neutral   _____Support with modifications identified in #8 below

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Analysis of Bill

1. Summary of bill and issue it addresses.   *Describe what the bill is intended to accomplish and why.*
The bill proposes to create an Office of Professional Regulation within the Office of the Secretary of State to oversee licensing of Law Enforcement Officers. The purpose of the bill is to promote and protect the health, safety, and welfare of the public by insuring a person shall not practice law enforcement in the State of Vermont unless currently licensed or otherwise authorized under the proposed bill. The Office shall have a Director who shall be appointed by the Secretary of State and shall be an exempt employee.

2. Is there a need for this bill?   *Please explain why or why not.*
No. This is identical to a bill S.248 that was introduced last year and was referred to the Committee on Government Operations. The Committee recommended that the bill be referred to the Vermont Law Enforcement Advisory Board (VLEAB) to examine and come up with their recommendations for overseeing the licensing or certification of Law Enforcement Officers in the State of Vermont. The VLEAB completed a comprehensive report, dated 01.15.13, with their recommendations. The VLEAB, in short, recommends that the Vermont Criminal Justice Training Council, an already existing entity comprised of an excellent representation of the criminal justice community, be empowered to adopt Standards of Professional Conduct based on the International Association of Directors for Law Enforcement Standards and Training (IADLEST) model. The Council would also be empowered to hold Law Enforcement Agencies accountable for failure to meet and maintain the Standards. Further, they would have a much broader authority to decertify a Law Enforcement Officer in the State of Vermont for various complaints of misconduct and/or criminal behavior (see attached report).

I spoke to Director Richard Gauthier, Director of the Vermont Police Academy and representative for the Vermont Criminal Justice Training Council; Chief Chris Brickell, President of the Chief of Police Association; and Sheriff Keith Clark, President of the Sheriffs Association. They all support the recommendations listed in the VLEAB report and do not support H.61.

<mark>*Please return this bill review as a Microsoft Word document to_____*</mark>

I met with Sheriff Steve Benard, Chair of the Vermont Criminal Justice Training Council. He does not support H.61. He agrees with the recommendations outlined in the VLEAB report and feels this matter should be referred to a Study Committee. He feels licensing would be expensive and create a bureaucratic process which may not address the training needs of the Law Enforcement community.

As mentioned in the VLEAB report, Chris Winters, Director of the Office of Professional Regulation (OPR), Secretary of State's Office, does not see a need for the OPR to oversee licensing of Law Enforcement Officers; and moreover, he does not want to take that on.

I spoke with Representative Donahue, sponsor of H.61, by phone. She told me that she sponsored the bill in part because she felt that there is an inequity in pay and benefits between Law Enforcement Agencies in the State and that there should be more transparency among Law Enforcement Agencies as it relates to ACLU concerns. She told me she feels the bill is a starting point for talking about these issues even though those issues are not specifically addressed in the bill. I asked her if she had read VLEAB report, and she told me she had not. I forward the report to Miss Donahue for her review.

I attempted to contact Representative Till and was able to get an electronic response in reference to the bill, which is copied below:

H.61 Establishes a Board of Law Enforcement with the Office of Professional Regulation which regulates 42 other classes of professionals in Vermont. The Board would examine, register, license and renew licenses of law enforcement officers. In addition it will investigate complaints of unprofessional conduct, incompetence or unauthorized practice.

The motivation for my introducing the legislation grew from a discussion with a former high ranking police officer. We discussed multiple high profile issues which have occurred recently within the Vermont Law Enforcement community. It seems apparent that a more comprehensive and centralized authority to oversee training requirements and professional conduct would be appropriate. The State sees fit to regulate 42 other professions, many with far less responsibility and widespread authority than law enforcement officers. Is it really rational to regulate professional licensing and conduct of hairdressers in a more centralized and careful way than law enforcement officers?

While the vast majority of the 81 page document simply is grammatical, mostly capitalizing titles and cleaning up language within the existing statute, the two substantive provisions involve the creation of the Board and clarifying that Sheriff's Law Enforcement duties can be exercised statewide.

In large part I view this bill as a conversation starter. Regulation of law enforcement personnel is not an area of my expertise and I would welcome your thoughts.

Again, thank you for your email.

Best wishes,

George Till

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**

The costs associated with the bureaucratic process of licensing 327 sworn members of the Vermont State Police.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?
As cited in VLEAB report, the Secretary of State's Office does not feel there is a need for their office to oversee licensing or certification of Law Enforcement Officers in the State of Vermont, especially when there is already ad existing entity, the Vermont Criminal Justice Training Council, which is better suited for this. Furthermore, the Secretary of State's Office does not want to take this on. There may be a financial impact on their Office associated with hiring additional personnel to deal with the bureaucratic process of licensing every Law Enforcement Officer in the State of Vermont.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (f*or example, public, municipalities, organizations, business, regulated entities, etc)*
It would be the same for county and local Law Enforcement Agencies as it is for the Vermont State Police (see number 3).

6. Other Stakeholders:

  6.1   Who else is likely to support the proposal and why? No Law Enforcement representatives I spoke to support this bill.

  6.2   Who else is likely to oppose the proposal and why? Every Law Enforcement representative I spoke to oppose this bill as there is already an existing structure in place that would be better suited for overseeing licensing or certification and decertification of Law Enforcement Officers.

7. Rationale for recommendation: *Justify recommendation stated above.*
I concur with the recommendations of the VLEAB report in that the current structure (VCJTC) in place should be empowered to adopt Standards of Professional Conduct based on the IADLEST model and have the authority to hold Law Enforcement Agencies accountable for failing to meet and/or maintain those Standards. Moreover, the VCJTC should have broader authority for decertification of Law Enforcement Officers.

8. Specific modifications that would be needed to recommend support of this bill*:   Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
This bill is not necessary and modifications to the current structure in place, which is recommended in the VLEAB report and attached to this review, will accomplish what the bill is intended for, i.e.: establishing Standards of Professional Conduct for Law Enforcement Agencies to meet and maintain, which will instill the trust and confidence in the people we serve.