

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 777 Criminal Justice Standards and Training Commission

**SPONSOR(S):** Criminal Justice Subcommittee; Rodríguez, J.

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Cox	White
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

The Criminal Justice Standards and Training Commission (Commission), established pursuant to s. 943.11, F.S., has a number of responsibilities relating to the training, certification, and discipline of full-time, part-time, and auxiliary law enforcement officers, correctional officers, and correctional probation officers.

Section 943.12, F.S., outlines a number of specified duties for the Commission. Additionally, under s. 943.17, F.S., the Commission is required, in part, to ensure that applicants entering into a criminal justice basic recruit program have successfully passed a Commission-approved basic abilities test (BAT).

The Florida Department of Law Enforcement (FDLE) reports that the Commission has contracted with multiple vendors, two out-of-state and one in-state, to develop and administer the BATs. FDLE reports that there is inconsistency throughout the state regarding implementation of the BAT, specifically with respect to the difficulty level for the examination and the fees associated with taking the examination.

The bill amends s. 943.12, F.S., to require the Commission to implement administer, maintain, and revise an examination for the BAT. The bill requires the Commission to establish rules regarding procedures for the administration of the BAT and standards of acceptable performance on the examination. The bill shifts FDLE's role with the BAT from monitoring vendors for compliance with the BAT guidelines to the development and administration of the examination.

The bill also amends s. 943.17, F.S., to add that the Commission must set a fee for the BAT, which is not to exceed \$75. The bill further provides that a fee collected for the BAT:

- Applies to one scheduled examination attempt;
- Is not refundable if the applicant does not appear for the examination or does not achieve an acceptable score; and
- Must be placed in the Criminal Justice Standards and Training Trust Fund.

The bill provides that the examination fee does not take effect until the implementation of the revised basic abilities examination, which will be on or before January 1, 2018.

FDLE reports that the bill will have a projected positive fiscal impact to the Criminal Justice Standards and Training Trust Fund in the amount of \$400,000 dollars annually. Additionally, FDLE reports that the bill will result in a fiscal impact for the IT development of the BAT, but that any fiscal impact will be absorbed by current resources.

The bill does not appear to have any impact on local government revenues or expenditures.

The bill is effective July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

The Criminal Justice Standards and Training Commission (Commission), established pursuant to s. 943.11, F.S., has a number of responsibilities relating to the training, certification, and discipline of full-time, part-time, and auxiliary<sup>1</sup> law enforcement officers,<sup>2</sup> correctional officers,<sup>3</sup> and correctional probation officers.<sup>4,5</sup> The Commission is a division of the Florida Department of Law Enforcement (FDLE).

Section 943.12, F.S., outlines a number of duties for the Commission, including, in part, to be responsible for:

- Certifying, and revoking the certification of, officers, instructors, including agency in-service training instructors, and criminal justice training schools.<sup>6</sup>
- Establishing uniform minimum employment standards for the various criminal justice disciplines.
- Establishing uniform minimum training standards for the training of officers in the various criminal justice disciplines.
- Establishing minimum curricular requirements for criminal justice training schools.
- Making, publishing, or encouraging studies on any aspect of criminal justice education and training or recruitment, including the development of defensible and job-related psychological, selection, and performance evaluation tests.
- Implementing, administering, maintaining, and revising a job-related officer certification examination for each criminal justice discipline.

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<sup>1</sup> Section 943.10(8), F.S., defines “auxiliary law enforcement officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions. Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

<sup>2</sup> Section 943.10(1), F.S., defines “law enforcement officer” to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>3</sup> Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

<sup>4</sup> Section 943.10(3), F.S., defines “correctional probation officer” to mean a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.

<sup>5</sup> Section 943.11(1)(a), F.S., provides that the commission must consist of 19 members, including: the Secretary of Corrections or a designated assistant; the Attorney General or a designee; the Director of the Division of the Florida Highway Patrol; and 16 members appointed by the Governor, consisting of three sheriffs; three chiefs of police; five law enforcement officers who are of the rank of sergeant or below within the employing agency; two correctional officers, one of whom is an administrator of a state correctional institution and one of whom is of the rank of sergeant or below within the employing agency; one training center director; one person who is in charge of a county correctional institution; and one resident of the state who falls into none of the foregoing classifications. Prior to the appointment, the sheriff, chief of police, law enforcement officer, and correctional officer members must have had at least four years’ experience as law enforcement officers or correctional officers.

<sup>6</sup> Section 943.10(16), F.S., defines “criminal justice training school” to mean any private or public criminal justice training school certified by the commission.

Additionally, under s. 943.17, F.S., the Commission is required, in part, to ensure that applicants entering into a criminal justice basic recruit program have successfully passed a Commission-approved basic abilities test (BAT).<sup>7</sup> BATs must be administered in Florida and tailored to the applicable discipline for which the recruit is seeking program admission.<sup>8</sup>

FDLE reports that the Commission has contracted with multiple vendors, two out-of-state and one in-state, to develop and administer the BATs.<sup>9</sup> FDLE also reports that it has established basic criteria for the BAT, but that each vendor's test is unique.<sup>10</sup> Training centers and selection centers have the discretion to choose which test to administer.<sup>11</sup> As a result, the difficulty levels among the BATs lack consistency across the state.<sup>12</sup> There is also inconsistency across the state as to the fee a student is responsible to pay for taking the BAT.<sup>13</sup>

#### Effect of the Bill

The bill amends s. 943.12, F.S., to require the Commission to implement administer, maintain, and revise an examination for the BAT. The bill requires the Commission, by rule, to establish procedures for the administration of the BAT and establish standards of acceptable performance on the examination.

The bill also amends s. 943.17, F.S., to add that the Commission must set a fee for the BAT, which is not to exceed \$75. The bill further provides that fee collected for the BAT:

- Applies to one scheduled examination attempt;
- Is not refundable if the applicant does not appear for the examination or does not achieve an acceptable score; and
- Must be placed in the Criminal Justice Standards and Training Trust Fund.

The bill provides that the examination fee does not take effect until the implementation of the revised basic abilities examination, which will be on or before January 1, 2018.

The bill shifts FDLE's role with respect to the BAT from monitoring vendors for compliance with the BAT guidelines to the development and administration of the examination. FDLE reports that the requirements under the bill are very similar to responsibilities already placed with the Commission to develop and administer officer certification examinations.<sup>14</sup>

FDLE reports that it will develop a single examination for each discipline, which will be delivered electronically statewide through an agreement with Miami Dade College.<sup>15</sup> FDLE reports that it and Miami Dade College will share the expenses and revenues for administering the BAT.<sup>16</sup>

#### B. SECTION DIRECTORY:

Section 1. Amends s. 943.12, F.S., relating to powers, duties, and functions of the commission.

Section 2. Amends s. 943.17, F.S., relating to basic recruit, advanced, and career development training programs; participation; cost; evaluation.

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<sup>7</sup> s. 943.17(1)(g), F.S. and Rule 11B-35.0011(1), F.A.C. The determination of whether a recruit has passed a basic skills test is based on a job task analysis in each discipline that is adopted by the commission.

<sup>8</sup> Rule 11B-35.0011(1), F.A.C. The rule includes references to law enforcement, correctional, or correctional probation disciplines.

<sup>9</sup> The in-state provider is Miami Dade College. The two out-of-state providers are I/O Solutions, Inc. and Morris and McDaniel, Inc. Florida Department of Law Enforcement, Agency Analysis of 2016 HB 777, p. 2 (December 2, 2015)(hereinafter cited as "FDLE Analysis") and *Basic Abilities Test Background Information and Proposed Initiative*, FDLE at p. 3 (hereinafter cited as "BAT Background").

<sup>10</sup> *Id.*

<sup>11</sup> BAT Background, p. 3.

<sup>12</sup> FDLE Analysis, p. 2.

<sup>13</sup> FDLE Analysis, p.2 and BAT Background p. 4-5. The fee ranges from \$18-75 dollars.

<sup>14</sup> FDLE Analysis, p. 2.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

Section 3. Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

FDLE reports that the bill will have a projected positive fiscal impact to the Criminal Justice Standards and Training Trust Fund in the amount of \$400,000 dollars annually after accounting for Miami Dade College's costs for administration of the BAT.<sup>17</sup>

#### 2. Expenditures:

FDLE reports that the bill will result in a fiscal impact for the IT development of the BAT, but that any fiscal impact will be absorbed by current resources.<sup>18</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

#### 2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The two out-of-state vendors will no longer be eligible to obtain funds from the administration of the BAT.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill requires FDLE to create new rules for the administration of the BAT and provides the necessary authority to create such rules.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>17</sup> FDLE Analysis, p. 3.

<sup>18</sup> FDLE Analysis, p. 4.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 3, 2016, the Criminal justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies when the new examination fees take effect and aligns the bill to the Senate language.

This bill analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee