

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill amends Section 1-20-24 of the Election Code – “Unlawful Possession of a Firearm at a Polling Place” – to include two additional exceptions to the crime of unlawful possession:

(3) a commissioned law enforcement officer with the power to arrest in performance of the officer’s official duties;

(4) a commissioned law enforcement officer with the power to arrest acting in accordance with the policies of the officer’s law enforcement agency.

Currently, the statute has four exceptions; a certified law enforcement officer in performance of the officer’s official duties; a law enforcement officer who is certified pursuant to the Law Enforcement Training Act acting in accordance with the policies of the officer’s law enforcement agency; a person in a private automobile or other private means of conveyance; and a person carrying a concealed firearm who has a valid concealed handgun license.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None noted.

SIGNIFICANT ISSUES

The bill adds commissioned officers to the list of exceptions, which already includes certified law enforcement officers. The definitions section of the Law Enforcement Training Act provides:

“police officer” means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this state. The term specifically includes deputy sheriffs. Sheriffs are eligible to attend the academy and are eligible to receive certification as provided in the Law Enforcement Training Act. As used in this subsection, "commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the law enforcement agency's jurisdiction;

NMSA 1978, § 29-7-7(J).

Similarly, NMSA 1978, § 41-4-3(D) (2009), defines “law enforcement officer,” for purposes of the New Mexico Tort Claims Act, as a full-time salaried public employee of a governmental entity, or a certified part-time salaried police officer employed by a governmental entity, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes.

Section 29-1-1 sets out the general duties of all “peace officers” to investigate and pursue violations of the criminal law.

Adding commissioned law enforcement officers, as well as certified law enforcement officers, appears to comply with the purpose of the exceptions to allow law enforcement to be present at polling places with their firearms when acting in performance of their official duties.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS