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FISCAL IMPACT REPORT

ORIGINAL DATE 2/12/15
SPONSOR Pacheco **LAST UPDATED** _____ **HB** 254

SHORT TITLE Hazardous Officer Compelled Statement Release **SB** _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | NFI | NFI | NFI | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Attorney General’s Office (AGO)
- State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

House Bill 254 amends the Hazardous Duty Officers’ Employer-Employee Relations Act (Act) so that a compelled statement of an officer will not be released except upon court order. Under the Act, “officer” means “an individual who is employed full-time by the state or a political subdivision of the state as a firefighter, emergency medical technician or paramedic.” And a “compelled statement” is a statement provided by an officer to the officer’s employer under threat of dismissal from employment or any other employment sanction.

HB 254 would require the officer to be advised at the beginning of their interview of “...all legal rights that the officer has with respect to the investigative interview.” Additionally, it would substitute the term “investigative interview” where “interrogation” is currently used.

FISCAL IMPLICATIONS

There is no fiscal impact associated with this legislation.

SIGNIFICANT ISSUES

The AOC states:

There is no guidance in HB 254 as to when a court may, or be required to, order the release of a hazardous duty officer's compelled statement.

TECHNICAL ISSUES

The AODA writes:

If criminal charges are possible of an officer, whether from an administrative investigation or otherwise, great care will have to be taken to insure that information gained in the compelled statement is kept separately from the criminal investigation. There would be a complete prohibition on the government using that information in any way in subsequent criminal prosecutions.

OTHER SUBSTANTIVE ISSUES

The AGO states that there may already be protections for compelled statements; the Inspection of Public Records Act (IPRA) provides an exception for "letters or memoranda that are matters of opinion in personnel files." This exception applies to certain records pertaining to the employer/employee relationship, such as internal evaluations, disciplinary reports or documentation, promotion, demotion or termination information, and performance evaluation.

HB 254 only protects compelled statements by hazardous duty officers as defined by the Act.

CJ/aml/bb/aml