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Indicates New Matter

COMMITTEE REPORT

April 22, 2015

**S. 47**

Introduced by Senators Malloy, Kimpson, Johnson, Pinckney, Thurmond, Setzler, Grooms, Lourie, McElveen, Allen, Shealy, Coleman, Campsen and Scott

S. Printed 4/22/15--S.

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 47) to amend the Code of Laws of South Carolina, 1976, by adding Section 23‑1‑240, so as to provide that all state and local law enforcement officers, 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 all after the enacting words and inserting:

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

“Section 23‑1‑240. (A) For purposes of this section:

(1) ‘body‑worn camera’ means an electronic device worn on a person’s body that records both audio and video data; and

(2) ‘private place’ means a place where a person may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group of the public has access.

(B) State and local law enforcement agencies shall implement the use of body-worn cameras pursuant to guidelines established by the Law Enforcement Training Council.

(C) The Law Enforcement Training Council shall develop guidelines for the use of body-worn cameras by State and local law enforcement agencies within one hundred and eighty days of the effective date of this act. The guidelines must include, but are not limited to, specifying which law enforcement officers must wear body-worn cameras, when body-worn cameras must be worn and activated, restrictions on the use of body-worn cameras, the retention and release of data recorded by body-worn cameras, and access to the data recorded by body-worn cameras by solicitors’ offices. The Law Enforcement Training Council shall provide the guidelines to State and local law enforcement agencies.

(D) State and local law enforcement agencies shall develop policies and procedures for the use of body-worn cameras pursuant to the guidelines established by the Law Enforcement Training Council. The agencies shall submit the policies and procedures to the Law Enforcement Training Council within two hundred and seventy days of the effective date of this act. The Law Enforcement Training Council shall review and approve or disapprove of the policies and procedures. If the Law Enforcement Training Council disapproves of the policies and procedures, the law enforcement agency shall modify and resubmit the policies and procedures.

(E)(1) A ‘Body-Worn Cameras Fund’ is established within the Department of Public Safety for the purpose of assisting State and local law enforcement agencies, the Attorney General’s office, solicitors’ offices, and public defenders’ offices in implementing the provisions of this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. The Public Safety Coordinating Council shall oversee the fund, and shall, within one hundred and eighty days of the effective date of this act, establish a process for the application for and disbursement of monies to State and local law enforcement agencies, the Attorney General’s office, solicitors’ offices, and public defenders’ offices. The Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration priorities in funding.

(2) Upon approval of a State or local law enforcement agency’s policies and procedures by the Law Enforcement Training Council, the agency may apply to the Public Safety Coordinating Council for funding to implement the agency’s use of body-worn cameras pursuant to this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. A State or local law enforcement agency is not required to implement the use of body-worn cameras pursuant to this section until the agency has received full funding.

(F) Nothing in this section prohibits a State or local law enforcement agency’s use of body-worn cameras pursuant to the agency’s existing policies and procedures and funding while the agency is awaiting receipt of the Law Enforcement Training Council’s guidelines, approval of the agency’s policies and procedures by the Law Enforcement Training Council, and funding from the Public Safety Coordinating Council. Such an agency is eligible to apply to the Public Safety Coordinating Council for reimbursement, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to maintenance and storage of data recorded by body-worn cameras.

(G)(1) Data recorded by a body-worn camera in a public place is subject to the Freedom of Information Act.

(2)(a) Except as provided in item (b), data recorded by a body-worn camera in a private place is exempt from disclosure under the Freedom of Information Act.

(b) The following persons may, under the Freedom of Information Act, request data recorded by a body-worn camera in a private place, if the recording is relevant to the criminal prosecution of the person or a civil action brought by the person:

(i) a person who is the subject of the recording;

(ii) a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;

(iii) a parent or legal guardian of a minor or incapacitated person described in item (i) or (ii); and

(iv) an attorney for a person described in item (i) or (ii).

(c) Data recorded by a body-worn camera that is retained by a law enforcement agency in connection with an ongoing criminal investigation or internal investigation is not a public record and is exempt from disclosure under the Freedom of Information Act.”

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

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

Senate Bill 47 is expected to significantly impact state expenditures. The agencies surveyed indicate this bill would increase expenditures in FY 2015-16 by $7,143,122 for one-time and recurring costs associated with implementation of the bill. Recurring expenditures are expected to increase by $4,055,668 in subsequent years. Local expenditures are expected to increase by $14,400,000 in FY 2015-16 and by $8,200,000 in FY 2016-17.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill requires that all state and local law enforcement officers be equipped with body-worn cameras, contains provisions for the operation of such cameras, and establishes notification and data retention and release requirements.

**South Carolina Department of Public Safety.**

The department reports that the cost of cameras, license fees, and data storage is estimated at $2,220,650 in the first year and $1,476,400 for each year thereafter. The agency currently has 1,150 law enforcement officers.

**State Law Enforcement Division.**

The agency reports thatthe cost associated with the equipment, training, maintenance, storage, data retrieval, and anticipated increased FOIA requests total approximately $1,055,405 on a recurring basis and $651,120 on a non-recurring basis. These costs include cameras worn at eye-level, as the agency believes this would be the most accurate record of what the officer sees. These estimates also include additional storage space, increased internet bandwidth, and surveillance feed maintenance. The amount of cameras for the agency includes a small inventory for replacement and training purposes. The agency anticipates an Information Technology position would be necessary to administer the storage, maintenance, and retrieval of these electronic files. There would also need to be a Program Manager of the electronic surveillance system within the Command Post that house live video and audio feeds. Additionally, the agency anticipates an increase in FOIA requests, which would require an additional full time Administrative Specialist position to disseminate data within the 15 day turnaround time.

**Criminal Justice Academy.**

The agency reports that the cost of cameras, license fees, and data storage is estimated at $125,000 for the first year of implementation.

**State Senate.**

The Senate reports that S. 0047, as introduced, would have an expenditure impact of $10,800. The agency would need to equip 14 law enforcement officers with cameras that would cost approximately $700 and would need an additional $1,000 for computer software to manage the associated video records.

**State House of Representatives.**

The House of Representatives reports that S. 0047, as introduced, would have an expenditure impact of $8,700. The agency would need to equip 11 law enforcement officers with cameras that would cost approximately $700 and would need an additional $1,000 for computer software to manage the associated video records.

**Department of Mental Health.**

The agency reports that the cost of cameras, license fees, and data storage is estimated at $114,000 in the first year for its 114 law enforcement positions.

**Department of Juvenile Justice.**

The agency reports that the cost of cameras, license fees, and data storage for 18 officers with 2 spares is estimated at $18,000 in the first year. The agency also reports that the initial purchase of the cameras would constitute a one-time cost and be funded by other funds. The recurring expenditures include video storage, maintenance, and camera expenses.

**Department of Probation, Parole and Pardon Services.**

The department indicates there will be a cost to the general fund of $967,000 for the first year of implementation. This cost includes $642,000 of recurring funds and $325,000 of non-recurring funds. The recurring expenditures include video storage, maintenance, and camera expenses.

**Department of Health and Environmental Control.**

The department reports that the cost of equipment, operating costs, and 1.00 FTE position to manage the data storage system would be $818,415 in the first year and $418,415 each year thereafter.

**Forestry Commission.**

The commission reports that the cost of cameras, license fees, and data storage is estimated at $40,000 in the first year and $20,000 for each year thereafter.

**Department of Natural Resources.**

The department reports that the cost of cameras, license fees, data storage, software, and 1.00 FTE position to manage and maintain the system would be $448,000 in the first year and $98,000 each year thereafter.

**Department of Parks, Recreation and Tourism.**

The department reports that if their 72 constables are “law enforcement officers,” the estimated cost of cameras, software, and data storage is $139,032 in the first year and $92,448 each year thereafter.

**South Carolina Commission on Higher Education.**

The commission reports that 456 cameras would be required across 25 institutions which would incur a startup cost of $10,000 for each institution. The total initial cost would be $527,000, and the cost for maintenance and licensing support in years thereafter is estimated at $253,000 annually.

**The Governor’s School for Arts and Humanities and the Governor’s School for Science and Math.**

The schools indicate the expenditure impact to purchase cameras would be minimal and can be absorbed by their current appropriations.

**Department of Social Services.**

The agency indicates there is minimal expenditure impact and can be absorbed through existing appropriations.

**Department of Alcohol and Other Drug Abuse Services.**

The agency indicates this bill will have no expenditure impact on the general fund, federal funds, or other funds.

The Governor’s Office of Executive Policy and Programs, Department of Education, John de la Howe School, and Wil Lou Gray Opportunity School indicate there is no expenditure impact to the general fund, federal funds, or other funds.

**Local Expenditure**

The Revenue and Fiscal Affairs Office contacted the Municipal Association of South Carolina, the South Carolina Association of Counties, and twenty-five county governments regarding the impact of this bill.

The Municipal Association of South Carolina responded with an estimate from 103 municipalities. This sample represents about fifty percent of the total incorporated population. Based on the information provided by the Municipal Association and prorating for a statewide incorporated population figure, we estimate the first year expense for municipal governments to be approximately $5,400,000 and a recurring expense of $3,400,000.

The South Carolina Association of Counties assisted in gathering data from six county governments. These six counties include Calhoun, Charleston, Georgetown, Lexington, Richland, and Spartanburg and represent approximately forty-five percent of the county population minus the incorporated population. Based on the responses received from these counties and prorating for a statewide county population figure, we estimate the first year expense for county governments to be approximately $9,000,000 and a recurring expense of $4,800,000.

Therefore, we estimate this bill will have a statewide local expenditure impact of $14,400,000 in FY 2015-16 and $8,200,000 in FY 2016-17 and each year thereafter. County and municipal estimates may vary as the camera and video storage costs range from a few hundred dollars up to several thousand dollars. Since the bill does not specify the type of camera that must be purchased, county and municipal governments will be responsible for choosing equipment that meets the needs of their entities.

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 23‑1‑240, SO AS TO PROVIDE THAT ALL STATE AND LOCAL LAW ENFORCEMENT OFFICERS MUST BE EQUIPPED WITH BODY‑WORN CAMERAS.

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

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

“Section 23‑1‑240. (A) For purposes of this section, ‘body‑worn camera’ means an electronic device worn on a person’s body that records both audio and video data.

(B) All State and local law enforcement officers must be equipped with body‑worn cameras.

(C) A law enforcement officer shall activate a body‑worn camera to record all contacts, from beginning to end, with persons in the performance of the law enforcement officer’s official duties.

(D) The law enforcement officer shall inform the person that the law enforcement officer is using a body‑worn camera to record the contact between the law enforcement officer and the person.

(E) The retention and release of audio and video data recorded by a body‑worn camera is subject to South Carolina’s laws governing the retention and release of evidence by law enforcement agencies.”

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

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