

REMUNERATION FOR LAW ENFORCEMENT TRAINING ACADEMY COSTS

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Senate Bill 32 (S-2) as passed by the Senate

Sponsor: Sen. Sylvia Santana

House Committee: Judiciary

Senate Committee: Civil Rights, Judiciary, and Public Safety

Complete to 4-18-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 32 would allow a law enforcement agency to enter into an agreement with an employee that allows the agency to collect reimbursement from the employee for all or part of the cost of the employee's law enforcement training academy, based on the length of service, if the employee voluntarily leaves employment with the agency within four years after their training ended. The bill also would expressly allow any employer to collect remuneration or consideration from an employee under an optional education repayment agreement under certain conditions.

The bill would amend 1978 PA 390, which regulates the payment of wages and fringe benefits to employees and prescribes rights and responsibilities of employers and employees. Generally speaking, the act prohibits employers and their agents or representatives from requiring or receiving from an employee—whether directly or indirectly—a fee, gift, tip, gratuity, or other remuneration or consideration as a condition of employment or continuation of employment.

Under the bill, a *law enforcement agency* could collect remuneration or consideration from an employee under a signed agreement entered into on or after the bill's effective date for the cost of the employee's *law enforcement training academy* if the employee voluntarily leaves employment, as follows:

- 100% of the cost of the law enforcement training, up to and not exceeding the employee's salary for the first year of employment, if the employee leaves employment *not more than one year* after the date the employee's law enforcement training academy ended.
- 75% of the cost of the law enforcement training, up to and not exceeding the employee's salary for the first year of employment, if the employee leaves employment *more than one year but less than two years* after the date the employee's law enforcement training academy ended.
- 50% of the cost of the law enforcement training, up to and not exceeding the employee's salary for the first year of employment, if the employee leaves employment *two years or more but less than three years* after the date the employee's law enforcement training academy ended.
- 25% of the cost of the law enforcement training, up to and not exceeding the employee's salary for the first year of employment, if the employee leaves employment *three years or more but less than four years* after the date the employee's law enforcement training academy ended.

An agreement would have to contain the following terms:

- That the cost of a law enforcement training academy required for the employee to obtain a license under the Michigan Commission on Law Enforcement Standards (MCOLES) Act will be paid by the employer.
- The conditions under which the payment will be provided and under which repayment to the employer by the employee or another person may be required.
- That remuneration or consideration from the employee will be waived by the employer if the employee is not required to be licensed as a law enforcement employee under the MCOLES Act within any of the following:
 - One year after leaving employment with the employer if the employee voluntarily left employment with the agency not more than one year after the date the employee's law enforcement training academy ended.
 - Two years after leaving employment if the employee voluntarily left employment not less than one year and not more than three years after the date the employee's law enforcement training academy ended.

Law enforcement training academy would mean any of the following:¹

- An agency basic law enforcement training academy (a law enforcement agency that is approved by MCOLES to provide a course of study for qualified recruits employed by that law enforcement agency).
- A preservice college basic law enforcement training academy (an MCOLES-approved training and education program offered by an accredited community college, college, or university that incorporates the MCOLES-mandated curriculum in the academic course of study).
- A regional basic law enforcement training academy (a city, county, township, village, corporation, community college, college, university, or state agency that is approved by MCOLES to offer a basic law enforcement training program to preservice and employed recruits).

Law enforcement agency would mean an entity that is established and maintained in accordance with Michigan law and is authorized by Michigan law to appoint or employ law enforcement officers as defined in the MCOLES Act.

In addition, the bill would allow an employer to collect remuneration or consideration under an optional education repayment agreement in which the employer offers to fund an employee's education with the understanding that the employee will repay the costs incurred unless the employee remains with the employer for a specific period.² [Note: Unlike the exemption related to law enforcement agencies, which is triggered if an employee *voluntarily*

¹ The definitions of ***law enforcement training academy*** and ***law enforcement agency*** are those found in the MCOLES Act. The descriptions of the different training academies are from R 28.14301 of the Michigan Administrative Code, promulgated by MCOLES under authority of that act. For a list of specific training academies and programs, see <https://www.michigan.gov/mcoles/standard-training/law-enforcement-training-academies-and-programs>

² This provision would appear to codify a portion of a Michigan Supreme Court opinion in which the court noted that an employer-sponsored program to fund an employee's education "with the understanding that the employees will repay, unless they remain with the employer for a specific period" does not violate the prohibition in subsection 8(1) of 1978 PA 390, the wage and fringe benefits act. See *Sands Appliance Services v Wilson*, 463 Mich 231, 248 (2000). https://scholar.google.com/scholar_case?case=13190577159852212125

leaves employment during a specified period, this exemption (which would apply to all employers, not just law enforcement agencies) does not specifically restrict the application of the exemption only to situations where an employee *voluntarily* leaves employment.]

MCL 408.478

BACKGROUND:

Senate Bill 32 is similar to House Bill 4176 of the current legislative session, as introduced, and to the House-passed version of House Bill 5130 of the 2021-22 legislative session.

FISCAL IMPACT:

Senate Bill 32 would provide an additional revenue source for law enforcement agencies, by allowing the agencies to receive remuneration from employees voluntarily leaving prior to completing four years of service, compensating the agencies for a tiered portion of the cost of the employee's participation in a law enforcement training academy. This revenue would only be realized in the event that an employee separates from a law enforcement agency during the time parameters established under the bill, and if the employee has a signed agreement with the law enforcement agency.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.