

LC 746 STAFF MEASURE SUMMARY

**Joint Interim Committee on Transparent Policing and Use of Force Reform
Second Special Session of 2020**

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WHAT THE MEASURE DOES:

Changes standard for arbitrator decisions on officer misconduct. Establishes Commission on Statewide Law Enforcement Standards of Conduct and Discipline (Commission). Requires all disciplinary actions of law enforcement officers in matters alleging misconduct and any subsequent arbitration proceedings to follow uniform standards developed by Commission. Specifies membership of Commission and subject for which uniform standards must be developed. Specifies Commission's standards take effect July 1, 2021. Removes discipline guides or matrixes as mandatory subjects of collective bargaining beginning July 1, 2021. Specifies that arbitrator may not make determination of misconduct that differs from agency determination of misconduct if evidence on the record would permit a reasonable person to conclude that the officer engaged in the alleged misconduct. Requires Employment Relation Board to appoint qualified, indifferent, and unbiased person to serve as arbitrator. Allows each of the parties to arbitration proceeding to object to Board's proposed arbitrator. Declares emergency; effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

BACKGROUND:

Many state and local government employees, including employees of states, counties, cities, and school districts, are subject to the Public Employee Collective Bargaining Act (PECBA). Law enforcement officers are covered under PECBA. A public employer and a collective bargaining unit may reach a written agreement on grievance procedures.

In the 2020 First Special Session, Senate Bill 1604 required an arbitrator who made a finding of misconduct consistent with the law enforcement agency's finding of misconduct to impose the same disciplinary action that was imposed by the agency, so long as the discipline was done pursuant to a discipline guide or matrix that was adopted by the agency as a result of collective bargaining.

LC 746 repeals the use of collectively bargained discipline guides or matrixes and requires development of statewide standards for law enforcement discipline. An 11-member Commission on Statewide Law Enforcement Standards of Conduct and Discipline is required to make standards on, at a minimum, use of force, sexual harassment, sexual assault, assault, conduct based on characteristics, professionalism, and use of drugs or alcohol while on duty. The Commission is required to adopt and publish its rules by July 1, 2021, which would then apply to law enforcement arbitration proceedings as collective bargaining agreements expire. Additionally, the concept requires an arbitrator to keep a finding of misconduct made by a law enforcement agency if evidence on the record would allow a reasonable person to conclude that the misconduct occurred. The concept also provides a process for selecting an impartial arbitrator. Declares emergency, effective on passage.