A BILL FOR AN ACT

Relating to data collection by law enforcement; amending ORS 181A.692; and repealing ORS 181A.450 and 433.009.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 181A.450 and 433.009 are repealed.

SECTION 2. ORS 181A.692 is amended to read:

181A.692. [(I) Not later than 90 days after July 22, 2011, the Superintendent of State Police, the sheriff of any county with land that is contiguous to the land of a tribal government, or the chief executive officer of any other local law enforcement unit whose political boundaries are contiguous to the land of a tribal government, may submit a written application requesting that the tribal government authorize nontribal police officers employed by the applicant to exercise all or a portion of the powers of a tribal police officer while on tribal land. The application shall be addressed to the tribal government and shall propose terms and conditions under which the nontribal police officers employed by the applicant would be eligible to exercise all or a portion of the powers of a tribal police officer while on tribal lands. The application:

(a) Must name each proposed nontribal police officer employed by the applicant;

(b) Must describe how the nontribal police officers employed by the applicant will comply with requirements established by the tribal government that are substantially similar to the requirements necessary for a tribal police officer to act as an authorized tribal police officer under ORS 181A.680 to 181A.692;

(c) Must describe how the political entity that employs the nontribal police officers will comply with requirements established by the tribal government that are substantially similar to the requirements necessary for a tribal government to employ authorized tribal police officers under ORS 181A.680 to 181A.692;

(d) May propose that the tribal government authorize nontribal police officers employed by the applicant to enforce state or tribal law while on tribal lands;

(e) May propose that the tribal government adopt provisions of state criminal law into the tribal code; and

(f) Must indicate that the nontribal police officers employed by the applicant will complete, before exercising all or a portion of the powers of a tribal police officer while on tribal land, any training and educational prerequisites specified by the tribal government, including instruction in the tribal

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
government’s history, culture, sovereign authority, tribal code and court procedures.]

[(2)] (1) When a citation for the commission of a tribal offense is issued by a nontribal police officer [employed by an applicant and] authorized by a tribal government to exercise all or a portion of the powers of a tribal police officer as to tribal members suspected of committing violations of tribal law while on tribal land, the citation must:

(a) Summon the person cited to appear in the tribal court of the tribal government on whose lands the offense was committed; and

(b) Be submitted to the prosecutor of the tribal government on whose lands the tribal offense was committed.

[(3)] (2)(a) A tribal government may adopt a provision of tribal law providing that, for purposes of the Tort Claims Act of the tribal government, a nontribal police officer [employed by an applicant and] authorized by a tribal government to exercise all or a portion of the powers of a tribal police officer while on tribal land is not an officer, employee or agent of the tribal government.

(b) Unless the law of the tribal government provides otherwise, a tribal government is not liable for authorizing a nontribal police officer [employed by an applicant] to exercise all or a portion of the powers of a tribal police officer while on tribal land or for the acts or omissions of a nontribal police officer authorized under this section.

[(4)] (3) Nothing in this section:

(a) Affects the authority of the tribal government to appoint any person as a tribal police officer for any purpose;

(b) Affects the existing status and sovereignty of the State of Oregon or the tribal government;

(c) Authorizes the State of Oregon or any of its political subdivisions to receive funds from, or in lieu of, a tribal government.

[(5)] (4) A tribal government that [authorizes] authorized a nontribal police officer [employed by an applicant] to exercise all or a portion of the powers of a tribal police officer while on tribal land may require the [applicant] employer of the officer to reimburse the tribal government for any costs incurred in carrying out the provisions of this section.

[(6)] (a) A tribal government that employs, or seeks to employ, authorized tribal police officers under ORS 181A.680 to 181A.692, no later than 90 days after receiving an application under subsection (1) of this section, or within such additional time as the tribal government determines is appropriate, shall accept, accept with modifications or reject an application filed under this section.

(b) Before acting on an application, a tribal government that employs, or seeks to employ, authorized tribal police officers shall engage in good faith consultation with the applicant concerning the terms and conditions of the proposed authorization of nontribal police officers.

[(7)] (a) If the tribal government rejects the application, or accepts the application with modifications that are rejected by the applicant:

[(A) The applicant and a tribal government that employs, or seeks to employ, authorized tribal police officers shall, from the date of rejection until June 1, 2012, collect individualized data on the frequency of instances known to the applicant or the tribal government in which nontribal police officers employed by the applicant encountered, but were forced to release without further action due to a lack of legal authority, persons suspected of committing violations of the law while on tribal lands.]

[(B) The applicant shall promptly report any such instance to the tribal government and the tribal government shall promptly report any such instance to the applicant.]
(C) The applicant and tribal government shall classify the suspected offenses according to their potential to endanger public safety; and

(D) The tribal government and applicant shall engage in good faith consultation concerning the collection and classification of data; and

(b) No later than September 1, 2013, the tribal government shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on the data collected under paragraph (a) of this subsection. The tribal government and the applicant shall engage in good faith consultation concerning the contents of the report.