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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 333  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Sweeney and K. Miller

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### SUMMARY

- Prohibits a law enforcement official or agency from establishing a plan that uses a quota (a mandate of a finite number of arrests made or citations issued that an officer must meet in a specified time period) in any of the following ways:
  - As the basis for evaluating, promoting, compensating, transferring, or disciplining an officer;
  - Requiring or suggesting that an officer must (or is expected to) meet a quota; and
  - Offering a benefit to an officer based on the officer's quota.
- Requires the Attorney General to establish a form for a police officer to use to anonymously report the use of quotas in violation of the above prohibitions, to investigate alleged violations, and to issue a cease and desist order if a violation is found.

### DETAILED ANALYSIS

#### Prohibitions against using quotas

The bill prohibits a law enforcement official or agency<sup>1</sup> (“agency”) from requiring its officers<sup>2</sup> to meet an arrest or citation quota (see **COMMENT**). Under the bill, a “quota” is a

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<sup>1</sup> A “law enforcement official or agency” means a county sheriff, village marshal, the organized police department of a municipal corporation, the organized police department of a township, a board of township trustees that appoints a township constable, the board of a township police district or of a joint police district, or the Ohio State Highway Patrol. R.C. 109.70(A)(1).

<sup>2</sup> A local or state police officer means an officer who is under the jurisdiction of a law enforcement official or agency. R.C. 109.70(A)(2).

mandate of a finite number of arrests made or citations issued for any offense that an officer must meet in a specified time period.

Specifically, the bill prohibits an agency from doing any of the following:

- Establishing or maintaining, formally or informally, a plan that utilizes a quota as the basis for evaluating, promoting, compensating, transferring, or disciplining an officer;
- Requiring or suggesting to an officer that the officer must or is expected to meet a quota; and
- Offering a financial reward or other benefit to an officer that is determined by or based on meeting a quota.<sup>3</sup>

For instance, an agency may not require, formally or informally, its officers to make ten arrests a month and issue 40 citations. However, the bill does allow an agency to continue to do both of the following:

- Collect, analyze, and apply any information concerning the number of arrests made and citations issued in order to ensure that a particular officer does not violate the officer's applicable legal obligation; and
- Assess the proportion of the arrests made, and citations issued, by an officer.<sup>4</sup>

### **Attorney General anonymous reports**

The bill requires the Attorney General to establish an anonymous form on its website that any officer may access to anonymously report the use of quotas in violation of the bill. Once an anonymous report is received, the Attorney General must investigate the alleged use of quotas. The investigation must be conducted within one year after receiving the report. The Attorney General must determine the procedure for the investigation conducted on a case-by-case basis and provide the agency that is the subject of the investigation with an opportunity to be heard.

If the Attorney General finds that the agency used quotas in violation of the bill, the Attorney General must order the official or agency to cease and desist quota usage.<sup>5</sup>

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## **COMMENT**

The bill regulates the operation of local law enforcement agencies, including municipal agencies. A municipal corporation may operate its law enforcement agency under its constitutional home rule authority. That authority is granted by Article XVIII, Section 3 of the Ohio Constitution, which provides that a municipal corporation may:

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<sup>3</sup> R.C. 109.70(B).

<sup>4</sup> R.C. 109.70(C).

<sup>5</sup> R.C. 109.70(D).

1. Exercise all powers of local self-government (including the administration of internal affairs and revenue); and
2. Adopt and enforce local police, sanitary, and other similar regulations that do not conflict with general laws.

If a court finds that the bill interferes with (1) above, the bill would be unenforceable as applied to a municipal corporation.<sup>6</sup> If the use of quotas is considered an exercise of local police power, it would be for a court to determine whether the bill establishes a general law (under (2) above) based on tests established by the Ohio Supreme Court.<sup>7</sup> If it is not a general law, then the bill's provisions would not supersede any conflicting municipal ordinance or requirement.

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## HISTORY

Action	Date
Introduced	11-16-23

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<sup>6</sup> See *Beachwood v. Bd. of Elections of Cuyahoga Cty.*, 167 Ohio St. 369, 371, 148 N.E.2d 921 (1958); *State ex rel. Canada v. Phillips*, 168 Ohio St. 191, 151 N.E.2d 722 (1958); *State ex rel. Evans v. Moore*, 69 Ohio St.2d 88, 89-90, 431 N.E.2d 311 (1982); *City of Dublin v. State*, 118 Ohio Misc.2d 18, 2002-Ohio-2431, 769 N.E.2d 436, citing *Cincinnati Bell Tel. Co. v. Cincinnati*, 81 Ohio St.3d 599, 693 N.E.2d 212 (1988). A court could also find that the bill is a matter of statewide concern; if so, the bill's provisions would supersede a conflicting municipal ordinance.

<sup>7</sup> *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963.