

INTRODUCED BY _____

AN ACT CREATING A LAW ENFORCEMENT AGENCY MEMBER KNOWN AS SPECIAL CONSTITUTIONAL OFFICER; AMENDING SECTIONS 7-32-201, 7-32-212 AND 7-32-234 MCA; ADDING NEW SECTIONS 7-32-240, 7-32-241, 7-32-242, 7-32-243, 7-32-244, 7-32-245, 7-32-246, and 46-6-209 TO MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Legislature declares that it is in the best interest of the People of the State of Montana to create a new law enforcement agency member known as auxiliary reserve officer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-201, MCA, is amended to read:

“7-32-201. Definitions.

As used in this part, the following definitions apply:

- (1) “Auxiliary officer” means an unsworn, part-time, volunteer member of a law enforcement agency who may perform but is not limited to the performance of such functions as civil defense, search and rescue, office duties, crowd and traffic control, and crime prevention activities.
- (2) “Council” means the Montana public safety officer standards and training council established in 2-15-2029.
- (3) “General law enforcement duties” means patrol operations performed for detection, prevention, and suppression of crime and the enforcement of criminal and traffic codes of this state and its local governments.
- (4) “Law enforcement agency” means a law enforcement service provided directly by a local government.
- (5) “Law enforcement officer” means a sworn, full-time, employed member of a law enforcement agency who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210.
- (6) “Reserve officer” means a sworn, part-time, volunteer member of a law enforcement agency who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210, only when authorized to perform these functions as a representative of the law enforcement agency.
- (7) “Special services officer” means an unsworn, part-time, volunteer member of a law enforcement agency who may perform functions, other than general law enforcement duties, that require specialized skills, training, and qualifications, who may be required to train with a firearm, and who may carry a firearm while on assigned duty as provided in 7-32-239.
- (8) “Auxiliary reserve officer” means a sworn, part-time member of a law enforcement agency who is not a peace officer as defined in 46-1-202, and who engages in the prevention, detection and investigation of violations of law, who may carry a firearm as provided in 7-32-241 and has arrest authority, as described in 46-6-209.”

Section 2. Section 7-32-212, MCA, is amended to read:

“7-32-212. Prohibition on reduction of full-time officers.

A local government may not reduce the authorized number of full-time law enforcement officers through the appointment or utilization of reserve officers or auxiliary reserve officers.”

Section 3. Section 7-32-234, MCA, is amended to read:

“7-32-234. Exceptions.

Provisions of 7-32-211, 7-32-213, and 7-32-214 do not apply to auxiliary officers, to special services officers, to auxiliary reserve officers, to sworn volunteer peace officers who are not assigned to general law enforcement duties, or to members of a posse organized to quell public disturbance or domestic violence in accordance with 7-32-212(6).”

Section 4. Following new Sections 7-32-240, 7-32-241, 7-32-242, 7-32-243, 7-32-244, 7-32-245, 7-32-246, and 46-6-209, are hereby added to MCA:

7-32-240. LEOSA Qualification.

It is the express intent of the Legislature that each of the following offices qualify as a “qualified law enforcement officer” a such term is used in the Law Enforcement Officers Safety Act of 2004: (1) law enforcement officer, (2) special services officer, and (3) auxiliary reserve officer.

7-32-241. Auxiliary reserve officers -- authorization -- role.

(1) Auxiliary reserve officers:

- (a) are subordinate to full-time law enforcement officers;
- (b) may carry a weapon while on assigned duty and while off duty upon successful completion of training described in 7-32-245;
- (c) have arrest authority described in 46-6-209.

(2) A local government may authorize auxiliary reserve officers only on the orders and at the direction of the chief law enforcement administrator of the local government.

7-32-242. Qualifications for appointment as auxiliary reserve officer.

To be appointed an auxiliary reserve officer, a person:

- (1) must be a citizen of the United States or legal resident of the United States in good standing;
- (2) must be at least 18 years of age;
- (3) must be fingerprinted, and a search must be made of local, state, and national fingerprint files to disclose any criminal record;
- (4) may not have been convicted of a crime for which the person could have been imprisoned in a federal penitentiary or state prison;
- (5) must be of good moral character as determined by a thorough background investigation through the National Instant Criminal Background Check System;
- (6) must have completed the training described in 7-32-244; and
- (7) must have paid the application fee, completed the appointment application, and signed the employment agreement, in each case as established by the chief law enforcement administrator.

7-32-243. Auxiliary reserve officer employment.

(1) A local government authorized by its chief law enforcement administrator to appoint auxiliary reserve officers shall appoint any person that satisfies the qualifications for

appointment as a special conditional officer set forth in 7-329-242.

(2) The application fee described in 7-329-242(1)(h) shall not exceed \$ _____ for applicants that are residents of the State of Montana, \$ _____ for applicants that are not residents of the State of Montana, or \$ _____ for any applicant with prior military service.

(3) At the time of appointment, an auxiliary reserve officer shall take a formal oath of office.

(4) The appointment of auxiliary reserve officer shall be a salaried position with an annual salary equal to \$1.00 per year.

(5) Any action taken by any auxiliary reserve officer that is not taken under the direct supervision, or at the express direction, of a law enforcement officer, shall be deemed action taken by the auxiliary reserve officer as a private citizen.

(6) An auxiliary reserve officer may only be terminated by the appointing agency in writing and for cause. Any of the following shall be deemed cause sufficient to termination an auxiliary reserve officer appointment: (a) the conviction of the auxiliary reserve officer of a crime for which a person may be imprisoned in a federal penitentiary or state prison, and (b) the incurrence by the auxiliary reserve officer of any civil or criminal liability involving a firearm, or other deadly weapon, assault, or battery.

(7) In the event of any natural disaster or state of emergency, the governor of the State of Montana or an issuing agency may declare a recall of all auxiliary reserve officers appointed by such agency. In the event of such declaration, any auxiliary reserve officers notified thereof in writing, shall make a good faith effort to report to such issuing agency in person as soon as practical; provided however, such auxiliary reserve officer shall have to provide for his/her own food, boarding and other provisions. It shall be the responsibility of all auxiliary reserve officers to maintain and verify that the issuing agency has current contact information on file should an emergency recall be declared.

7-32-244. Auxiliary reserve officer training. Prior to appointment, an auxiliary reserve officer shall have successfully completed ___ hours of training, which may be completed online and which shall include, without limitation, the following subject matters:

7-32-245. Auxiliary reserve officer firearm training. Prior to carrying a weapon while on duty or off duty, an auxiliary reserve officer shall have successfully completed the NRA Basic Pistol Shooting Course, or, if no such course is then available, an equivalent course then certified by the National Rifle Association (or other association approved by the appointing agency), or any other course approved by the appointing agency.

7-32-246. Auxiliary reserve officers -- exemptions.

The authorization and appointment of auxiliary reserve officers shall be exempt from:

- (1) any and all residency requirements;
- (2) any collective bargaining agreements and/or participation requirements;
- (3) any insurance participation or coverage requirements;
- (4) any and all minimum wage requirements;
- (5) any and all pension and retirement plan participation requirements;
- (6) any and all minimum time on duty;
- (7) all training, education, and certification standards outlined in 7-32-303; and
- (8) any and all qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029.

46-6-209. Arrest by auxiliary reserve officer.

An auxiliary reserve officer may arrest a person when:

- (1) the officer has an arrest warrant as defined in 46-1-202 commanding that the person be arrested;
- (2) the arrest is made within the jurisdiction of the local government that authorized and appointed the officer; and
- (3) the arrest is made under the direct supervision of a full-time law enforcement officer.

Section 4. Effective date. This act is effective on passage and approval.

- END -

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New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.