

ARKANSAS REGISTER



Proposed Rule Cover Sheet

Secretary of State

John Thurston

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department Department of Public Safety

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person Amanda Yarbrough

Contact E-mail amanda.yarbrough@arkansas.gov

Contact Phone (501) 682-4750

Name of Rule Law Enforcement Stipend Program

Newspaper Name Arkansas Democrat Gazette

Date of Publishing Proposed dates May 29, 2022 - May 31, 2022

Final Date for Public Comment June 27, 2022

Location and Time of Public Meeting To be determined

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Public Safety

DIVISION Division of Law Enforcement Standards and Training

DIVISION DIRECTOR Jami Cook

CONTACT PERSON Amanda Yarbrough

ADDRESS #4 State Police Plaza Drive, Little Rock, AR 72209

PHONE NO. (501) 682-4750

FAX NO. (501) 682-1582

E-MAIL amanda.yarbrough@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Jami Cook, Amanda Yarbrough

PRESENTER E-MAIL amanda.yarbrough@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- *****
1. What is the short title of this rule?

Law Enforcement Stipend Rules

2. What is the subject of the proposed rule?

Review process to determine whether an officer was properly denied payment of the stipend or required to return the stipend.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☒ No ☐

If yes, please provide the federal rule, regulation, and/or statute citation.

Act 224 of 2022

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☒ No ☐

If yes, what is the effective date of the emergency rule? 05/19/2022

When does the emergency rule expire? September 19, 2022 - See attached approval letter

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes ☒ No ☐

Revised June 2019

5. Is this a new rule? Yes ☒ No ☐ If yes, please provide a brief summary explaining the rule.

Review process to determine whether an officer was properly denied payment of the stipend or required to return the stipend.

Does this repeal an existing rule? Yes ☐ No ☒ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes ☐ No ☒ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Act 224 of 2022

7. What is the purpose of this proposed rule? Why is it necessary?

The Division is required by Act 224 to promulgate the proposed rules.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.dps.arkansas.gov/law-enforcement/clest/>

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐ If yes, please complete the following:

Date: _____

Time: _____

Place: Date, Time, Location to be determined after expiration of the public comment period

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

06/27/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

09/01/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

ARKANSAS LEGISLATIVE COUNCIL

Officers

Senator Terry Rice
Senate Co-Chair
Representative Jeff Wardlaw
House Co-Chair
Senator Missy Irvin
Senate Co-Vice Chair
Representative Jim Dotson
House Co-Vice Chair



Room 315, State Capitol Building
Little Rock, AR 72201

Marty Garrity
Executive Secretary

Tel: 501-682-1937
Fax: 501-682-1936

May 17, 2022

Ms. Jami Cook, Secretary
Arkansas Department of Public Safety
Division on Law Enforcement Standards & Training
4 State Police Plaza Drive
Little Rock, AR 72209

Dear Secretary Cook:

This letter is to notify you that, the Executive Subcommittee met on May 17, 2022, pursuant to ALC Rule 22(f)(3)(B), to review an emergency rule for the Department of Public Safety - Division on Law Enforcement Standards & Training. The following emergency rule was reviewed and approved:

- ***Arkansas Department of Public Safety - Division on Law Enforcement Standards and Training – for Law Enforcement Stipend Program.***

The review and approval shall be effective at 12:01 a.m. on Thursday, May 19, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty Garrity", is written over a horizontal line.

Marty Garrity
Executive Secretary

MG:sla

cc: *(via electronic mail)*

Ms. Amanda Yarbrough, Attorney, Department of Public Safety
Ms. Rebecca Miller-Rice, Administrator, BLR

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Public Safety

DIVISION Division of Law Enforcement Standards and Training

PERSON COMPLETING THIS STATEMENT Amanda Yarbrough

TELEPHONE NO. (501) 682-4750

FAX NO. (501) 682-1582

EMAIL: amanda.yarbrough@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Law Enforcement Stipend Rules

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐

See attached fiscal impact analysis by the Dept. of Finance and Administration

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?

Yes ☒ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

N/A

- b) The reason for adoption of the more costly rule;

N/A

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

N/A

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ \$ 0.00

Total _____ \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ \$ 0.00

Total _____ \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes ☒ No ☐

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Department of Finance and Administration

Amended Legislative Impact Statement

Bill: SB103

Amendment Number: S1

**Bill Subtitle: AN ACT FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION -
DISBURSING OFFICER APPROPRIATION FOR THE 2022-2023 FISCAL YEAR.**

Basic Change :

Sponsors: Sen. Hickey and Rep. Shepherd

SB103-S1 provides a one-time salary stipend to certain full-time law enforcement officers employed by an eligible state law enforcement agency or an eligible local law enforcement agency. An eligible state law enforcement agency includes the Department of Public Safety and the Department of Corrections. Eligible local law enforcement agencies include Arkansas county and municipal law enforcement agencies. Eligible full-time law enforcement officers employed as of July 1, 2022 and officers hired after July 1, 2022 but on or before January 31, 2023 who meet the eligibility requirements are entitled to the stipend.

Eligible law enforcement officers employed by a city or county and law enforcement officers employed by the Department of Corrections that supervise parolees and probationers will receive a one-time stipend of \$5,000. Other eligible law enforcement officers employed by the Department of Public Safety will receive a one-time stipend of \$2,000. These payments will be paid from funds generated by the state revenue surplus.

The Division of Law Enforcement Standards and Training (Division) will certify to the Department of Finance and Administration (DFA) the officers that are eligible for the stipend. DFA will distribute the stipend funds to the eligible state law enforcement agencies and eligible local law enforcement agencies in addition to the employer's matching share of Social Security and Medicare taxes. The eligible law enforcement agencies shall distribute the stipends to officers during payment of each eligible law enforcement agency's payroll.

An officer that receives the stipend must continue his or her employment as a full-time certified law enforcement officer with an eligible law enforcement agency for a minimum of 180 days after receipt of the stipend or be subject to repayment of the stipend unless an exception provided in the bill applies. An eligible law enforcement agency is also subject to repayment of stipend funds if the agency fails to properly pay a stipend to an officer or fails to return a stipend returned by an officer.

By June 30, 2023, an eligible law enforcement agency must submit a report to the Division certifying that each officer certified by the Division was paid the stipend. By October 1, 2023, the Division shall submit a report to the co-chairs of the Arkansas Legislative Council containing the data derived from the certifications submitted to the Division by the eligible law enforcement agencies. The Division is required to promulgate rules establishing a review process to determine if a person was properly denied payment of the stipend or properly required to return the stipend.

Revenue Impact :

FY2023 - \$40.46M

[Revenue Impact is based upon 7,300 eligible officers receiving a \$5,000 stipend and 542 eligible officers receiving a \$2,000 stipend. Revenue Impact also includes employer share of Social Security and Medicare matching for each stipend paid.]

Department of Finance and Administration

Amended Legislative Impact Statement

Bill: SB103

Amendment Number: S1

Bill Subtitle: AN ACT FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION -
DISBURSING OFFICER APPROPRIATION FOR THE 2022-2023 FISCAL YEAR.

Taxpayer Impact :

None.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

None.



State of Arkansas
Governor Asa Hutchinson



**DIVISION OF LAW ENFORCEMENT
STANDARDS AND TRAINING**

JAMI COOK
SECRETARY

ALETA-CAMDEN

P.O. Box 3106
East Camden, AR 71711
(870) 574-1810 FAX: (870) 574-2706

LAW ENFORCEMENT STANDARDS/ALETA-CENTRAL

4 State Police Plaza Drive
Little Rock, AR 72209
(501) 682-2260 FAX: (501) 682-1582

ALETA-NORTHWEST

3424 South Downum Road
Springdale, AR 72762
(479) 361-3410 FAX: (479) 361-3412

JAMI COOK
DIRECTOR

RULE SUMMARY

Pursuant to Act 224 of 2022, the Division of Law Enforcement Standards and Training is required to promulgate rules establishing a review process to determine:

1. Whether a person was properly denied payment of the salary stipend for failure to satisfy the requirements necessary to qualify as an eligible full-time law enforcement officer; and
2. Whether a person was properly required to return the salary stipend.

The proposed rules were approved as emergency rules by the Arkansas Legislative Council Executive Subcommittee on May 17, 2022. The rules are now being promulgated as permanent rules.

LAW ENFORCEMENT STIPEND PROGRAM

Pursuant to the authority granted to the Division of Law Enforcement Standards and Training in Act 224 of 2022, the following rules are being promulgated to provide additional clarity related to the law enforcement stipend payment available to full-time law enforcement officers in the State of Arkansas and to establish a review process for officers that are denied payment of the stipend or are required to repay the stipend payment after receiving it.

(A) DEFINITIONS

(1) "Eligible local law enforcement agency" includes the following:

(a) An Arkansas County;

(i) "Arkansas County" means a Sheriff's Office in the State of Arkansas, County Prosecutor's Office in the State of Arkansas, or other agency that, unless otherwise excluded by law or rule, is funded by or through a county in Arkansas.

(b) Drug Task Force;

(c) Municipal Police Department; and

(i) Municipal Police Department means a city, town, locality, or political subdivision in the State of Arkansas.

(d) Any other agency specifically included in Act 224 of 2022.

(2) "Eligible local law enforcement agency" does not include the following:

(a) City, town, county, state or other court;

(b) Constable;

(c) County, regional, or city jail or correctional or detention center; or

(d) Any other agency specifically excluded by Act 224 of 2022.

(B) REVIEW PROCESS FOR DENIAL OF PAYMENT OF THE STIPEND

(1) If an officer is denied payment of the stipend following the Division of Law Enforcement Standards and Training's ("Division") determination that the officer failed to satisfy the requirements necessary to qualify for the stipend, the officer may make a request for reconsideration to the Division.

(a) Requests for reconsideration for denial of payment must be submitted on a form provided by the Division.

- (b) Requests for reconsideration for denial of payment must be submitted in writing to the Division of Law Enforcement Standards and Training, #4 State Police Plaza Drive, Little Rock, Arkansas 72209, on or before May 1, 2023 in order to be considered.
- (c) If the Division receives a request for reconsideration for denial of payment, the Division will prepare all relevant documents and information related to the denial and submit it, with the officer's request, to the Secretary of the Department of Public Safety.
- (d) The Secretary will review the request for reconsideration and all documents provided by the Division and make a determination.
 - (i) Officers are not entitled to a hearing or to present oral testimony related to their request for reconsideration for denial of payment.
- (e) The Secretary, or their designee, will provide a final determination to the officer in writing.
- (f) Determinations by the Secretary are final.

(C) REVIEW PROCESS FOR REQUIREMENT TO REPAY THE STIPEND AFTER RECEIVING PAYMENT.

- (1) If an officer is notified by the law enforcement agency that issued the stipend payment, the Division, or the Department of Finance and Administration, that the officer is required to return the salary stipend after receiving it, the officer may make a request for reconsideration to the Division.
 - (a) Requests for reconsideration for repayment of the stipend must be submitted on a form provided by the Division.
 - (b) Requests for reconsideration for repayment of the stipend must be submitted in writing to the Division of Law Enforcement Standards and Training, #4 State Police Plaza Drive, Little Rock, Arkansas 72209, within ten (10) calendar days of receiving notice in order to be considered.
 - (c) If the Division receives a request for reconsideration for repayment of the stipend, the Division will prepare all relevant documents and information related to the repayment requirement and submit it, with the officer's request, to the Secretary of the Department of Public Safety.
 - (d) The Secretary will review the request for reconsideration and all documents provided by the Division and make a determination.
 - (i) Officers are not entitled to a hearing or to present oral testimony related to their request for reconsideration.

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(a) City, town, county, state or other court;

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(1) If an officer is denied payment of the stipend following the Division of Law Enforcement Standards and Training's ("Division") determination that the officer failed to satisfy the requirements necessary to qualify for the stipend, the officer may make a request for reconsideration to the Division.

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(1) If an officer is notified by the law enforcement agency that issued the stipend payment, the Division, or the Department of Finance and Administration, that the officer is required to return the salary stipend after receiving it, the officer may make a request for reconsideration to the Division.

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(c) If the Division receives a request for reconsideration for repayment of the stipend, the Division will prepare all relevant documents and information related to the repayment requirement and submit it, with the officer's request, to the Secretary of the Department of Public Safety.

(d) The Secretary will review the request for reconsideration and all documents provided by the Division and make a determination.

(i) Officers are not entitled to a hearing or to present oral testimony related to their request for reconsideration.

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