



House of Representatives

File No. 845

General Assembly

January Session, 2013

(Reprint of File No. 124)

House Bill No. 6373
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 23, 2013

AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (8) of section 7-294a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (8) "Law enforcement unit" means any agency, organ or department
5 of this state or a subdivision or municipality thereof, or, if created and
6 governed by a memorandum of agreement under section 2 of this act,
7 of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of
8 Connecticut, whose primary functions include the enforcement of
9 criminal or traffic laws, the preservation of public order, the protection
10 of life and property, or the prevention, detection or investigation of
11 crime.

12 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding the
13 requirements of section 3-6c of the general statutes, the Commissioner
14 of Emergency Services and Public Protection, upon the approval of the
15 Chief State's Attorney, shall have the authority to enter into separate

16 memoranda of agreement with the Mashantucket Pequot Tribe and the
17 Mohegan Tribe of Indians of Connecticut for the purpose of
18 establishing the authority of each tribe's police department and police
19 officers to exercise law enforcement powers pursuant to sections 7-
20 294a to 7-294e, inclusive, of the general statutes, as amended by this
21 act.

22 (b) Notwithstanding the requirements of section 3-6c of the general
23 statutes, the Commissioner of Emergency Services and Public
24 Protection and the Chief State's Attorney shall jointly have the
25 authority to revoke any memorandum of agreement with the
26 Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of
27 Connecticut entered into pursuant to subsection (a) of this section.

28 (c) Upon entering into any memorandum of agreement pursuant to
29 subsection (a) of this section, the Commissioner of Emergency Services
30 and Public Protection shall submit a copy of such agreement to the
31 speaker of the House of Representatives, the president pro tempore of
32 the Senate, the majority leader of the House of Representatives, the
33 majority leader of the Senate, the minority leader of the House of
34 Representatives and the minority leader of the Senate and to the joint
35 standing committees of the General Assembly having cognizance of
36 matters relating to public safety and government administration.

37 Sec. 3. Subdivision (9) of section 53a-3 of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective from*
39 *passage*):

40 (9) "Peace officer" means a member of the Division of State Police
41 within the Department of Emergency Services and Public Protection or
42 an organized local police department, a chief inspector or inspector in
43 the Division of Criminal Justice, a state marshal while exercising
44 authority granted under any provision of the general statutes, a
45 judicial marshal in the performance of the duties of a judicial marshal,
46 a conservation officer or special conservation officer, as defined in
47 section 26-5, a constable who performs criminal law enforcement

48 duties, a special policeman appointed under section 29-18, 29-18a or
 49 29-19, an adult probation officer, an official of the Department of
 50 Correction authorized by the Commissioner of Correction to make
 51 arrests in a correctional institution or facility, any investigator in the
 52 investigations unit of the office of the State Treasurer, [or] any special
 53 agent of the federal government authorized to enforce the provisions
 54 of Title 21 of the United States Code, or a member of a law
 55 enforcement unit of the Mashantucket Pequot Tribe or the Mohegan
 56 Tribe of Indians of Connecticut created and governed by a
 57 memorandum of agreement under section 2 of this act who is certified
 58 as a police officer by the Police Officer Standards and Training Council
 59 pursuant to sections 7-294a to 7-294e, inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-294a(8)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	53a-3(9)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill modifies statutory definitions and also allows the Commissioner of the Department of Emergency Services and Public Protection (DESPP) to enter into or revoke memoranda of agreement (MOA) with the Mashantucket Pequot Tribe and Mohegan Tribe of Indians of Connecticut regarding law enforcement powers. The bill also requires DESPP to submit a copy of executed MOAs to the legislature. There is no fiscal impact associated with allowing DESPP to enter into MOAs concerning law enforcement powers with the tribes. The fiscal impact of the MOA will be dependent upon the outcome of negotiations between DESPP and the two tribes.

House "A" added a requirement that DESPP provide a copy of MOAs to the legislature and has no fiscal impact.

Background

The Department of Emergency Services and Public Protection is currently responsible for certain law enforcement activities at the two tribal casinos. Over each of the last four fiscal years, DESPP has incurred more costs related to law enforcement at the casinos than it has been reimbursed for. Total costs incurred exceeded tribal reimbursement by \$1,215,607 in FY 11 and \$2,286,999 in FY 12.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6373 (as amended by House "A")******AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND.*****SUMMARY:**

This bill authorizes the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the chief state's attorney's approval, to enter into separate memoranda of agreement with the Mohegans and Mashantucket Pequots to establish the authority of each tribe's police department and police officers to exercise law enforcement powers, subject to training and certification by the Police Officer Standards and Training (POST) Council. The bill requires the DESPP commissioner to submit a copy of any such agreement to the House speaker and Senate president pro tempore, House and Senate majority and minority leaders, and the Government Administration and Elections and Public Safety and Security committees.

The bill gives the commissioner and chief state's attorney joint authority to revoke any such agreement. They can enter into and revoke an agreement notwithstanding an existing law that requires the legislature to execute and approve compacts between the tribes and state.

The bill broadens the definition of "law enforcement unit" to include any agency, organ, or department "created" and governed under each memorandum and whose primary functions are to enforce criminal and traffic laws, prevent and investigate crime, and protect life and property. The bill also broadens the definition of "peace officer" to include members (1) of the law enforcement unit created and governed by the memorandum and (2) certified by the POST

Council. By law, peace officers have certain powers regarding arrests and use of force, among others.

*House Amendment "A" adds the requirement for copies of agreements to be submitted to legislative leaders and committees.

EFFECTIVE DATE: Upon passage

LAW ENFORCEMENT UNIT

The bill expands the definition of law enforcement unit to include a unit "created" and governed under the separate agreements between the state and the tribes. The POST Council has the power (1) at the request and expense of any law enforcement unit, to conduct general specific management surveys; (2) to develop accreditation standards and accredit law enforcement units; and (3) inspect law enforcement units for compliance with council requirements. Because the bill applies to departments created under the memoranda and the tribal departments already exist, it is unclear what powers the council will have under the agreement.

BACKGROUND

Compact Approval

The law requires the legislature to approve any compact or compact amendment executed between Connecticut and another state or an Indian tribe before it can be implemented. Approval must be by a majority vote of each house within specified deadlines; either house can reject.

Police Officer Standards and Training Council

The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them.

Peace Officers

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals

exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, and federal narcotics agents.

Use of Physical Force. Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized, or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

Use of Deadly Physical Force. Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone whom they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

Duty to Retreat. The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

Resisting Arrest. The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

Arrest Powers. Peace officers, when in their town, can arrest, without a warrant, any person for an offense when the person is taken or apprehended in the act or on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their

town and they could legally arrest the person under their authority (CGS § 54-1f).

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable

Yea 23 Nay 0 (03/07/2013)

Government Administration and Elections Committee

Joint Favorable

Yea 7 Nay 3 (04/29/2013)