

CHAPTER 23

AN ACT concerning the use of surplus federal property transferred to local law enforcement agencies and supplementing chapter 5 of Title 40A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.40A:5-30.1 Findings, declarations relative to the “1033 program.”

1. The Legislature finds and declares that:

a. Federal law permits the Secretary of the United States Department of Defense to transfer to federal and State agencies personal property of the Department of Defense that the secretary determines is suitable for use by agencies in law enforcement activities, including counterdrug and counterterrorism activities and is excess to the needs of the Department of Defense.

b. Informally known as the “1033 program,” this initiative allows local law enforcement agencies to obtain, at little or no cost and without the approval of the governing body of the local unit, surplus federal property, including aircraft, armored vehicles, automatic weapons, and night vision equipment originally intended for use by the United States Armed Forces.

c. According to the New Jersey Department of Law and Public Safety, the Office of Emergency Management has assisted with the transfer of over \$30 million in excess Department of Defense property to participating law enforcement agencies since the beginning of federal fiscal year 2014.

d. In this era of fiscal constraint, participation in the 1033 program allows local units to obtain equipment that they might not otherwise be able to afford, and to prepare for, respond to, and recover from incidents of terrorism and natural disasters, such as hurricanes and severe floods.

e. Although equipment is provided through the 1033 program at no cost to county and municipal law enforcement agencies, these entities are responsible for costs associated with the maintenance, fueling, and upkeep of this equipment, and for specialized training for its operation.

f. Recent events in Ferguson, Missouri, regarding the use of military equipment to respond to civil protest, have brought increased public scrutiny to the 1033 program and questions regarding those situations in which equipment obtained through the 1033 program is utilized.

g. Taxpayers are the primary consumers and financiers of services provided by county and municipal law enforcement agencies and have the right to be assured that their money is spent in an efficient and effective manner and the right to know the purposes for which public funds are utilized.

h. It is not the Legislature’s intent to deny county and municipal law enforcement agencies access to equipment vital to public safety and counterterrorism efforts, but elected civilian officials, such as mayors, municipal council members, county executives, and county freeholders, are ultimately responsible for the supervision, policies, and budgetary decisions governing these entities.

i. Civilian officials are also responsible for the acquisition of equipment necessary for local law enforcement agencies to carry out their responsibilities, yet current law does not require that they formally approve such acquisitions through the 1033 program.

j. It is therefore appropriate to establish a system of local oversight for county and municipal law enforcement agencies that participate in and acquire equipment through the 1033 program and guidelines for the use of this equipment by those entities.

C.40A:5-30.2 Approval of application for enrollment in program.

2. a. An application for the enrollment of a county or municipal law enforcement agency in any program established by the United States Department of Defense pursuant to 10 U.S.C. s.2576a shall be approved by a resolution adopted by a majority of the full membership of the governing body of a local unit prior to the transmittal of any such application to the State Coordinator of any such program.

b. The acquisition of any property by a county or municipal law enforcement agency enrolled in any program established by the United States Department of Defense pursuant to 10 U.S.C. s.2576a shall be approved by a resolution adopted by a majority of the full membership of the governing body of a local unit.

c. As used in this section, “county or municipal law enforcement agency” means and includes, but is not limited to, a county or municipal police department or force, a county corrections department, and a county sheriff’s office.

3. This act shall take effect immediately.

Approved March 16, 2015.