Sponsored by:
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SYNOPSIS
Requires local unit approval of applications for participation in federal 1033 program.

CURRENT VERSION OF TEXT
As introduced.
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:

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 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 rights to be assured that their money is being spent in an efficient and effective manner 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.

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 by 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.

STATEMENT

The federal 1033 program permits the Secretary of Defense to
transfer to State and local agencies personal property of the United
States 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. The authority granted to the
secretary has been delegated to the Defense Logistics Agency
(DLA), which determines whether property is suitable for use by
agencies in local law enforcement activities.

The Office of Emergency Management in the New Jersey State
Police serves as State Coordinator for local (county and municipal)
law enforcement agencies that participate, or seek to enroll, in the
1033 program. As the program currently operates, local law
enforcement agencies must request enrollment through the State Coordinator and the DLA Law Enforcement Support Office. If enrollment is approved, the law enforcement agency must sign a memorandum of agreement with the State Coordinator agreeing to the terms and conditions of the 1033 program. The acquisition of property through the 1033 program or the transfer between law enforcement agencies of property obtained through the 1033 program must also be approved by State and federal authorities. The program procedures do not require local law enforcement officials to obtain the approval of the governing body of a local unit before submitting an application to enroll in, or acquire property, through the 1033 program.

This bill requires an application for the enrollment of a county or municipal law enforcement agency in the 1033 program to be approved by a resolution adopted by a majority of the full membership of the governing body prior to the submission of an application to the State Coordinator. This legislation also requires the actual acquisition of property through the 1033 program to be approved by a resolution adopted by the full membership of the governing body.

The sponsor believes that local elected officials should be required to approve the participation of county and municipal law enforcement agencies in a program through which property, originally intended for use by the United States military, may be obtained and to approve the acquisition of such property. Increased local oversight of the 1033 program will help ensure that local law enforcement agencies obtain equipment necessary and appropriate for the execution of their responsibilities, and that it is used responsibly.