

FINGERPRINTING FEES

Senate Bill 928 (Substitute H-3) First Analysis (5-29-02)

Sponsor: Sen. Philip E. Hoffman
House Committee: Appropriations
Senate Committee: Appropriations

THE APPARENT PROBLEM:

Article V, Section 20 of the state constitution permits the governor, with the consent of the appropriations committees of the House and Senate, to reduce expenditures authorized by appropriations when it appears that actual revenues will fall below estimated revenues for a particular fiscal period. Pursuant to this provision of the constitution, on November 6, 2001, Governor Engler signed Executive Order 2001-9. Among other budgetary changes, the \$540 million executive order reduced the Department of State Police Budget for the 2001-2002 fiscal year by a total of \$7.55 million. The reductions include \$2.8 million for the Criminal Justice Information Center Division, \$250,000 for criminal investigations, and \$4.5 million for secondary road patrol and traffic accident basic grants. To offset the budget reductions, the executive order increased several related fees. Among others, the executive order increased from \$15 to \$30 the fee assessed by the Department of State Police for taking and processing fingerprints and conducting criminal records checks for employment and licensure-related purposes. However, this increase is only for the 2001-2002 fiscal year. Legislation has been introduced that would set the fee at \$30 beyond the 2001-2002 fiscal year.

THE CONTENT OF THE BILL:

Pursuant to Public Act 120 of 1935, the Department of State Police may charge a fee, not exceeding \$15, for taking and processing fingerprints and completing criminal record checks when the checks are required for employment or licensing-related reasons. The bill would increase the maximum amount that the fee could be assessed to \$30, only until October 1, 2004. The bill would prohibit a fee from being collected if a fee for taking and processing fingerprints is provided for under any other law. In addition, the bill would require the Department of State Police to submit a written report to the legislature by October 1, 2003 stating whether the fee increase provided is sufficient

to support the actual costs of fingerprinting and what the actual costs are.

MCL 28.273

HOUSE COMMITTEE ACTION:

The House Committee on Appropriations adopted a substitute for the bill. The substitute, H-3, would require a report to be submitted to the House and Senate no later than October 1, 2003 regarding the costs of fingerprinting. In addition, the substitute would permit the department to assess a fee not exceeding \$30 until October 1, 2004 (rather than permanently, as allowed for under the Senate-passed version). Finally, the substitute bill eliminated the tie-bar to Senate Bill 425, which would amend the Private Security Business and Security Alarm Act (Public Act 330 of 1968) to increase licensing fees.

BACKGROUND INFORMATION:

The Criminal Justice Information Center (CJIC) within the Department of State Police serves as the state repository for all information regarding arrests, charges, and convictions. Information sent by law enforcement agencies, prosecutors, and courts sent to the CJIC forms an individual's criminal history record. The criminal record includes any misdemeanor convictions, felony arrests and convictions, as well as certain identifying information. Criminal history background checks are performed using an individual's name or fingerprints. A background check using fingerprints is conducted only if a search is required pursuant to a state or federal statute, an executive order, or by rule.

Senate Bill 927, which was introduced by Senator Hoffman and passed the Senate on May 9, 2002, would amend Public Act 213 of 1965 to increase the application fee from \$25 to \$50 for the setting aside of a criminal conviction. This fee was increased to \$30 under Executive Order 2001-9. The fees in

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Senate Bill 928 and Senate Bill 927 were increased under the executive order for the 2001-2002 fiscal year to offset the \$2.8 million general fund reduction to the Criminal Justice Information Center within the Department of State Police.

Section 503 of the House-passed version of the State Police Budget for the 2002-03 fiscal year (House Bill 5650, in conference committee) states that in addition to the funds appropriated for the Criminal Justice Information Center division (CJIC) - \$3,154,300 - \$2.8 million is appropriated from CJIC service fees if Senate Bill 928 is enacted into law.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, using the \$15 fee assessed under current statute as the baseline, the bill would result in an estimated \$750,000 in increased annual revenue for the Department of State Police during the period in which the increased fee was effective (essentially, the effective date through the end of the 2003-2004 fiscal year). (5-28-02)

ARGUMENTS:

For:

Given the fiscal realities facing the state in, at the very least, the 2002-2003 fiscal year, and perhaps beyond the 2002-2003 fiscal year, it is imperative that the fee increase remain in place. The recent Revenue Estimating Consensus Conference in May estimated that General Fund/General Purpose (GF/GP) revenue for both the current fiscal year and the 2002-2003 fiscal year to be approximately \$8.4 billion, the lowest amount since 1994. It is estimated that the GF/GP revenues for the 2002-2003 fiscal year will be \$1.8 million less than the GF/GP revenues for the current fiscal year. The current GF/GP revenue estimates for the 2002-2003 fiscal year are \$320.1 million less than the estimate made at the January revenue consensus conference. Even if the revenues for the 2002-2003 fiscal year come in at the current estimate, the general fund is facing a \$325 million deficit.

In response to the lower revenues for the current fiscal year, the executive order raised the fee from \$15 to \$30, as a means of offsetting budgetary reductions. However, given the fact that it appears that the state is facing a deficit for the next fiscal year, the fee increase would, once again, serve to increase revenues and ward off possible cuts to the state police budget. Indeed, the governor's executive recommendation for the 2002-2003 budget assumes \$2.8 million in restricted revenue to offset the reduction in GF/GP, and recommends legislation

to permanently increase this fee and other fees that were increased in the Executive Order 2001-9.

For:

In recent years, more and more criminal background checks through the use of fingerprints are required under state or federal statute as a condition of employment or licensure. Under current law, professions or licenses that require fingerprint checks include driver training school operators and instructors; motor vehicle dealers; salvage vehicle agents; teachers, school administrators, and other positions that require state school board approval; horse racing licensees; liquor licensees; state bar licensees; private security guard licensees and employees; private detective licensees; casino gaming licensees; insurance company directors; and concealed-weapons licensees.

In addition to those professions or licenses already required, there have been several legislative efforts to increase the list of those professions that require criminal records checks as a condition of licensure or employment. Recently enacted Public Act 303 of 2002 (House Bill 4057) requires background checks on new employees of nursing homes, county medical facilities, and homes for the aged. House Bill 4453, introduced by Representative Woronchak, would require background checks for employees of adult foster care facilities. House Bill 4058, introduced by Representative Bob Brown, would require criminal background checks on child care licensees, employees, and applicants for employment. This increase in the number of required fingerprints and criminal background checks, in and of itself, places greater strains on the Department of State Police. However, faced with budgetary constraints, the department is being asked to conduct more background checks with fewer resources from the state. Without the necessary resources, the department faces a backlog of requests, which increases the turnaround time to process the fingerprints and conduct the background checks. This backlog of requests slows the processing of the various licenses and employment applications that rely on the criminal background checks. Once this process gets bogged down in a backlog of requests, there are serious adverse consequences. If it takes several weeks to process the background check, people are not able to obtain licenses necessary for employment, and employers simply are not able to fill vacant positions.

Against:

The fee increase will come at the expense of the person subject to fingerprinting and the criminal records check. Generally, the fee for the background

check is part of the application for employment, which is not a guarantee of an offer of employment. Given the economic uncertainties facing the state, a person may send out several applications and not receive any offers of employment. If the person submits a set of fingerprints and is subject to a criminal records check for each application, the costs can quickly add up. Furthermore, the \$30 fee assessed by the department would be in addition to the current \$24 fee assessed by the Federal Bureau of Investigation (FBI) for conducting a fingerprint check at the national level. This added financial burden could be cost-prohibitive and potentially dissuade individuals from applying for a particular position of employment.

Against:

According to committee testimony, the approximate cost for processing fingerprints and conducting background checks generally varies from \$16 to \$41 dollars, with the average being \$38. However, the bill sets the maximum fee that can be assessed by the department at \$30. If the actual costs are more than the maximum amount assessed by the department, the department is essentially losing money, and an appropriation must be made to offset the costs. This does not appear to be a prudent use of taxpayer dollars. Should the taxpayers of this state support, in part, the costs of processing fingerprints and conducting background check on, for instance, private security guard licensees and employees? For the most part, the license and employment related purposes that require fingerprinting and criminal records checks are private endeavors, and should not be funded through use of public funds. Rather than setting a maximum of \$30, the department should be allowed to assess a fee for the actual costs it incurs.

Response:

The figures provided in committee regarding the costs of fingerprinting were believed to be a few years old. Furthermore, the bill would require the department to report to the legislature by October 1, 2003 on the costs of fingerprinting. Any long-term adjustments to the fee assessed by the department should be considered after the report by the department.

POSITIONS:

The Department of State Police supports the bill. (5-28-02)

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.