

PRIVATE SECURITY GUARD AND DETECTIVE LICENSING FEES



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FISCAL ANALYSIS

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SENATE BILL 425 (H-2)

SENATE BILL 929 (H-1)

SENATE BILL 992 (S-1) WITH AMENDMENT

Sponsor: Sen. Philip E. Hoffman

House Committee: Criminal Justice

FLOOR ANALYSIS - 6/3/02

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SUMMARY

Senate Bills 425 and 929 would amend the Private Security Business and Security Alarm Act and the Private Detective License Act of 1965 to increase licensing fees for private security guard businesses, alarm system contractors, and private detective businesses. The bills would also transfer most licensing responsibilities under the acts from the Department of State Police (DSP) to the Department of Consumer and Industry Services (CIS) (outdated provisions currently in the first act reference the Secretary of State); DSP would retain only licensing responsibilities for private security police organizations. The bills would also make a variety of other changes to the provisions of the acts.

The higher licensing fee levels specified in Senate Bills 425 and 929 would increase licensing fee revenue collected by the state by an estimated \$350,000 to \$575,000 annually. An increase in the fee for provisional name-based background checks on prospective security guard employees, from \$5 to \$15, included in Senate Bill 425 would result in increased revenue collections of approximately \$150,000 annually.

Senate Bill 992 would amend the Code of Criminal Procedure to establish felony sentencing guidelines for the offense of engaging in business as a private detective or private investigator without a license. State costs under the bill would depend on the extent to which it (in conjunction with Senate Bills 425 and 929) increased the number of offenders receiving prison sentences or assigned to felony probation supervision. Local costs of misdemeanor probation could be reduced, but jail costs could increase or decrease depending on how the bills affected the use of jail sentences for such offenders.

Senate Bill 992 is tie-barred to Senate Bill 929.

BACKGROUND

The renewal licensing fees specified in the acts amended by Senate Bills 425 and 929 were increased in Executive Order (EO) 2001-9 to offset a \$250,000 GF/GP reduction applied to the FY 2001-02 State Police budget. These increases are effective only for the current fiscal year. The FY 2002-03 State Police budget, as recommended by the Governor, also assumes \$250,000 in increased fee revenue to offset the GF/GP reduction. Enactment of permanent legislation would be necessary for that revenue to be realized.

The Senate-passed versions of the DSP and CIS budget bills reflect transfer of licensing fee revenue to the CIS budget, consistent with the transfer of licensing responsibilities under Senate Bills 425 and 929.

FISCAL ANALYSIS

The table below compares the fees specified in current statute, EO 2001-9, and Senate Bills 425 and 929:

| Category | Current Statute | EO 2001-9 | SBs 425 and 929 |
|-------------------------------------------|------------------------|------------------|------------------------|
| <u>Initial Application</u> | | | |
| Alarm System Contractor | \$500 | No change | \$1,500 |
| Security Guard—Firm, Partnership, etc. | 300 | No change | 1,500 |
| Security Guard—Sole Proprietorship | 200 | No change | 1,000 |
| Private Detective—Firm, Partnership, etc. | 200 | No change | *750 |
| Private Detective—Sole Proprietorship | 100 | No change | *750 |
| <u>Renewal</u> | | | |
| Alarm System Contractor | 250 | 1,500 | 1,500 |
| Security Guard—Firm, Partnership, etc. | 150 | 1,500 | 1,500 |
| Security Guard—Sole Proprietorship | 100 | 1,500 | 1,000 |
| Private Detective—Firm, Partnership, etc. | 200 | 500 | **300 |
| Private Detective—Sole Proprietorship | 50 | 500 | **300 |
| <u>Branch Office</u> | | | |
| Alarm System Contractor | 100 | No change | 500 |
| Security Guard | 50 | No change | 250 |
| Private Detective | 25 | No change | 125 |

*Senate Bill 929 specifies an initial license fee of \$600 and an application processing fee of \$150, for a total of \$750.

**Senate Bill 929 (governing private detective businesses) provides for a three-year license duration. Under current statute, EO 2001-9, and Senate Bill 425 (governing private security guard businesses and alarm system contractors), licenses must be renewed every two years.

Using current statute as the baseline, the fees specified in Senate Bills 425 and 929 would result in an estimated \$350,000 to \$575,000 in increased annual revenue. The amount of the revenue increase would depend largely on whether the attrition rate of license holders since EO 2001-9 took effect (in the range of 25 to 50 percent) decreased once the higher fee amounts became permanent.

Prior to the increases in the EO, DSP collected approximately \$150,000 per year in licensing fee revenue. The Department of Consumer and Industry Services would receive the bulk of the approximately \$500,000 to \$725,000 in total revenue that would be generated under the bills; DSP would retain a small amount of revenue associated with the licensing of private security police—\$20,000 based on the 13 current licensees in that category, although the number of such licensees is expected to increase in the near future. (Under the provisions of the Private Security Business and Security Alarm Act, a private security police officer has full arrest authority on the premises of the officer's employer.)

According to CIS, administration of the responsibilities transferred under the bills would require annual expenditures of \$465,000, although this figure could be lower if efficiencies with CIS's current licensing activities are realized. The current budget for the DSP licensing unit is \$530,000, although expenditures have been lower in recent years due to position vacancies.

Senate Bill 425 provides that the higher fee levels for alarm system contractors and security guard businesses remain effective only until October 1, 2004, at which point the levels would return to those currently specified in statute. A report would be required from CIS and DSP, by April 1, 2003, on whether the higher fee levels are adequate to support the licensure program.

Other changes in Senate Bill 425 with potential fiscal implications are summarized below:

- (1) Create a Security Business Fund to receive licensing fee revenue. Interest and earnings on fund investments would be credited to the fund, and money in the fund at the close of a fiscal year would remain in the fund, rather than lapsing to the General Fund.
- (2) Delete provisions allowing DSP to charge a \$100 fee for fingerprint-related training and a \$5 fee for the submission of substandard fingerprints. A provision allowing local law enforcement agencies to charge a \$15 fee for collecting fingerprints would also be eliminated. These changes are expected to have a minimal fiscal impact.
- (3) Eliminate reference to a \$15 fee for each person applying for employment (and, therefore, requiring a background check). Instead, the act would reference the fee provided for by Public Act 120 of 1935, which is also currently \$15—although EO 2001-9 raised this fee to \$30 for FY 2001-02 (Senate Bill 928, as reported by the House Appropriation Committee would also increase the fee to \$30, effective through FY 2003-04).
- (4) Require, in addition to the state-level criminal history record check conducted under current practice, a federal-level criminal history check. The Department of State Police currently charges a fee of \$24—passed through to the FBI—for federal-level checks.
- (5) Increase the fee charged for a provisional name-based background check on potential security guard company employees from \$5 to \$15. This would make permanent a fee increase contained in EO 2001-9. Using current statute as the baseline, the fee increase would result an approximately \$150,000 in increased revenue for DSP annually.

Other changes in Senate Bill 929 with potential fiscal implications are summarized below:

- (1) Increase the duration of licenses for private detective businesses from two to three years. This could result in decreased state expenditures associated with licensing activities, but the amount of any savings is indeterminate.
- (2) Require, in addition to the state-level criminal history record check conducted under current practice, a federal-level criminal history check. The department currently charges a fee of \$24—passed through to the FBI—for federal-level checks.

Senate Bill 992 would amend the Code of Criminal Procedure to establish felony sentencing guidelines for the offense of engaging in business as a private detective or private investigator without a license. The offense would be a Class F offense against the public trust. Recommended ranges for an offender's minimum sentence would vary from 0-3 months (which calls for local sanctions) to 17-30 months (for which a prison sentence generally is mandated). Because the offense is at present a misdemeanor, it could tend to shift correctional costs from local units of government (for jail time or misdemeanor probation) to the state (for prison time or felony probation). However, a prison sentence for a class F felony suggests the existence of a substantial prior record or particularly serious elements of the offense.

State costs under the bill would depend on the extent to which it (in conjunction with Senate Bills 425 and 929) increased the numbers offenders receiving prison sentences or assigned to felony probation supervision. Local costs of misdemeanor probation could be reduced, but jail costs could increase or decrease depending on how the bills affected the use of jail sentences for such offenders.