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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/09
LAST UPDATED _____ **HB** 835
SPONSOR Arnold-Jones
SHORT TITLE Security Guard Act **SB** _____
ANALYST C. Sanchez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
Indeterminate	Indeterminate	Indeterminate	Recurring	Security Guard Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.0	\$220.0	\$0.0	\$220.0	Nonrecurring	Private Investigators Board
Total	\$0.0	\$0.0	\$220.0	\$220.0	Recurring	Security Guard Board

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Corrections (DOC)
 Department of Public Safety (DPS)
 Attorney General's Office (AGO)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 835 creates the Security Guard Act and amends the Private Investigations Act.

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Section 61-27B-1 et.seq. N.M.S.A. It enacts a separate statute to regulate Security Guards and their employment companies apart from the previous statutory scheme, which regulated security guards as a subpart of the Private Investigations Act.

The bill shifts existing law from one statute to another. The bill basically makes permanent the changes enacted in 2007, which set out separate defined regulations for security guards and their employers distinct from those laws covering polygraphers and private investigators.

The definitions in the bill are identical to those in the prior Private Investigations Act, except that those definitions relating to polygraphers and private investigators are deleted. This bill essentially extends the sunset provisions of the prior act from July 1, 2012 to July 1, 2014. It moves the funds generated by the act into a new fund called the Security Guard Act Fund. The fees remain the same. The licensing and disciplinary structure stays the same as the prior statutory scheme.

The requirements for being licensed as a security guard, private patrol company, or private patrol company manager are identical to the previous law.

The use and display of licenses is the same as the prior requirement. The prohibited acts are the same. The provisions for denying, suspending or revoking a license are identical from both a substantive and procedural standpoint as the earlier Act.

There is no local pre-emption of regulation. Licenses are not transferable. Reciprocity with other states is allowed. Background check requirements stay in place.

Temporary provisions provide for the orderly transition from the PI Act to the Security Guard Act.

A new Advisory Board is created appointed by Regulation & Licensing consisting of 3 security guards, 5 private patrol operators or operations managers, 3 security instructors, and 1 private person.

FISCAL IMPLICATIONS

According to RLD, HB835 calls for the creation of a new board, which typically entails the hiring of 2 FTE: one administrator and one administrative assistant. The Compliance aspect of the bill would necessitate another FTE, for a total of 3. This would cost approximately \$200 thousand.

The new board itself would meet 12 times a year and have 12 members. The cost of these meetings and per diems would be approximately \$22 thousand.

SIGNIFICANT ISSUES

The new board would have 12 members:

- 3 security guards
- 5 private patrol operators or managers
- 3 security instructors
- 1 public member

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According to RLD, the public is not fairly represented by this board membership and would have little or no impact in representing the interests of the public.

This board will be mandated to meet monthly, which will add a significant fiscal and administrative burden to RLD.

PERFORMANCE IMPLICATIONS

According to RLD, Boards and Commissions would take on additional responsibility as a result of HB 835's creation of a new board, 12 new board members, and 12 more board meetings per year. Staffing for licensing, board administration and complaint response would double by removing licensees and registrants from the PI Act and duplicates current efforts.

ADMINISTRATIVE IMPLICATIONS

DPS will be the state agency facilitating the federal and state background checks required in this bill. Without having an estimation of the number of anticipated licensee's falling under the purview of this bill it is difficult to estimate fiscal impact. DPS expects a significant work load increase.

RELATIONSHIP

HB 380 also amends the Private Investigation Act.

TECHNICAL ISSUES

On the title page, the bill refers to "Making an Appropriation", but the bill itself does not contain any mention of an appropriation other than the transference of funds from PI funds.

Page 27 line 5 refers to a bond which is not required under the Security Guard Act. This language was copied directly from the Private Investigations Act, which requires a bond for private patrol operators.

OTHER SUBSTANTIVE ISSUES

According to RLD, in the past, the advisory board has become aware of instances that involved the death or injury of a security guard or a citizen because of an improperly trained or unregistered security guard. The Department of Corrections believes that the proposed legislation would create an effective protocol for licensing and registering individuals as security guards and/or private investigators.

RLD will be responsible for establishing minimum training and educational standards for licensure and registration of patrol officers. This may increase demand for educational training programs at New Mexico postsecondary institutions.

ALTERNATIVES

According to the AGO, the Legislature could leave the regulation of security guards and their employers under the Private Investigations Act and have those provisions sunset in July 2012 rather than July 2014.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Security Guard industry will continue to be regulated by the Private Investigators Board.

CS/svb