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FISCAL IMPACT REPORT

SPONSOR <u>Rehm</u>	LAST UPDATED <u>3/8/2023</u>
SHORT TITLE <u>Private Investigation Licensure</u>	ORIGINAL DATE <u>2/14/2023</u>
	BILL NUMBER <u>House Bill 259/aHGEIC/aHJC</u>
	ANALYST <u>Hanika-Ortiz</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	Private Investigations

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From
 Regulation and Licensing Department (RLD)
 Department of Transportation (NMDOT)

SUMMARY

Synopsis of HJC Amendment to House Bill 259

The House Judiciary Committee Amendment to HB259 strikes the term “private patrol operators” from Section 1(F) that makes it unlawful to provide (security-related) instruction to certain individuals without a registration in good standing issued by RLD pursuant to the Act.

Synopsis of HGEIC Amendment to House Bill 259

The House Government, Elections and Indian Affairs Committee Amendment to HB259 clarifies that the “attorney’s employee” is supervised; the crash reconstruction course at NMDOT is to be “approved by rule...” (in so doing addressing the NMAG’s concerns, see technical issues below for the original bill); and no longer requires a professional engineer to also be a licensed private investigator before that engineer can provide traffic crash reconstruction services.

Synopsis of Original Bill

House Bill (HB259) amends the Private Investigations Act (Chapter 61, Article 27B NMSA 1978) for registration requirements to be an instructor for security guards or private patrol

operators, or to be a private patrol employee or contractor. The bill sets training requirements for traffic crash reconstructors; establishes who conducts skip tracing (the act of locating people who are missing or have defaulted on a debt); and, provides for other registration and licensing requirements. Lastly, HB259 extends the sunset provision for the Private Investigations Act until July 1, 2029.

More specifically,

Section 1 provides that it is unlawful to provide instruction to qualify for licensure in accordance with the Private Investigations Act without a registration in good standing issued by RLD.

Section 2 adds an exemption from the act for the employee of an attorney conducting investigations. This section also adds that a private investigator shall not offer or provide traffic crash reconstruction unless they completed a traffic crash reconstruction course referenced by NMDOT. A person who wishes to offer or provide traffic crash reconstruction must be licensed as a private investigator and have taken the course. A new subsection is added to require that skip tracing shall be offered or provided only by: 1) a state or local law enforcement agency, 2) a private investigator, or 3) an attorney licensed to practice in NM or the attorney's employee.

Section 3 adds instructors alongside private investigations employees, security guards, and private patrol employees for registration purposes.

Section 4 requires the department to promulgate rules regarding registration for instructors.

Section 4 removes the subjective requirement that the applicant be of good moral character.

Section 5 enacts a new section to list the requirements for instructors. A level two or level three instructor may teach individuals seeking licensure as a level one security guard. If an instructor offers firearms certification, the instructor shall provide proof of their firearms certification. RLD shall approve the curriculum for level one, two, and three security guard training. The private investigations advisory board shall approve curricula and make recommendations for final action.

Section 6 removes the requirement for a private investigation company to maintain a surety bond but adds a requirement that the private investigation company carry general liability insurance.

Section 7 adds private patrol employees to regulations pertaining to private investigations employees. All individuals employed by, or seeking employment as, a private patrol employee or contractor to a private patrol company must be registered as a private patrol employee with RLD. Such employees or contractors shall be under the direct control and supervision of a private investigator or private patrol operations manager or a level three security guard, as applicable.

Section 8 moves the requirement that a level three security guard pass a psychological evaluation to determine suitability for carrying a firearm to Section 12 which covers firearms.

Section 9 includes fees for private investigations and private patrol employees or instructors, not to exceed \$100, and for private investigations and private patrol companies, not to exceed \$300.

Section 10 provides for biennial licensure or registration, as opposed to annual in the act.

Section 11 allows a private investigation company to maintain a general liability certificate of insurance as opposed to a surety bond.

Section 12 allows a private investigator, private patrol employee or operator, private investigations employee, or level three security guard to carry a firearm after passing firearms training and a psychological evaluation that determines one’s suitability for carrying a firearm.

Lastly, the sunset provision for the Private Investigations Act (Act) is extended to July 1, 2029, from July 1, 2024.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

RLD does not anticipate any substantive fiscal impact from the enactment of HB259. All license and registration fees received are appropriated to the department for the administration and implementation of the Act. All balances in the fund remain in the fund and do not revert to the general fund. No more than five percent of the fund may be used by RLD for administration.

SIGNIFICANT ISSUES

RLD noted that currently, only level three security guards are required, by statute, to successfully pass a psychological evaluation before they can carry a firearm. HB259 makes passing a psychological evaluation a requirement for all licensees under the act who receive the authority to carry a firearm. This provides a level of protection to the public that does not currently exist.

TECHNICAL ISSUES

NMDOT suggested the following clarification, to improve the bill:

Section 2 of HB259, specifically line 25 on page 4 and lines 1 through the middle of line 4 on page 5, provides that “[a] private investigator licensed in New Mexico shall not offer or provide traffic crash reconstruction in New Mexico unless the private investigator has successfully completed a traffic crash reconstruction course referenced by the department of transportation.” It is not clear from the text of the bill what “referenced” means in this context or whether “the department of transportation” referenced in the bill refers to the New Mexico Department of Transportation (NMDOT) or the United States Department of Transportation (USDOT). The NMDOT does not certify any crash reconstruction courses, and thus it may be impossible under the language of the statute for a private investigator to qualify to offer or provide crash reconstruction in New Mexico. Further, if HB259 intends to reference the NMDOT, course certified by the USDOT may not meet the requirement of the bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Private Investigations Act will sunset and be repealed effective July 1, 2024.