

## SECURITY ACT FOR NUCLEAR POWER PLANTS

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### House Bill 5282

Sponsor: Rep. Al Pscholka

Committee: Energy and Technology

Complete to 2-24-14

### A SUMMARY OF HOUSE BILL 5282 AS INTRODUCED 2-6-14

The bill would:

- Authorize security officers at nuclear power plants to use physical force, and in some circumstances deadly force, to deter intruders, thieves, or saboteurs.
- Require power plants to post notices at entrances and around the perimeter warning that security officers have authority to use physical or deadly force.
- Provide immunity from lawsuits to security officers, their employers, and the owner and operator of a nuclear power plant for an officer's conduct in providing security that is lawful under the bill.
- Define terms.

According to the United States Nuclear Regulatory Commission (NRC), its licensees (which include owners and operators of nuclear power plants) are required to use armed responders to defend nuclear facilities against an attack. The bill would authorize security personnel at nuclear facilities to comply with their duties under NRC regulations.

House Bill 5282 creates a new act to clarify the rights and duties of officers who provide security at the state's nuclear power plants. The bill would define "an officer providing security at a nuclear generating facility" to include police officers or peace officers acting in the performance of their duties, and also a security officer employed by or under contract with a nuclear facility who is employed as part of an NRC-approved security plan and who is performing duties under that plan.

Under the bill, an officer may:

- ❖ Use physical force *other than deadly force* if the officer honestly and reasonably believes the physical force is necessary to prevent or terminate a person's unlawful trespass under Section 552 of the Michigan Penal Code. (Section 552 makes trespassing upon the lands or premises of another a 30-day misdemeanor.)
- ❖ Use physical force, *including deadly force*, if the officer honestly and reasonably believes the use of physical or deadly force is necessary:
  - To prevent or terminate an individual from breaking and entering (or attempting to do so) into the business premises of a nuclear generating or nuclear storage building or structure with the intent to commit a crime involving the infliction or threatened infliction of serious physical harm to any individual.

- Deter a threat of radiological sabotage.
- Deter a threat of theft or diversion of special nuclear material.
- ❖ Threaten to use physical force, *including deadly force*, if the officer honestly and reasonably believes the use of physical or deadly force is necessary to protect himself or herself or another individual from the potential use of physical or deadly force on the part of another person, or to deter a threat of radiological sabotage or a threat of theft or diversion of special nuclear materials.

Notice. A notice of the authorization to use physical and/or deadly force must be posted conspicuously at all entrances to the business premises of a nuclear generating or nuclear storage building or structure, as well as at intervals along the perimeter in such a manner as to provide reasonable notice of the authorization to persons about to enter.

Civil immunity. An officer providing security, the officer's employer, and the owner and operator of a nuclear generating facility would be immune from civil liability for the security officer's conduct in providing security at the facility that is lawful under the bill. Except as otherwise provided in the bill, the bill would not modify Michigan common law (case law) in existence on the effective date of the bill regarding the use of deadly force.

Definitions. "Nuclear generating facility" would include currently operating nuclear power plants, power plants that no longer generate electricity but that store special nuclear material, the land surrounding those facilities, and any nuclear generating or nuclear storage building or structure located on those lands.

"Business premises of a nuclear generating or nuclear storage building or structure" would include a building or structure used to generate electricity using nuclear power, or used to store special nuclear material associated with or resulting from that generation. The term would also include appurtenant buildings or structures and any barrier or barrier system surrounding those structures designed to protect against radiological sabotage or theft or diversion of special nuclear material and which are required to be designated and posted against trespassing under federal law.

"Special nuclear material" would mean material capable of a self-sustaining fission chain reaction.

## **FISCAL IMPACT:**

House Bill 5282 would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs as it pertains to civil liability or to the licensure of private security guards. The bill would have no fiscal impact on the Michigan State Police.

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■ 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.