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SFA**BILL ANALYSIS**

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Senate Bill 929 (Substitute S-1)
Sponsor: Senator Philip E. Hoffman
Committee: Appropriations

Date Completed: 5-06-02

CONTENT

The bill would amend the Private Detective License Act to do all of the following:

- Increase certain fees required under the Act and extend the length of a license period from two to three years. (Fees already have been increased for fiscal year (FY) 2001-02 pursuant to Executive Order 9 of 2001.)**
- Add "limited liability company" to the types of private detective businesses regulated under the Act.**
- Increase the sum of the bond required to be posted under the Act and permit a policy of insurance to be used in lieu of a bond.**
- Change the qualifications for obtaining a private detective business license, including removing requirements that a person "is of good moral character" and "is a resident of this state".**
- Increase penalties for a violation of the Act.**

The bill also would delete outdated references to the Secretary of State and substitute the Department of Consumer and Industry Services. Currently, the Act is implemented by the Department of State Police. The bill is tie-barred to Senate Bill 425 (which would amend the Private Security Business and Security Alarm Act).

Fees

Licensure. Currently, the fee for two-year licensure of a private detective business is \$100 if a person, or \$200 if a firm, partnership, or corporation. Under the bill, the fee classification for "individual" would be dropped, the fee for a firm, partnership, company, limited liability company, or corporation is increased to \$600, and the span of the license would increase from two years to three years.

In addition to requiring a license fee, the Act requires the posting of a bond in the sum of \$5,000 if a person, or \$10,000 if a firm, partnership, or corporation. Under the bill, all applicants would be required to post a bond of \$10,000 or, in lieu of a bond, an applicant could furnish a policy of insurance naming the licensee and the State as co-insured in the amount of \$10,000 for property damages, \$100,000 for injury to or death of one person, and \$200,000 for injury to or death of more than one person arising out of the operation of the licensed activity.

Branch Offices. The license fee under the Act for a branch office is \$25. Under the bill, a branch license fee would increase to \$125.

Renewal. The fee for license renewal under the Act is \$50 if a person, or \$200 if a firm, partnership, company, or corporation. (Under Executive Order 9 of 2001, however, each of

those fees is \$500 in FY 2001-02.) Under the bill, the fee would be \$250 for a firm, partnership, company, limited liability company, or corporation.

Fee Refunds

Under the Act, it is not specified that a license fee must be received by the Department prior to an investigation as to an applicant's qualifications for licensure. In addition, the Act provides for a refund of an application fee if it is shown that an applicant is ineligible to receive a license due to failure to meet the requirements of the Act. Under the bill, an investigation as to the applicant's qualifications for licensure would begin after receipt of the application and license fee, and a fee could be refunded only in the event of a mistake, inadvertence, or error in the collection of the fee.

Requirements of Licensee

Qualifications. The Act requires that a sole or principal license holder meet a number of qualifications, including that he or she "is of good moral character" and is a resident of this State. Under the bill, these criteria would be eliminated. The bill also would change certain types of experience that an applicant must have. Under the Act, an applicant must, for at least three years, meet one of the following: have been lawfully engaged in the private detective business, have worked for a government entity in certain law enforcement capacities, or have obtained an educational degree. Under the bill, experience in the private detective business in another state would be included as qualified experience. Also, to count as required experience, serving as a police officer would qualify only if it were as a certified police officer. In addition, an acceptable degree under the bill would have to be a baccalaureate degree, which could be a degree in criminal justice or, as currently provided, a degree in police administration. The bill also would exempt from licensure under this Act, professional engineers acting within the scope of their practice and not performing investigative activities.

Other Requirements. The bill would require that a fingerprint check of each prospective employee be submitted to the Department and the FBI for processing and approval and would permit an employee to be hired pending fingerprint clearance. The bill also would require that a licensee not knowingly employ any person convicted of a misdemeanor involving dishonesty or fraud, unauthorized divulging or selling of information or evidence, impersonation of a law enforcement officer or other government employee, illegally using, carrying, or possessing a dangerous weapon, two or more alcohol-related offenses, controlled substances under the Public Health Code, or assault. In addition, the bill would prohibit the possession or display, rather than the manufacture, of a badge or shield that purports to indicate that the holder is a licensed detective.

The bill also would permit a person regulated as a private investigator or detective in another state to engage in activities regulated under this Act for a limited time, in order to continue an ongoing investigation originating in the other state.

Penalties and Fines. Under the Act, a person conducting business without a license is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or by a fine of not more than \$1,000, or both. The bill would change the offense to a felony punishable by imprisonment for up to four years, a maximum fine of \$5,000, or both.

Currently, a violation of the Act by a licensee, manager, or employee of a licensee is a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. The bill would increase the maximum fine to \$500.

The bill also would permit the Department to promulgate rules to enforce and administer the Act, and provides that a violation of a rule promulgated under the Act would be a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both. The bill would require a notice and an opportunity for a hearing when a suspension, revocation, or other action against a licensee was taken. The bill also would remove a provision stating that Department agents have all the powers of a peace officer in carrying out the provisions of the Act.

MCL 338.822, et al

FISCAL IMPACT

Senate Bill 929 (S-1) would generate approximately \$74,000 to \$150,000 annually in license fee revenue, which would be used by the Department of Consumer and Industry Services to regulate the private detective industry in the State.

License - New	Current Law	S.B. 929(S-1)
Person	\$100 (statute)	N/A
Firm, Partnership, Company, Limited Liability Company, Corporation	\$200 (statute)	\$600
Branch Office	\$25 (statute)	\$125
License - Renewal	Current Law	S.B. 929(S-1)
Person	\$500 (E.O. 2001-9)	N/A
Firm, Partnership, Company, Limited Liability Company, Corporation	\$500 (E.O. 2001-9)	\$250

Appropriations within the Governor's FY 2002-03 recommendations include funding of \$150,000 from these fees to help support a security regulatory office of 6.0 FTEs and \$450,000 in license revenue.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.