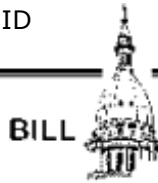




Senate Fiscal Agency  
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## BILL ANALYSIS

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Senate Bills 964, 965, and 966 (as introduced 12-6-07)

Sponsor: Senator Jud Gilbert, II (S.B. 964)  
Senator John Pappageorge (S.B. 965)  
Senator Cameron S. Brown (S.B. 966)

Committee: Transportation

Date Completed: 1-31-08

**CONTENT**

**Senate Bill 964** would create the "Enhanced Driver License and Enhanced Official State Personal Identification Card Act" to do the following:

- Allow the Secretary of State (SOS) to issue an enhanced driver license and enhanced official State ID card, which could be used in the same manner as a standard license or standard official State ID card, and also as identification for entering the U.S.
- Allow a person to choose to apply for a standard or an enhanced license or ID card.
- Require an applicant for an enhanced driver license or ID card to provide documentation demonstrating his or her U.S. citizenship, full legal name and name history, Social Security number, and other information.
- Require the SOS to verify the genuineness, regularity, and legality of every application and other documentation submitted for an enhanced license or ID card.
- Prohibit the SOS from issuing an enhanced license or ID card if not satisfied of the genuineness, regularity, or legality of the application, or the truth of any statement in it, or for any other reason authorized by law.
- Provide that a person who made a false certification or statement in applying for an enhanced driver license or official State ID card would be guilty of a felony.

- Establish a maximum application fee of \$50 for an original or renewal enhanced license or ID card.
- Create the "Enhanced Driver License and Enhanced Official State Personal Identification Card Fund", and require money from fees collected under the bill to be deposited into the Fund, after distribution of a portion to local governments that acted as examining officers or examining bureaus and to certain designated funds.
- Permit the SOS to enter into a memorandum of understanding with any Federal agency to obtain approval for an enhanced license or ID card as proof of identity when entering the U.S.
- Permit the SOS, in conjunction with a Federal agency, to enter into an agreement with certain foreign governments for the purpose of implementing a border-crossing initiative.

**Senate Bill 965** would amend the Code of Criminal Procedure to include within the sentencing guidelines a false statement or certification in application for an enhanced driver license or enhanced official State ID card as a class E felony against public safety punishable by up to five years' imprisonment.

**Senate Bill 966** would amend Public Act 222 of 1972 (which provides for an official State personal ID card) to

**require the Department of State to examine every application for an official State ID card and reject an application if not convinced of the genuineness, regularity, or legality of the application, or the truth of any statement in it, or for any other reason authorized by law.**

Senate Bills 964 and 966 are tie-barred to one another, and Senate Bill 965 is tie-barred to Senate Bill 964. Senate Bills 964 and 966 are described in detail below.

### **Senate Bill 964**

#### **Enhanced License & ID Card**

The SOS could issue an enhanced driver license or official State ID card to an applicant who provided satisfactory proof of his or her legal name, U.S. citizenship, identity, date of birth, Social Security number (SSN), and residence address. An applicant could choose to apply for a standard driver license or ID card or an enhanced driver license or ID card.

"Enhanced driver license" or "enhanced official state personal identification card" would mean an operator's or chauffeur's license or an official State ID card issued to an individual under the bill for the following purposes:

- Use in entering the U.S. at land and sea ports.
- Use in the same manner as a standard driver license or official State ID card.

An enhanced driver license or official State ID card would have to include reasonable security measures to protect against unauthorized disclosure of personal information regarding residents of the State that would be contained in the enhanced license or ID card.

An enhanced driver license or official State ID card could include facilitative technology. The SOS would have to ensure that the facilitative technology was secure from unauthorized data access. An applicant would be required to sign a declaration acknowledging his or her understanding of the facilitative technology before he or she was issued an enhanced driver license or official State ID card.

The requirements of the bill would be in addition to the requirements otherwise imposed on individuals who applied for a standard driver license or official State ID card.

The holder of an enhanced driver license would be subject to every licensing sanction provided under the Michigan Vehicle Code. As used in this provision, "licensing sanction" would mean the restriction, suspension, revocation, or denial of a driver license; the addition of points to a driving record, the assessment of a driver responsibility fee; the assessment of a civil fine or criminal penalty resulting from a conviction; a civil infraction determination; the imposition of probationary terms and conditions; or any other penalty provided under the Vehicle Code.

#### **Memorandum of Understanding**

The bill would permit the SOS to enter into a memorandum of understanding with any Federal agency for the purpose of obtaining approval of an enhanced driver license or official State personal ID card as proof of identity and citizenship for people entering the U.S. at land and sea ports. In conjunction with a Federal agency, the SOS could enter into an agreement with the United Mexican States and Dominion of Canada or a Canadian province for the purpose of implementing a border-crossing initiative.

#### **Application; Fee**

An applicant who chose to apply for an enhanced driver license or official State ID card would have to provide all of the following to the SOS in the manner he or she prescribed:

- A completed application indicating the applicant's full legal name; any legal name change resulting from the applicant's adoption, marriage, divorce, or a court order; date of birth; residence address; height; gender; eye color; SSN; signature; and, if applicable, the applicant's intention to become an organ donor.
- Documentation demonstrating the applicant's U.S. citizenship, full legal name, any legal name change, date of birth, residence address, and SSN.

- The applicant's signed certification that the information presented by the applicant was true and accurate.
- The fee provided under the bill.

An application for an original enhanced driver license or ID card would have to be accompanied by payment of a fee of not more than \$50. The maximum renewal fee for an enhanced driver license or ID card would be \$50. If an enhanced driver license or ID card were expired at the time of renewal, the fee would be the same as the fee for an original enhanced driver license or ID card.

A fee paid under the bill would be nonrefundable, except for administrative error.

#### Use of Personal Information

An applicant for an enhanced driver license or ID card would be required to have his or her facial image and signature captured or reproduced by the SOS at the time of application. A person's facial image or signature could be made available by the State and used as follows:

- By a Federal, State, or local government agency for any law enforcement purposes.
- By another state to the extent required by Federal law.
- By the SOS for any program he or she administered.
- For any other purposes as determined by the SOS, if the person provided his or her written authorization for the release of his or her own facial image or signature.
- As otherwise required by law.

Except as provided above, the SOS could not disclose a person's facial image, signature, or SSN, or copies or digital images of documents retained under the bill.

An enhanced driver license or ID card could not display a person's SSN on its face.

The SOS could disclose digital images of documents retained under the bill to a Federal, State, or local government agency for any law enforcement purpose. Except as otherwise provided in the bill, copies or digital images of documents retained under the bill would be exempt from disclosure under the Freedom of Information Act.

#### Document Verification & Retention

The SOS would have to examine and verify the genuineness, regularity, and legality of every application and other documentation submitted to the SOS for an enhanced driver license or ID card, and in all cases could investigate as he or she determined necessary or require additional information. The SOS would have to reject any application if not satisfied of the genuineness, regularity, and legality of the application or supporting documentation or the truth of any statement contained in the application or supporting documentation, or for any other reason authorized by law.

The SOS would have to retain copies or digital images of documents provided by the applicant to the SOS under the bill.

The facial image of an applicant for a license or ID card under the bill who was not issued an enhanced license or ID card would have to be retained for at least one year. If fraud were suspected, however, a record containing the applicant's facial image and the reason for denial would have to be retained for at least 10 years.

#### Penalty for False Statement

A person who made a false certification or statement in applying for an enhanced driver license or enhanced ID card would be guilty of a felony punishable by imprisonment for not more than five years or a fine of up to \$5,000, or both.

#### Distribution of Revenue

The bill would create the "Enhanced Driver License and Enhanced Official State Personal Identification Card Fund within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, and would have to direct its investment. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse into the State's General Fund.

The SOS would be the administrator of the proposed Fund for auditing purposes. The SOS would have to spend money from the Fund, upon appropriation, to pay the necessary expenses he or she incurred in the administration and enforcement of the bill.

Money from fees collected under the bill would have to be deposited into the Fund after distribution as required below.

The SOS would have to refund to each county or municipality acting as an examining officer or examining bureau \$2.50 for each applicant examined for an original enhanced driver license, if the application were not denied and the money refunded were paid to the county or local treasurer and appropriated to the county, municipality, or officer or bureau receiving the money for the purpose of carrying out the bill.

The State Treasurer would have to deposit \$4 to the Traffic Law Enforcement and Safety Fund for each person examined for an original enhanced driver license.

Except as provided below, \$4.50 of an original enhanced driver license fee and \$6 of a renewal enhanced driver license fee would have to be appropriated to the Transportation Economic Development Fund and could not be appropriated for any other purpose in any act making appropriations of State funds.

Notwithstanding those provisions, \$2.5 million would have to be deposited in the State Treasury and credited to the General Fund, except that not more than \$1.0 million would have to be credited to the Gasoline Inspection and Testing Fund.

The money remaining after distributions were made under those provisions would remain in the Enhanced Driver License and Enhanced Official State Personal Identification Card Fund.

### **Senate Bill 966**

The bill would amend Public Act 222 of 1972 to require the Department of State to examine and determine the genuineness, regularity, and legality of every application for an official State ID card. In all cases, the Department could investigate as it considered necessary or could require additional information. The Department would have to reject any application for an official State ID card if not satisfied of the genuineness, regularity, or legality of the application or the truth of any statement contained in it, or for any other reason when authorized by law.

Public Act 222 permits the SOS to disclose personal information in a record maintained under the Act for specified purposes. These include use by a Federal, State, or local governmental agency, including a court or law enforcement agency, in carrying out its functions, or by a private person or entity acting on behalf of a governmental agency in carrying out its functions. The SOS also may disclose personal information for use by an employer, or the employer's agent or insurer, to obtain or verify information relating to the holder of a commercial driver license or a chauffeur's license.

Under the bill, copies or images of source documents the SOS retained under the proposed Enhanced Driver License and Enhanced Official State Personal Identification Card Act could be used and disclosed for the two purposes described above.

Under Public Act 222, highly restricted personal information may be used and disclosed only as expressly permitted by law. "Highly restricted personal information" includes an individual's photograph or image, SSN, digitized signature, and medical and disability information. The bill would add to the definition source documents presented by an applicant to obtain a personal ID card under the Act.

MCL 777.11b (S.B. 965)  
28.291a & 28.298 (S.B. 966)

Legislative Analyst: Curtis Walker

### **FISCAL IMPACT**

#### **Senate Bills 964 and 965**

#### **Administrative**

State: There would be an indeterminate cost associated with the proposed legislation as it is unknown how many driver license or ID card holders would opt for an enhanced driver license or ID card. There would be some costs associated with the possible hiring and training of additional staff, and programming costs including the purchase of additional equipment and software. Some of these costs would be covered by the fees (up to \$50) for issuance of an enhanced driver license or ID card and license and ID renewals.

There are currently approximately 7.3 million driver license holders and 1.0 million ID card holders in the State. The amount of revenue generated by the proposed fees for enhanced driver license or ID cards could total up to \$415.0 million if everyone opted to change to an enhanced driver license or ID card; however, it is estimated that the actual number of people choosing the enhanced version would be significantly less. Funds generated by these fees would be deposited into the Enhanced Driver License and Enhanced Official State Personal Identification Card Fund proposed by the legislation.

From the money collected and deposited into the Fund, the State Treasurer would be required to deposit into the Traffic Law Enforcement and Safety Fund \$4 per original enhanced driver license issued. Additionally, \$4.50 of each original enhanced driver license and \$6 for each renewal of an enhanced driver license would be appropriated to the Transportation Economic Development Fund and could not be appropriated for any other purpose in any act making appropriations of State funds. Finally, \$2.5 million would be required to be deposited into the State's General Fund; of this amount, not more than \$1.0 million could be credited to the Gasoline Inspection and Testing Fund. The amounts deposited into these Funds would depend on the number of enhanced driver licenses issued or renewed. The maximum net amount remaining in the Enhanced Driver License and Enhanced Official State Personal Identification Card Fund after the above amounts were paid would be an estimated \$344.5 million based on the estimated possible total revenue of \$415.0 million stated above (if all current driver license and ID card holders converted to the enhanced versions).

Local: Any county or municipality acting as an examining officer or examining bureau would be reimbursed by the Secretary of State the sum of \$2.50 for each applicant examined for an original enhanced driver license.

#### Corrections

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of making a

false certification or statement in applying for an enhanced driver license or identification card. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$33,000. Additional penal fine revenue would benefit public libraries.

#### **Senate Bill 966**

State: There could be some cost to the Secretary of State associated with the requirement to examine and determine the genuineness, regularity, and legality of every application for an official State ID card, including the possible hiring and training of additional staff to carry out these duties. The estimated cost, however, is indeterminate.

Local: The bill would have no fiscal impact on local government.

Fiscal Analyst: Joe Carrasco  
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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.