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Senate Bills 161 through 164 (as introduced 2-25-15)
Sponsor: Senator Darwin L. Booher (S.B. 161, 162, & 163)
Senator Bert Johnson (S.B. 164)
Committee: Regulatory Reform

Date Completed: 3-4-15

CONTENT

Senate Bill 161 would add Article 14A to the Occupational Code to do the following:

- Provide for the licensure of security guards and security guard agencies.
- Establish requirements for an applicant to be licensed to conduct business as a security guard agency.
- Require an applicant to have insurance meeting specified criteria.
- Require each branch office of a licensee to have a license.
- Require a licensee that was not an individual to designate an individual as the licensee's principal license holder, who could act on the licensee's behalf for purposes of Article 14A.
- Establish requirements for a licensee's employees, including a criminal background check.
- Specify experience and training requirements for a licensee's employees who would provide security guard services directly to customers.
- Establish requirements for employees' uniforms.
- Rescind R 28.4001 to R 28.4007 of the Michigan Administrative Code (rules that regulate private security guard and security alarm agencies).

The bill also would do the following:

- Delete certain requirements that apply to alternative forms of testing for occupational exams.
- Repeal Section 517 of the Code, which allows the Department of Licensing and Regulatory Affairs (LARA) and the appropriate board to administer an alternative form of testing or conduct a personal interview with a petitioner, or both.

Senate Bill 162 would amend the Private Security Business and Security Alarm Act to remove the regulation of private security agencies and security guards from the Act.

The bill also would do the following:

- Require a licensee or applicant that was not an individual to designate an individual as the licensee's principal license holder.
- Require an applicant for licensure under the Act to have insurance meeting specified criteria; and delete a requirement for a bond in the principal amount of \$25,000.

- **Revise requirements that a licensee conduct a criminal background check on an applicant for employment.**
- **Revise certain fees for the renewal of a license.**
- **Repeal Section 19 of the Act, which establishes uniform and insignia requirements for a licensee and a licensee's employees.**

Senate Bill 163 would amend the Security Alarm Systems Act to exempt certain security guard agencies licensed under Article 14A of the Occupational Code from the Act's definition of "system provider".

Senate Bill 164 would amend the State License Fee Act to establish fees for a person licensed or seeking licensure as a security guard agency or branch office under Article 14A of the Occupational Code.

Each of the bills is tie-barred to all of the others, and each would take effect 90 days after its enactment.

Senate Bill 161

Scope of Article 14A

Article 14A would not apply to any of the following:

- A security alarm systems provider that had filed a registration statement under the Security Alarm Systems Act.
- A private college security force or private security police force that was subject to the Private Security Business and Security Alarm Act.
- A person licensed as a professional investigator under the Professional Investigator Licensure Act.

If a license to conduct business as a security guard or security guard agency were issued to a person under Article 14A, the licensee would not be required to obtain any other license from a municipality or political subdivision of the State to conduct business as a security guard or security guard agency.

Security Guard Agency License

Article 14A would require LARA to issue a license to conduct business as a security guard agency if it were satisfied that an individual applicant or a principal license holder met all of the following qualifications:

- Was at least 21 years of age.
- Graduated from high school or passed the General Educational Development (GED) test or another graduate equivalency exam approved by LARA.
- Was of good moral character.
- Had not been convicted of either a felony or, within the five years preceding the date of application, a disqualifying misdemeanor.
- If the applicant had served in the military, was separated from that service, and gave LARA documentation demonstrating that he or she was honorably discharged.
- Had given LARA the proof of insurance required under Article 14A.
- Had not been adjudged insane, unless he or she had been adjudged restored to sanity by court order.
- Was not subject to any outstanding warrants for his or her arrest.

The bill would define "disqualifying misdemeanor" as a misdemeanor that involves any of the following:

- Dishonesty or fraud.
- Unauthorized divulging or selling of information or evidence.
- Impersonation of a law enforcement officer or employee of the United States, the State, or a political subdivision of the State.
- Illegally using, carrying, or possessing a dangerous weapon.
- Two or more alcohol-related offenses.
- A controlled substance.
- An assault.

The Department also would have to be satisfied that the applicant met any of the following qualifications:

- Was lawfully engaged in business as a security guard agency in another state for at least three years.
- Was lawfully engaged as a security guard for a security guard agency for at least four years and had at least four years of experience supervising security guards.
- Was lawfully engaged in law enforcement employment as a certified police officer on a full-time basis for at least four years for a city, county, or state government or for the U.S. government.
- Was a graduate with a baccalaureate degree or its equivalent in the field of police administration, criminal justice, or industrial security from an accredited college or university; and was a full-time employee of a security guard agency or was engaged as a security administrator or loss prevention manager in private business for two years.
- Served in the armed forces and, while serving, acted as a military police officer or in equivalent job classification for at least two years.

Also, if the applicant had served in the armed forces, LARA would have to be satisfied that the applicant was separated with an honorable discharge, and provided an affidavit signed by a commanding officer or other superior with direct knowledge of the applicant's service that he or she had entry-level experience in or basic knowledge of each of the following:

- Enforcing rules, regulations, and guidelines.
- Providing security and physical protection.
- Area and site security operations.
- Overseeing prisoners and correctional facilities.
- Reconnaissance and surveillance.

An application for a license as a security guard agency would have to contain at least all of the following:

- The applicant's name and the address of the applicant's principal place of business.
- If the applicant were not the security guard agency, the agency's name and the address of the agency's principal place of business.
- The address of each location in Michigan, including branch offices, at which the agency conducted or would conduct business.
- The name of the individual designated as the principal license holder of the security guard agency, if applicable.

The bill would prohibit LARA from issuing a license under Article 14A if the applicant did not give the Department proof, in the form of a certificate of insurance, that it had and maintained a policy of liability insurance that was issued by an authorized insurer under the Insurance Code; named the State as an additional insured; provided coverage in the amount of at least \$400,000 per occurrence; and required the insurer to give LARA notice of cancellation of the policy at least 30 days before the effective date of cancellation. The certificate of insurance would have to state that the policy met all of those requirements.

A person could bring an action on an insurance policy in that person's own name to recover damages suffered by reason of a wrongful act of the licensee or a licensee's agent or employee.

A license issued under Article 14A would be valid for two years. A licensee would have to post its license in a conspicuous place in the licensee's office. A licensee would have to notify LARA in writing of any name or address change within 30 days after the date of the change.

If a licensee opened a branch office, the licensee first would have to obtain a license for that branch and post the license in a conspicuous place in the branch office.

Principal License Holder

A licensee that was not an individual, or an applicant applying for a license on behalf of an agency, would have to designate an individual as the licensee's principal license holder. A licensee would have to continuously maintain a designated principal license holder. A principal license holder would be authorized to act on behalf of the licensee for purposes of Article 14A.

If the principal license holder were no longer authorized to act in that capacity, or no longer available to do so for any reason, the licensee would have to designate a different individual as its principal license holder. Within 10 days after making that designation, the licensee would have to notify LARA in writing and give LARA the name of that person and any other information about him or her that the Department reasonably required.

If the licensee did not comply with those requirements, or LARA did not approve of the new designation, the Department would have to notify the licensee of its disapproval. Within 30 days after receiving that notification, the licensee would have to designate another individual and meet the requirements for LARA's approval of that person as the principal license holder.

If a security guard agency were required to have a principal license holder, the agency's license would automatically be suspended during any period the licensee had not designated a principal license holder and notified LARA of that designation. On request, however, the Department could permit the license to stay in force for 60 days to allow the licensee to designate a principal license holder.

Employees

A licensee could employ an individual who met qualifying requirements of Article 14A, and who either was at least 18 years old and had graduated from high school or passed the GED or another equivalency exam, or was at least 21.

A licensee would have to maintain and keep in the State adequate and complete personnel information on all of its employees.

A licensee could not falsely state or represent that an individual was or had been in the licensee's employ. A licensee that violated this provision would be subject to penalties under Article 6 of the Code.

A licensee could not allow a person who was convicted of a felony or a disqualifying misdemeanor while in the licensee's employ as a security guard to continue that employment.

Before making an offer of employment to an individual, or engaging a person as a contractor, to provide services as a security guard, a licensee would have to perform a criminal history check using the internet criminal history access tool (ICHAT) maintained by the Department of State Police, or obtain an equivalent check on the individual from the state or province where he or she lived. If the results revealed that the applicant had been convicted of a felony

or disqualifying misdemeanor, the licensee could not employ or engage that person to provide services as a security guard directly to the licensee's customers.

Within 180 days after the bill's effective date, a licensee would have to perform an ICHAT search or other criminal history check on each individual employed or engaged by the licensee to provide services as a security guard directly to the licensee's customers. If the results revealed that the individual had been convicted of a felony or disqualifying misdemeanor, the licensee could not continue to employ or engage that person.

Employee Experience & Training

A licensee that employed or engaged a person to provide services as a security guard directly to customers would have to ensure that the qualifications discussed below were met.

Before acting as a security guard without direct supervision, the person would have to complete at least 16 hours of on-the-job, site-specific training under the immediate supervision of an experienced supervisor. In the first 90 days of employment, the person would have complete at least 16 hours of classroom training selected by the licensee.

Before a person was authorized by the licensee to use a weapon or restraint device while on duty, he or she would have to complete the following training:

- For an aerosol spray or conducted energy device, any manufacturer-authorized certification in the use of the device for security or law enforcement personnel.
- For a tactical baton, four class hours of training selected by the licensee.
- For a restraint device, two class hours of training selected by the licensee.
- For a firearm, four hours of specialized training in the use of a firearm for security or law enforcement personnel selected by the licensee, and an additional four hours of that specialized training annually.

Every two years, an employee would have to complete at least four hours of continuing classroom training in the subjects described above; in the use of a tactical baton, if the licensee had authorized the employee to use a baton while on duty; and in the use of a restraint device, if the licensee had authorized the employee to use a restraint device while on duty.

The classroom training required in the first 90 days of employment would have to include a minimum of six hours of company and position orientation that included minimum uniform requirements and appearance; limits of authority and employment; legal aspects of the use of force and the power to arrest; people or authorities to be contacted in emergencies or unusual occurrences; licensee or parent company structure that affected guards' duties; guard courtesy and public demeanor; and report writing. A minimum of eight hours would have to involve defensive tactics that included self-defense; correct use of restraining devices, if the licensee had or intended to authorize the employee to use a restraint device while on duty; pressure point training; detection of substance abuse and mental illness; and verbal and sensitivity training. At least two hours would have to be about emergency preparedness that included the general responsibilities pertaining to medical emergencies and response; first aid and cardiopulmonary resuscitation, and foreign body obstruction of the airway; crowd control; exposure to bodily fluid; fire prevention and safety; bomb threats; searches; weather emergencies; chemical spills, leaks, and related waste; and evacuation procedures.

A licensee would have to prepare and retain a record of an individual's completion of the training and make that record available to LARA on request.

Uniform

The bill would prohibit a licensee from wearing or allowing an employee to wear a particular type of uniform and insignia that deceived or confused the public, or that was identical to that of a law enforcement officer. Each uniform jacket, coat, or shirt would have to have on each shoulder an identification patch that included the licensee's name and met other requirements specified in the bill.

A licensee or employee could wear a badge or shield as part of security guard uniform, but it could not be similar in shape to that of any law enforcement officer. A badge or shield could contain the U.S. flag or the scale of justice. A uniform could include designations of rank, emblems, or other garnishments that could be any color but could not bear the seal of the State of Michigan.

The bill describes alternative apparel that could be worn if a licensee considered it to be more appropriate for a location or event than the uniform required by Article 14A. The bill also includes a description of a raincoat and hat or cap that could be worn in inclement weather.

A licensee could not wear or allow an employee to wear a uniform, badge, or insignia allowed under the bill, except in the performance of his or her duties as a security guard or while commuting directly to or from his or her place or places of employment.

Other Provisions of Article 14A

A licensee could not use any designation or trade name that implied any association with any municipal, county, or state government, the Federal government, or an agency of the Federal government.

Article 14A would not impair or affect any act done, offense committed, or right accruing, accrued, or acquired or any penalty, forfeiture, or punishment incurred before the bill's effective date.

A license issued under the Private Security Business and Security Alarm Act that was in effect on the bill's effective date would remain in effect for the period for which the license would have remained in effect if Article 14A had not been enacted. The licensee would not have to obtain a license under Article 14A to conduct business as a security guard agency during that period.

Occupational Exam

Under Article 3 (Boards) of the Code, an occupational board and LARA must develop an exam or test required by Article 3. The board and Department may adopt an exam or test prepared by another agency if they determine that it serves as a basis for determining whether a person has the knowledge and skills to perform an occupation with competence.

In determining the form the recommended exam or test must take, a board and LARA must give special emphasis to an alternative form of testing that permits a person to demonstrate a special qualification he or she may have that is not evident under written examination but is related to an occupation. The alternative form of testing must be flexible enough to enable a person with a mental or physical disability to demonstrate that he or she has the requisite knowledge and skills. The bill would delete these requirements.

Senate Bill 162

Regulation of Security Guards & Agencies

The Private Security Business and Security Alarm Act regulates private security guards, private security police, private security guard agencies, private college security forces, and the installation, service, operation, and monitoring of security alarm systems. Unless licensed under the Act, a sole proprietorship, firm, company, partnership, limited liability company, or corporation may not engaged in the business of a security alarm system contractor, private security guard, private security police, private college security force, patrol service, or an agency furnishing those services. A person, firm, company, partnership, limited liability company, or corporation may not advertise its business to be that of a security alarm system contractor, security alarm system agent, private security guard agency, or an agency furnishing those services without having first obtained a license to do so for each branch office to be owned, conducted, managed, or maintained for the conduct of that business.

The bill would delete the regulation of private security guards and private security guard agencies under the Act. Under the bill, unless licensed under the Act, a person could not engage in the business of a security alarm system contractor, or of providing a private security police force or private college security force. A person could not advertise its business to be that of a security alarm system contractor, security alarm system agent, or an agency furnishing those services without first obtaining a license for each office and branch office.

Principal License Holder

Under the bill, a licensee that was not an individual, or an applicant who applied for a license on behalf of a person that was not an individual, would have to designate an individual as the licensee's principal license holder. The designated individual would be authorized to act on behalf of the licensee for purposes of the Act.

If the principal license holder were no longer authorized to act in that capacity, or no longer available to do so for any reason, the license would be automatically suspended. Upon request, however, LARA could permit the license to stay in force for 90 days from the date the principal license holder was no longer authorized or available to act on the licensee's behalf, to allow the licensee to designate a different individual as its principal license holder. The licensee would have to do both of the following within 10 days after making that designation:

- Give written notice to LARA that it had designated a different individual as its principal license holder.
- Give LARA the name of that person and any other information about that individual that the Department reasonably required.

If a licensee designating a different principal license holder did not comply with those requirements, or LARA did not approve of the new designation, the Department would have to notify the licensee of its disapproval. Within 30 days after receiving that notification, the licensee would have to designate another individual and meet the requirements for LARA's approval of that person as the principal license holder.

If a licensee were required to have a principal license holder, the agency's license would automatically be suspended during any period the licensee had not designated a principal license holder and notified LARA of that designation. On request, however, the Department could permit the license to stay in force for 60 days to allow the licensee to designate a principal license holder.

The Act specifies that a license issued under it is not assignable, and is personal to the licensee. The bill specifies that a designation of an individual as a licensee's principal license holder would not be an assignment of the license.

Criminal Background Check

The bill would delete current requirements that a licensee have fingerprints taken of all prospective employees and submit those fingerprints to the State Police and the FBI for State and national criminal history background check.

Under the bill, before making an offer of employment to a person as a direct provider of the licensee's security services to its customers, a licensee would have to perform a criminal history check using ICHAT, or obtain an equivalent check on the individual from the state or province where he or she lived. If the results revealed that the applicant had been convicted of a felony or disqualifying misdemeanor, the licensee could not employ or engage that person to provide services directly to the licensee's customers.

Within 180 days after the bill's effective date, a licensee would have to perform an ICHAT search or other criminal history check on each individual it employed to provide services directly to the licensee's customers. If the results revealed that the individual had been convicted of a felony or disqualifying misdemeanor, the licensee could not continue to employ or engage that person.

The Act defines "disqualifying misdemeanor" in the same manner as Senate Bill 983 would define the term.

Renewal Fees

Under the Act, LARA may not issue a license unless the applicant pays a fee of \$500, if the applicant is a security alarm system contractor or, for any other applicant, one of the following fees as appropriate:

- \$200, if the applicant is an individual.
- \$300, if the applicant is an entity.

In addition, a license granted under the Act may be renewed if the licensee pays a renewal fee of \$100, if a sole proprietorship; \$150, if a private security police organization, a private college police force, or a private security guard firm, company, partnership, limited liability company, or corporation; or \$250, if a security alarm system contractor. The bill would delete this requirement.

Under the bill, a licensee would have to pay a renewal fee of \$250 for a license as security alarm system contractor and \$150 for any other license issued under the Act.

Senate Bill 163

The Security Alarm System Act prohibits a person from acting as a system provider without filing a registration statement with LARA. The Act defines "system provider" as a person who engages in the business of selling, leasing, renting, maintaining, repairing, installing, or otherwise providing security alarm systems to the public at protected premises or by remote monitoring. The Act specifies several exceptions to that definition.

The bill also would exclude from the term "system provider" a security guard agency licensed under Article 14A of the Occupational Code whose employees or agents responded to burglar, fire, or supervisory alarms for the purpose of securing the property and ensuring the safety of individuals in or on that property. The bill specifies that "respond" could include reviewing

alarm history, resetting the alarm, and, if authorized, performing other normal end-user tasks including bypassing a protected zone if necessary to reset the alarm system.

In addition, under the bill, the term "system provider" would not include a security guard agency licensed under Article 14A of the Occupational Code whose employees or agents used client-installed equipment or equipment installed by a system provider that was registered under the Act for the purpose of protecting the personnel and property of a client of the agency.

As used in that provision, "equipment" would include access control equipment; video surveillance and recording equipment; audio communication equipment; intrusion detection and prevention equipment; and automated barriers. "Use" would mean only normal end user functions and capability that is installed or provided by a system provider to a client.

"Normal end user functions" would include video and alarm monitoring; retrieving video history for use by a client, security, or law enforcement; allowing or denying entry to individuals or vehicles by controlled access equipment; maintaining databases; or audio communication. Normal end user functions could be performed on-site or from a remote facility.

Senate Bill 164

Under the bill, fees for a person licensed or seeking licensure as a security guard agency or branch office under Article 14A of the Occupational Code would be as shown in Table 1.

Table 1

License Type	Fee Type	Fee Amount
Security Guard Agencies	Application Processing	\$250
Security Guard Agencies	Annual License	\$500
Branch Office	Application Processing	\$150
Branch Office	Annual License	\$150

MCL 339.103 et al. (S.B. 161)
338.1052 et al. (S.B. 162)
338.2182 (S.B. 163)
Proposed MCL 338.2233 (S.B. 164)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have a positive fiscal impact on the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. Generally, the bills would not significantly change the responsibilities of LARA with regard to the regulation and licensure of security guard agencies, but the bills would make some changes in how fees are collected and the levels of those fees.

Senate Bill 164 would create a new fee structure for the licensure of security guard agencies as would be established under Senate Bill 161. Table 2 provides a comparison between the current fees for security guard agencies and those proposed by Senate Bill 164.

Table 2

Fee	Current Fee	Fee Under Bills
New Application – Firm	\$300	\$250 Application Fee \$500 License Fee
New Application – Individual	\$200	\$250 Application Fee \$500 License Fee
Renewal – Firm	\$150	\$500
Renewal – Individual	\$100	\$500
New Branch Office	\$50	\$150
Annual Branch Office	Not Applicable	\$150

According to license data obtained from LARA, 305 agencies as well as 71 branch offices are licensed. Assuming all agencies are firms, rather than individuals, the revenue generated under the current fee structure is approximately \$45,750. Under the bills, the new fee structure would generate approximately \$163,150 annually. This revenue would be credited to the Licensing and Regulation Fund rather than the Security Business Fund. This change in the disposition of fee revenue would likely not have a significant effect on LARA's operations. While the change would reduce Security Business Fund revenue by about 50%, the costs charged to that Fund would be reduced significantly as well, as the costs of licensure of security guard agencies would be charged instead to the Licensing and Regulation Fund.

Fiscal Analyst: Josh Sefton