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Senate Bills 983 through 986 (as introduced 6-11-14)
Sponsor: Senator Darwin L. Booher (S.B. 983, 984, & 985)
Senator Bert Johnson (S.B. 986)
Committee: Regulatory Reform

Date Completed: 9-18-14

CONTENT

Senate Bill 983 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 a bond or insurance, meeting specified requirements, in order to be licensed.
- Require each branch office of a licensee to have a license for that branch.
- 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.
- Establish certain requirements for employees' uniforms.
- Specify experience and training requirements for a licensee's employees.
- Rescind R 28.4001 to R 28.4007 of the Michigan Administrative Code, which regulate private security guard and security alarm agencies.

The bill also would do the following:

- Require a person who violated the Code to be assessed costs related to the investigation and prosecution of the violation.
- Delete a provision of the Code that requires the Department of Licensing and Regulatory Affairs (LARA) and occupational boards to establish certain alternative forms of testing for occupational exams.
- Repeal Section 517 of the Code, which allows LARA and the appropriate board to administer an alternative form of testing or conduct a personal interview with a petitioner, or both.

Senate Bill 984 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.

- **Revise requirements that a licensee conduct a criminal background check on an applicant for employment.**
- **Revise certain fees for issuance and renewal of a license under the Act.**
- **Require the waiver of an initial license and application processing fee for an honorably discharged veteran.**
- **Repeal Section 19 of the Act, which establishes uniform and insignia requirements for a licensee and a licensee's employees.**

Senate Bill 985 would amend the Security Alarm System 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 986 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, and allow LARA to adjust the fees biennially based on inflation.

The bills are tie-barred and would take effect 90 days after their enactment.

Senate Bill 983

Scope of Article 14A

Article 14A would not apply to a security alarm systems provider that had filed a registration statement under the Security Alarm Systems Act or to a private college security force or private security police force that was subject to the Private Security Business and Security Alarm Act.

If a law enforcement officer had a license as a security guard or security guard agency under the Private Security Business and Security Alarm Act, he or she could retain that license but would have to renew his or her license under Article 14A. If an individual were employed as a law enforcement officer by the Federal government or another state, territory, or country, or were engaged in domestic or foreign intelligence gathering on behalf of the Federal government or another country, he or she would not be eligible for a new license or to renew a license under Article 14A.

If an individual were employed as a law enforcement officer, as defined in the Commission on Law Enforcement Standards Act, he or she would not be eligible for a new or renewal license under Article 14A unless he or she gave LARA both written permission from his or her employer to provide services regulated under the article and documentation of any written policies or procedures published by his or her employer that did any of the following:

- Addressed off-duty employment.
- Limited or prohibited of off-duty use of investigative tools or equipment provided by the employer exclusively for law enforcement.
- Indicated that off-duty employment providing services under Article 14A was not considered in conflict with employment as a law enforcement officer.

A license as a professional investigator under the Professional Investigator Licensure Act would not allow the licensee to perform the services of a security guard business without a security agency license under Article 14A, but he or she could perform services as a bodyguard without a license under the article.

If a license to conduct business as a security guard or security guard agency were issued to a person, 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 bond or 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.
- Had given LARA the approval of the prosecuting attorney or sheriff of the county in which an office, including a branch office, was or would be located, or the chief of police of a city, township, or village where an office was or would be located.

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 name and address of the applicant's principal place of business in Michigan.
- If the applicant were not the security guard agency, the agency's name and principal place of business in Michigan.
- The address and location of any branch offices in Michigan 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 furnish an insurance policy, or give the Department a bond that met all of the following:

- Was in the principal amount of \$25,000.
- Was payable to LARA for the benefit of the people of Michigan and any person injured by the willful, malicious, and wrongful act of the licensee or any of the licensee's agents or employees.
- Was conditioned on the faithful and honest conduct of the business of the applicant.
- Was approved by LARA.

In lieu of the bond, an applicant could furnish an insurance policy issued by an insurer licensed to do business in Michigan that named the licensee and the State as coinsured in the amount of \$25,000 for property damage, \$100,000 for injury to or death of one individual, and \$200,000 for injuries to or deaths of more than one person arising out of the operation of the licensed activity.

A person could bring an action on a bond or 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 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 was 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 25.

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 had been 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 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.

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.

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 provided by the licensee.

Before a person was authorized to use a weapon or restraint device while on duty, he or she would have to complete the following required 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 use of a tactical baton, in the use of a restraint device, and in subjects described above.

Classroom training 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; 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.

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.

A board and LARA, in determining the form the recommended exam or test would take, 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.

Investigation & Prosecution Costs

The bill would add a section to Article 6 (Violations and Penalties) to specify that if the parties in a contested case under Article 5 (Complaints, Hearings, Petitions) agreed to any fact involved in the controversy by stipulation, or there were a finding of fact and conclusion of law in an action under Article 5, that a person had violated the Code, the hearings examiner would have to assess costs related to the investigation of the violation and costs related to the prosecution of the action. Those costs would include salaries and benefits of personnel, costs related to the time spent by the Attorney General's office and other personnel working on the action, and any other expenses incurred by LARA for the action.

Senate Bill 984

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. An individual so designated 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 licensee would have to designate a different individual as its principal license holder. The licensee would have to do all 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.
- Return to LARA the ID card issued to the former principal license holder.

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.

A licensee could pass along the actual cost of an ICHAT search, or an equivalent check from an individual's state or province of residence, to the individual on whom the search was performed.

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

Fees

An applicant for a license under the Act must pay for each license \$200, if a sole proprietorship; \$300, if a private security guard firm company, partnership, limited liability company, or corporation; or \$500, if a security alarm system contractor. The bill would delete those requirements.

Under the bill, the Department could not issue a license under the Act unless the applicant paid a fee of \$500, if the applicant were a security alarm system contractor or, for any other applicant, one of the following fees as appropriate:

- \$200, if the applicant were an individual.
- \$300, if the applicant were not an individual.

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 those requirements.

Under the bill, a licensee instead 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.

Initial License Waiver for Veterans

The bill would require the waiver of an initial license fee required under the Act, or any application processing fee charged for an initial license, if the applicant had served in the armed forces and he or she provided documentation demonstrating that he or she was honorably separated from that service.

Senate Bill 985

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, and specifies several exceptions to that definition.

Under the bill, the term "system provider" also 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.

The term "system provider" also would not include a security guard agency licensed under Article 14A 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.

Senate Bill 986

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

The bill would allow LARA to adjust the application and license fees every two years by an amount determined by the State Treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index in the preceding two-year period and rounded to the nearest dollar.

MCL 339.103 et al. (S.B. 983)
338.1052 et al. (S.B. 984)
338.2182 (S.B. 985)
Proposed MCL 338.2233 (S.B. 986)

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 to how fees are collected and the levels of those fees.

Senate Bill 984 would waive initial license fees for security alarm contractors, security alarm system agents, other licensed security alarm system personnel, private security police, and private college security forces if the applicant were honorably discharged from military

service. These fees range from \$200 for most individual license fees to up to \$500 for a security alarm contractor. It is unknown how many licensed individuals are honorably discharged veterans, but since the bill would waive only the initial fee, the fiscal impact of the waivers would likely result in a minor loss of revenue for LARA and the Department of State Police. This fee waiver also would also effectively apply to the new license and fee structure for security guard agencies that would be established by the bills, as the State License Fee Act provides a similar waiver for all fees set by that Act.

Senate Bill 986 would create a new fee structure for the licensure of security guard agencies as would be established under Senate Bill 983. Table 2 provides a comparison between the current fees for security guard agencies with those proposed by Senate Bill 986.

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. The fees in Senate Bill 986 also would be adjusted biennially to adjust for changes in the Detroit Consumer Price Index. The current fees do not have this inflation adjustment mechanism. Finally, 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

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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.