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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/07  
 SPONSOR SPAC LAST UPDATED 3/15/07 HB \_\_\_\_\_  
 SHORT TITLE Private Investigator and Polygrapher Regulation SB CS/621/aHJC/aHFL  
 ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Attorney General’s Office (AGO)  
 Department of Education (DOE)

### SUMMARY

#### Synopsis of HFL Amendment

The House Floor amendment on page 18, line 8, strikes “and hours” and on page 32, line 17, strikes “at least sixteen hours of”. The changes remove specific time requirements for certification.

#### Synopsis of HJC Amendment

The House Judiciary Committee amendments to CSSB 621 make several changes to the substitute bill. This first change is in Section 2, it adds language to include “or any other device used to measure truthfulness,” to the definition of polygraphy.

It also adds language to the definition of a private investigator to include an individual obtaining information regarding, “the scene of a motor vehicle accident or evidence related to a motor vehicle accident.” Other sections of the bill are changed to make the language consistent regarding the investigation of a motor vehicle accident.

The substitute also amends the definition of a security dog handler to delete language that states an individual who “trains” dogs.

In Section 7, Requirements for Licensure, language is added to include that a person to be licensed not have an offense “involving dishonesty,” and that professional ethical standards by defined by the department. Language is stricken that requires less than six thousand hours of work performed in the duty areas. Changes were made to other sections of the bill to make the language consistent throughout the bill.

A change to Section 8 regarding company licensure makes it clear that the owners, officers or directors of the entity either singly or collectively shall not have been convicted of a felony offense. Similar changes were made to other sections of the bill to make the language consistent throughout the bill.

The amendment to Section 14, Registration Requirements, includes contract employees. It also changes the requirement for the age of an applicant from eighteen to twenty-one.

Changes are made to Sections 17 and 18 for level two and three requirements that include department approved in-house training programs, and that level three firearms training be certified by the New Mexico Law Enforcement Academy or the National Rifle Association, but strikes the requirement for a total of twenty-four hours of firearms training for level three applicants.

The amendment adds a new subsection B that does not allow the department to increase fees prior to the renewal period in fiscal year 2009.

The amendment to Section 24 sets the surety bond amount required at ten thousand dollars (\$10,000)

A new subsection is added to Section 36, Temporary Provisions, which clarifies that person licensed prior to July 1, 2007 retain the level of licensure under the new law without further training or examination, provided that the person: apply for licensure no later that October 31, 2007; shall be subject to any disciplinary proceedings initiated prior to July 1, 2007 or action resulting from proceedings due to unethical conduct and remains otherwise eligible to be licensed pursuant to the Act.

On Page 14 line 16 there should be a coma after dishonesty.

### Synopsis of Original Bill

The Senate Public Affairs Committee Substitute for Senate Bill 621 will amend Section 61-27A NMSA 1978 the Private Investigator and Polygraphers Act. The bill provides licensing changes for private investigators and private patrol operators, also known as security guards.

Specifically, the bill will:

- (1) Require private patrol companies that hire security guards to maintain general liability insurance in case an individual is hurt by a security guard’s negligence;
- (2) Allow each security guard to own his own guard card thereby allowing him to seek employment as he chooses. Under current Act, the employer owns the guards cards. A

separate application for a card must be submitted by each employer for every security guard employed;

- (3) Create 3 levels of licensure for security guards based on the experience and qualifications of the guards. However, every guard currently licensed will be grandfathered into the highest level for which they qualified prior to enactment of the proposed legislation;
- (4) Provide for continuing education for all guards to help make sure the guard is properly trained for the job they have been hired to do;
- (5) Require security guards to complete a minimum of 16 hours of training before serving on a post of duty for the first time at their level of licensure;
- (6) Allow an employer to provide in-house training approved by the Private Investigator Board, or allow employees to seek training from a school or facility approved by the Board;
- (7) Allow non-resident security guards to obtain a special event permit to work in the state for a limited period of time to provide guard services for special events.

Unlike the original bill, the Senate Public Affairs Committee substitute bill generally modifies financial responsibility requirements for private investigations companies provided in the original bill, to require that those companies post a \$10k surety bond prior to being issued a license. The substitute bill also allows the Regulation and Licensing Department to specify liability insurance amounts for owners of private investigation and private patrol companies and eliminates redundant language in the original bill relating to security guard identification cards.

### **FISCAL IMPLICATIONS**

Senate Public Affairs Committee Substitute for Senate Bill 621 does not require any appropriations.

### **SIGNIFICANT ISSUES**

The Act, as amended, will require additional training for individuals who seek to be licensed as Private Investigators or Private Patrol Operators.

The Bill allows the Board to conduct national background checks on prospective licensees before issuing a license to investigate, patrol or carry weapons.

It has been over 10 years since any major amendments have been made to the Private Investigators and Polygraphers Act and that there have been many technological changes in the way in which private patrol operators and private investigators perform their duties.

The Act, as amended, will create a three-tiered licensure program for security guards, associating level of training and experience with each level of licensure.

1. A Level One security guard will be an unarmed, entry-level guard trained to perform basic guard duties;
2. A Level Two security guard will be armed with a knight stick or other defense mechanism, but not permitted to carry a firearm; and
3. A Level Three security guard will be able to perform the duties and responsibilities of a Level One and Level Two security guard, and carry a firearm.

Under the current legislation, the company that hires the security guards also owns the “guard cards.” Each time a security guard changed employers they also have to apply for and receive a new security guard registration. The proposed legislation will create increased security guard mobility and more guard flexibility within the profession.

Each private investigation company must maintain a \$10,000 surety bond, unless the private investigation company also provides personal protection or body guarding services. In those instances, the private investigation company must also maintain a general liability policy. Private patrol operator companies must maintain general liability insurance.

### **PERFORMANCE IMPLICATIONS**

According to members of the Private Investigations Advisory Board, a Level One Security Guard should complete an additional 24 hours of training for a total of 40 hours once they have been placed on guard posts; the training is to be provided by a public educational institution or an educational institution licensed by NMHED. A Level Three Security Guard should complete a total of 120 hours of training.

Sixteen hours of training for a Level One Security Guard is limited to orientation, communications, and report writing. Additional hours of training would include training on ethics, evacuations, emergency situations, criminal law and criminal liability, professional conduct, retail loss prevention, and pre-employment training, such as, job interviews.

Similarly, for a Level Two Security Guard, additional training beyond the minimum 16 hours would cover crime and incident scene investigation, defending and responding to the threat of bombing, reducing officer risk and liability, use of restraints, instruments, and force, and hands-on practical applications of self-defense.

Additional training beyond the minimum 16 hours for a Level Three Security Guard would include firearms proficiency, handling on range, cleaning, safety, and the Security Officer Training Examination.

Upon completion of their training, security guards will be issued a guard card by the New Mexico Regulations and Licensing Department indicating their level of training. A potential consequence for security guards who complete a training program would be eligibility for salary increases and employment opportunities with higher wages.

### **OTHER SUBSTANTIVE ISSUES**

Over the past few years, the board has become aware of incidents resulted in the death or injury of a security guard or a citizen because of an improperly trained or unregistered security guard. Senate Public Affairs Committee Substitute for Senate Bill 621 will create an effective protocol for licensing and registering individuals as security guards and/or private investigators.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Regulation and Licensing Department will continue to issue all licenses pursuant to the provisions of the current Private Investigators and Polygraphers Act.