

SENATE BILL No. 594

September 27, 2017, Introduced by Senator MEEKHOF and referred to the Committee on Government Operations.

A bill to permit legally organized entities to enter into contracts with special police agencies; to license and regulate special police agencies; to impose certain fees; to require special police agencies to be insured; to provide penalties; and to provide for the powers and duties of certain state and local officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "special police agency act".

3 Sec. 2. As used in this act:

4 (a) "Agency" means a special police agency licensed under this
5 act.

6 (b) "Applicant" means a person who has submitted an
7 application to the department to operate a special police agency.

1 If the applicant is a business entity, applicant includes any owner
2 who has a controlling interest in the entity.

3 (c) "Armed forces" means the United States Army, Navy, Marine
4 Corps, Air Force, and Coast Guard, including reserve components.

5 (d) "Commission" means the commission on law enforcement
6 standards created under section 3 of the Michigan commission on law
7 enforcement standards act, 1965 PA 203, MCL 28.603.

8 (e) "Controlling interest" means an ownership interest in a
9 business entity that entitles an individual to enter into legally
10 binding contracts on behalf of the business entity.

11 (f) "Department" means the department of state police.

12 (g) "Legally organized entity" includes, but is not limited
13 to, an association, corporation, partnership, proprietorship,
14 trust, foundation, nonprofit organization, school district,
15 political subdivision, local unit of government, federally
16 recognized Indian tribe, or institution of higher education.

17 (h) "Municipality" means any township, village, city,
18 district, community college district, school district, or
19 institution of higher education in this state.

20 (i) "Special police agency" means a special policy agency
21 licensed under this act.

22 (j) "Special police officer" means an individual who is
23 currently or was previously licensed as a law enforcement officer
24 within the preceding 2 years under the Michigan commission on law
25 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, who
26 is authorized to prevent and detect crime and enforce the general
27 criminal laws of this state.

1 Sec. 3. (1) Unless licensed under this act, a person shall not
2 provide law enforcement services as a special police agency under
3 contract with a legally organized entity under this act.

4 (2) A person shall not advertise its business as a special
5 police agency without first having obtained a license from the
6 department to provide law enforcement services.

7 Sec. 4. (1) The department shall provide an application on its
8 website for licensure of a special police agency under this act.

9 (2) The department shall charge a reasonable fee for the
10 processing of an application under this act, and shall not issue a
11 license under this act unless the applicant pays the department the
12 application fee. The application fee must be as follows:

13 (a) \$200.00 if the applicant is an individual or sole
14 proprietorship.

15 (b) \$300.00 if the applicant is a business entity.

16 (3) The department shall forward the application fee collected
17 under this section to the state treasurer for deposit into the
18 general fund.

19 (4) The application form must request all of the following
20 information from an applicant:

21 (a) Identifying information of the applicant.

22 (b) The fingerprints of the applicant if the applicant is an
23 individual, or the fingerprints of the owners of the applicant who
24 have a controlling interest in the applicant if the applicant is a
25 business entity.

26 (c) If the applicant is an individual, reference statements
27 from at least 5 reputable citizens who have known the applicant for

1 at least 5 years; who can attest that the applicant is honest, of
2 good character, and competent; and who are not related or connected
3 to the applicant by blood or marriage. If the applicant is a
4 business entity, reference statements from at least 5 reputable
5 citizens who have conducted business or had other dealings with the
6 applicant and its owners who have a controlling interest in the
7 applicant for at least 5 years; who can attest that the applicant's
8 owners are honest, of good character, and competent; and who are
9 not related or connected to the applicant's officers and owners by
10 blood or marriage.

11 (d) Evidence that an applicant who is an individual has not
12 been adjudged insane, unless he or she has been adjudged restored
13 to sanity by court order.

14 (e) Evidence that an applicant has not less than \$1,000,000.00
15 in liability insurance or is capable of being self-insured.

16 (5) Upon receipt of the application and application fee, the
17 department shall investigate the applicant's qualifications for
18 licensure under this act.

19 Sec. 5. (1) Each applicant that submits an application to the
20 department for licensure under this act shall sign and verify the
21 application.

22 (2) Each application submitted under this act shall contain
23 all of the following:

24 (a) The name of the applicant and the principal address where
25 he or she resides, or the principal address where the applicant is
26 located in this state, if the applicant is a business entity.

27 (b) The location of any branch office of the applicant.

1 (c) If the applicant is a limited liability company, the
2 certificate of incorporation or registration of the limited
3 liability company.

4 (d) The website address of any website registered to the
5 applicant.

6 (3) Each applicant shall submit 2 passport quality photographs
7 of the applicant or, if the applicant is a business entity, of the
8 owners of the applicant with a controlling interest in the
9 applicant with the application.

10 (4) The department shall issue a license to an applicant to
11 conduct business as a special police agency if the applicant is an
12 individual, that individual, or if the applicant is a business
13 entity, any owner with a controlling interest in the applicant
14 meets all of the following conditions:

15 (a) Is not less than 21 years of age.

16 (b) Has a high school education or its equivalent.

17 (c) Has not been convicted of a felony in the 5 years
18 immediately preceding the date of application.

19 (d) Provides evidence of United States citizenship or
20 permanent resident status.

21 (5) The applicant shall include evidence that no fewer than 1
22 officer or employee of the special police agency meets 1 or more of
23 the following conditions:

24 (a) The officer or employee was employed as a licensed law
25 enforcement officer in this state or another state for at least 3
26 years.

27 (b) The officer or employee was employed at a special police

1 or licensed security agency in this state or another state for at
2 least 3 years as an employee of the applicant seeking licensure
3 under this act, and has experience that is reasonably equivalent to
4 at least 4 years of work in a supervisory capacity with rank above
5 that of patrol officer.

6 (c) The officer or employee is a graduate with a baccalaureate
7 or associate degree in the field of police administration or
8 industrial security from an accredited institution of higher
9 education.

10 (d) The officer or employee served in the armed forces as a
11 military police officer or in an equivalent job classification.

12 Sec. 6. (1) If an applicant has not previously been denied a
13 license under this act, or has not had a license previously issued
14 under this act suspended or revoked, the department may issue a
15 temporary license to the applicant. A temporary license is valid
16 until 1 or more of the following events occur but in any event is
17 valid for not more than 120 days:

18 (a) The completion of the investigation and approval by the
19 department required for licensure under this act.

20 (b) Confirmation of compliance with the bonding or insurance
21 requirements for licensure under this act.

22 (c) Failure by the applicant to meet 1 or more of the
23 requirements for licensure under this act.

24 (2) The department shall issue a license to an applicant when
25 the requirements of this act are met, the department has received a
26 completed application, and the department is satisfied of the good
27 character, competence, and integrity of the applicant. As used in

1 this subsection, "completed application" means an application that
2 is complete on its face and submitted with the licensing fee
3 required under section 4 and any other information, records,
4 approval, security, or similar item required under this act.

5 (3) For each individual contract an agency enters into, the
6 agency shall notify the department and the local governing body of
7 the municipality in which the agency will be providing law
8 enforcement services if the contracting entity is not the
9 municipality itself. The agency shall notify the department when
10 any contract expires or is canceled.

11 (4) A license issued under this act is valid for 3 years, but
12 the department may revoke the license for good cause shown. A
13 licensed special police agency may request a hearing on the
14 revocation of its license under this act. A license revocation
15 hearing must be conducted as a contested case under the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328.

18 (5) The department shall prescribe the form of a license
19 certificate and provide a license certificate to an applicant upon
20 licensure.

21 Sec. 7. (1) A legally organized entity may enter into a
22 contract with a special police agency to provide law enforcement
23 services for a specified period of time and in a specified
24 geographic location in this state.

25 (2) A contract entered into under this section must provide
26 all of the following:

27 (a) The length of time during which the agency will be

1 providing the legally organized entity law enforcement services.

2 (b) A description of the geographic area in which the agency
3 will be providing the legally organized entity law enforcement
4 services, and the geographic boundaries of the area in which the
5 special police officers will have arrest authority.

6 (c) The arrest procedures with which special police officers
7 must comply and the local law enforcement agency or agencies that
8 special police officers must contact in the event of an arrest or
9 other incident involving the special police officers in the
10 performance of their duties.

11 (d) The number of special police officers that will be
12 deployed by the agency in the geographic area described in
13 subdivision (b).

14 (e) If the legally organized entity entering into a contract
15 with a special police agency is a local unit of government, the
16 contract must also include a written statement of approval by the
17 prosecuting attorney or sheriff of the county in which the special
18 police agency will be providing law enforcement services. If the
19 law enforcement services are to be provided within a municipality
20 that has a police department, the written approval of the chief of
21 police may be obtained instead of the sheriff.

22 Sec. 8. (1) An agency shall require an applicant for
23 employment as a special police officer to undergo a criminal
24 background check in the same manner as is required by the
25 commission before an individual may become a licensed law
26 enforcement officer in this state before he or she is hired as a
27 special police officer. The department shall assist an agency in

1 completing the criminal background checks required under this
2 subsection. If an individual is currently licensed or was
3 previously licensed within 2 years preceding his or her application
4 to become a special police officer as a law enforcement officer
5 under the Michigan commission on law enforcement standards act,
6 1965 PA 203, MCL 28.601 to 28.615, and his or her license was not
7 revoked, the individual is not required to undergo a criminal
8 background check under this subsection.

9 (2) A special police officer has the same authority to arrest
10 a person without a warrant as a public peace officer under section
11 15 of chapter IV of the code of criminal procedure, 1927 PA 175,
12 MCL 764.15, when the special police officer is providing law
13 enforcement services as provided in a contract entered into under
14 section 7. A special police officer's arrest authority is expressly
15 limited to the time during which he or she is providing law
16 enforcement services as provided in a contract under section 7.

17 Sec. 9. (1) Except for an individual who is currently
18 participating in a state, county, or municipal retirement system as
19 a current employee or retired employee, a special police officer is
20 not eligible to participate in any state, county, or municipal
21 retirement system.

22 (2) The uniforms, vehicles, and badges of a special police
23 agency may be similar to those of a local law enforcement agency.
24 However, there must be some insignia or mark indicating that the
25 officer or equipment is provided by an agency.

26 Sec. 10. (1) Any function performed by a special police
27 officer under a contract entered into as provided in section 7 is

1 considered to have been for public and governmental purposes, and
2 all immunities from liability enjoyed by the state or the political
3 subdivisions of this state and their officers, agents, and
4 employees extend to the special police agency when providing law
5 enforcement services as authorized by this act.

6 (2) Officers or employees of a special police agency providing
7 law enforcement and related services to a legally organized entity
8 under a contract entered into under section 7 are considered agents
9 of this state for tort liability and immunity purposes. An officer
10 or employee rendering services pursuant to a contract entered into
11 under section 7 is not liable on account of any act or omission
12 made in good faith on the part of the officer or employee, or on
13 account of the maintenance or use of any equipment or supplies in
14 connection with the services being rendered by the officer or
15 employee. As used in this subsection, "good faith" does not include
16 willful misconduct, gross negligence, or recklessness.

17 Sec. 11. The commission may promulgate rules under the
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
19 24.328, that permit a special police agency to enter into a
20 reciprocal agreement with other states that provides for the
21 recognition of registration certificates or licenses issued to a
22 comparable agency, a security officer, or special investigators
23 issued in other states.

24 Sec. 12. A person that violates this act is guilty of a felony
25 punishable by imprisonment for not more than 4 years or a fine of
26 not more than \$5,000.00, or both.

27 Enacting section 1. This act takes effect 90 days after the

1 date it is enacted into law.