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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:

- Sec. 1. This act shall be known and may be cited as the
 "special police agency act".
- 3 Sec. 2. As used in this act:
 - (a) "Agency" means a special police agency licensed under this act.
 - (b) "Applicant" means a person who has submitted an 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.
- (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:
- (a) Identifying information of the applicant.
- (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
- 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.
- (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.
- (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.
- (d) The officer or employee served in the armed forces as a
- 11 military police officer or in an equivalent job classification.
- 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.
- (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
- 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.
- 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.
- 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.