

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1110 (Chair, Judiciary Committee)(By Request - Departmental
 - State Police)

Judiciary

Judicial Proceedings

Law Enforcement - Special Police Officers

This departmental bill makes several changes to provisions relating to the appointment of special police officers in the State, including procedures for the suspension or termination of a special police officer commission.

Fiscal Summary

State Effect: General fund revenues decrease by \$11,300 in FY 2018 due to the increase in the term of an initial commission. The bill’s changes to provisions relating to criminal history records checks (CHRCs) are not expected to significantly affect State operations or finances.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	\$0	\$0	(\$11,300)	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	\$0	\$0	(\$11,300)	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: The Department of State Police (DSP) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) generally concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill makes the following changes to provisions governing the qualifications and appointment processes for special police officers:

- the Secretary of State Police must apply to the Central Repository of the State's Criminal Justice Information System (CJIS) for a State and national CHRC for each applicant, in a specified manner. The fee for a State and national CHRC is the fee designated in statute for that purpose, including the fee amount set by the FBI for the national check. The need for submission of a State fingerprint check for a renewal commission is eliminated;
- a special police officer, unless on detective duty, must wear a uniform that gives notice that the special police officer is a *special police officer*, rather than a *law enforcement officer*;
- a special police officer's vehicle and equipment are subject to approval by DSP;
- a special police officer's employer must return the special police commission card to the Secretary within 10 days after the suspension or termination of a special police officer;
- an initial commission expires three years, rather than two years, after the date of issuance;
- a new national CHRC by the FBI is required for the renewal of a commission; and
- the Governor may delegate the power to suspend a commission to the Secretary of State Police. The Secretary may suspend a commission if it appears that the action is in the best interest of the public. A suspension issued by the Secretary must be reviewed by the Governor within 30 days to determine if the suspension should continue or if the commission should be terminated.

The bill does not alter the fee for an initial commission (\$100) or the commission renewal fee (\$60).

Current Law: Under the Public Safety Article, the Governor may appoint and deputize an individual as a special police officer. Such a commission is granted arrest powers, but the scope of each commission is limited to the property cited in the commission.

An applicant for a commission must be at least age 18. The employer of an applicant must (1) submit an application to the Secretary of State Police; (2) submit a complete set of the applicant's legible fingerprints; and (3) pay a fee to cover the cost of the fingerprint record checks. There is also a nonrefundable application fee of \$100.

The Secretary of State Police must investigate the character, reputation, and qualifications of each applicant for a commission. Upon completion of the investigation, the Secretary

must transmit to the Governor (1) the results of the investigation; (2) a recommendation on denying or granting the application; (3) the reasons for the recommendation; and (4) the final disposition of any appeal. The Governor may accept the recommendation of the Secretary but need not issue a commission if the Governor believes it not to be in the best interest of the State to do so.

A special police officer appointed by the Governor may:

- arrest individuals who trespass or commit offenses on the property described in the application for the commission;
- exercise the powers of a police officer on that property;
- exercise the powers of a police officer in a county or municipality in connection with the care, custody, and protection of other property of the entity that requested the appointment of the special police officer or other property, real or personal, for which the entity has assumed an obligation to maintain or protect; and
- direct and control traffic on public highways and roads in the immediate vicinity of the property in order to facilitate the orderly movement of traffic to and from the property, if approved in advance.

While any special police officer in the State is eligible for training by the Police Training Commission and any local training academy, it is not required for the issuance of the commission. A violator of specified provisions relating to State special police officer commissions is guilty of a misdemeanor and subject to imprisonment for six months and/or a fine of \$1,000.

A commission is suspended or terminates when the employer of the special police officer files written notice that states that the special police officer is suspended from or relieved of the duties of a special police officer. The Governor may suspend or terminate a commission on recommendation of the Secretary or on the Governor's own motion if the Governor finds it in the best interest of the State. The suspension or termination must be noted in the official records of the Governor. The suspension or termination may not take effect until five days after notice is sent to both the special police officer and the special police officer's employer.

The Governor may delegate the power to suspend or terminate a commission to the Secretary of State, the Assistant Secretary of State, or both. A commission does not terminate if (1) an employer no longer needs the services of a special police officer because the employer has transferred the business property described in the commission to another person for legal business purposes and (2) the other person executes a form prepared by the Secretary of State that affirms that the other person will employ the special police

officer to protect that business property and will assume the responsibilities of the original employer.

An initial commission expires two years after its date of issuance. At the end of a term of a commission, the commission is renewable for a three-year term if, among other things, the employer submits a renewal application, submits a complete set of fingerprints, and pays a fee to cover the cost of the fingerprint record checks. The renewal fee is \$60.

Each individual subject to a CHRC is required to pay \$52.75 for a State and national CHRC, which includes a \$20 fingerprinting fee, a \$14.75 FBI fee, an \$18 fee to the CJIS Central Repository within the Department of Public Safety and Correctional Services. CJIS collects, manages, and disseminates Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. CJIS is a fingerprint-supported system for positive identification.

Background: DSP reports that the impetus for this bill comes from the special police industry subsequent to complaints regarding the conduct of some special police officers. Complaints received by local law enforcement agencies related to the mislabeling of uniforms, vehicles, and buildings. DSP also advises that currently, if DSP finds a serious violation, it does not have the authority to suspend a commission. Only the Governor may do so.

The bill generally implements the recommendations of the special police industry. DSP advises that any changes to training for special police officers will be handled by regulation.

DSP reports that there were 180 initial applications for a special police commission in 2011; 167 in 2012; 193 in 2013; and 211 in 2014. Accordingly, there are an average of 188 initial applications annually.

State Fiscal Effect: Assuming that there are 188 initial applications annually, renewal fee revenue from initial applications received in fiscal 2016 is paid in fiscal 2019 instead of fiscal 2018. This means that general fund revenues from renewal fees decrease by \$11,280 (188 x \$60) in fiscal 2018. There is no impact after fiscal 2018 because the revenue increase in future years is offset by the revenue loss from applicants who receive their initial commissions in each subsequent fiscal year. This analysis assumes that the 188 initial applications received in fiscal 2016 are issued with a three-year term, despite the bill's October 1, 2015 effective date.

DSP advises that all of the bill's other requirements can be handled with existing budgeted resources. The bill's provisions allowing the Governor to delegate suspension authority to

the Secretary can be handled with the existing budgeted resources of DSP. The extent to which suspensions may increase under the bill cannot be reliably predicted.

The bill's changes relating to CHRCs do not significantly affect the operations or finances of CJIS.

Small Business Effect: DSP advises that the bill has minimal or no impact on small businesses in the State. While DLS concurs that the impact is likely minimal, because the bill both lengthens the term of an initial special police commission from two to three years (without changing the fee) and eliminates the need for a State CHRC for the renewal of a special police commission, the bill likely has a positive impact on businesses that employ special police officers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard and Montgomery counties, Baltimore City, City of Takoma Park, Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2015
min/lgc Revised - Enrolled Bill - April 28, 2015

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Police – Special Police Officers - Commission

BILL NUMBER: HB 1110

PREPARED BY: Tom Williams, Director, Government Affairs Unit

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.