

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 41** DATE: **October 22, 2007**

STATUS: **As Passed by the House** SPONSOR: **Rep. Uecker**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Requires the licensure of persons operating security or life-safety systems companies or companies providing locksmith services and of individuals performing specified types of security or life-safety systems work or locksmith services, and establishes the Security or Life-Safety Systems Advisory Board in the Office of the State Fire Marshal**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Potential negligible gain from state court costs	Potential negligible gain from state court costs
Expenditures	- 0 -	- 0 -	- 0 -
Security or Life-Safety Systems Fund (New Fund) – Department of Commerce			
Revenues	- 0 -	Gain of approximately \$164,360 from license fees	Gain of approximately \$130,700 annually from license fees
Expenditures	- 0 -	Increase in the hundreds of thousands of dollars, up to available revenues	Increase in the hundreds of thousands of dollars, up to available revenues
General Reimbursement Fund (Fund 106) – Attorney General			
Revenues	- 0 -	Gain of up to \$100,000 from background check fees	Potential minimal gain from background check fees
Expenditures	- 0 -	Corresponding increase to conduct additional background checks	Corresponding increase to conduct additional background checks
Victims of Crime/Reparations Fund (Fund 402) – Attorney General			
Revenues	- 0 -	Potential negligible gain from state court costs	Potential negligible gain from state court costs
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Short-term funding.** The bill creates the Security or Life-Safety Systems Fund to pay for the costs associated with the licensing requirements of the bill and to receive revenue derived from license fees. There would not be any license fee revenue in the short term, as the bill provides that the licensing provisions take effect 480 days after its



effective date. From all appearances, the practical effect of the bill's effective dates is that, until licensing and regulatory activities commence, there will likely be no revenue generated for deposit in the Security or Life-Safety Systems Fund for developing and implementing the bill's various provisions. It is unclear how the Department of Commerce's State Fire Marshal's Office will finance the program's development and implementation.

- **Initial and ongoing license fee revenue.** Once licensing activities begin, assuming that all estimated companies and individual technicians, operators, or salespersons become licensed shortly after the license requirements take effect, the Security or Life-Safety Systems Fund could gain approximately \$164,360 in revenue the first year of licensing. In subsequent years, the Fund would likely receive less revenue, as the renewal fee amount for companies would be less than the initial license fee. Based on this calculation, ongoing revenue could amount to approximately \$130,700 annually.
- **State Fire Marshal expenses.** There would be a number of start-up costs associated with performing the duties and responsibilities required by the bill. Start-up costs for such things as a system to track licensees and applicants; equipment such as computers, phones, and other office overhead; initial payroll costs; and maintenance, travel, and other miscellaneous expenses may be in the hundreds of thousands of dollars.
- Ongoing expenses for payroll and maintenance costs may be in the hundreds of thousands of dollars annually, but, presumably, would be limited to available revenues. At the outset of regulatory activities and with the estimated available revenue, the State Fire Marshal may be able to employ two or three additional employees to assist with administrative duties, examinations, investigations, continuing education requirements, and so forth as needed.
- **State court cost revenue.** The bill creates a penalty for security or life-safety systems companies and individuals that operate for a profit without being licensed by the State Fire Marshal. This creates the possibility that the GRF and the Victims of Crime/Reparations Fund (Fund 402) may gain a negligible amount of state court cost revenue.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential minimal gain from court cost and fine revenue	Potential minimal gain from court cost and fine revenue
Expenditures	- 0 -	Potential minimal increase for adjudication costs	Potential minimal increase for adjudication costs
Municipalities and Townships			
Revenues	- 0 -	Potential loss of licensing or registration fee revenue	Potential loss of licensing or registration fee revenue
Expenditures	- 0 -	Potential decrease in licensing and regulatory costs; potential minimal increase for adjudication costs	Potential decrease in licensing and regulatory costs; potential minimal increase for adjudication costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Preemption of local licensing authority.** Currently, many municipalities and townships require alarm businesses and/or their employees to be licensed or registered. This bill generally prevents political subdivisions from requiring the licensure or registration of such companies. Since license and registration fees should relate at least loosely to

the cost of licensing and regulation, if a municipality were to lose the authority to license or register alarm businesses and their associated employees, the municipality's costs should also be reduced. This indicates that there may be only a minimal loss of revenue for municipalities and townships beginning in local FY 2009 as a result of the bill's effective dates.

- **New criminal penalty.** The bill creates a penalty (misdemeanor of the third degree) for security or life-safety systems companies and employees that operate for a profit without being licensed by the State Fire Marshal. The new penalty may increase local criminal justice expenditures relating to investigating, prosecuting, adjudicating, and sanctioning offenders resulting from any new cases. It is uncertain how many new cases will result from the penalty, but it is likely that any new costs would be minimal as the bill also creates the potential for additional court cost and fine revenue to be collected by counties that would help to offset any new costs.

Detailed Fiscal Analysis

Overview

This bill: (1) generally requires security and life-safety systems companies and individual technicians, salespersons, or operators and locksmith companies and individuals to be licensed by the State Fire Marshal in the Department of Commerce. Security and life safety systems include burglar alarm detection systems, fire alarm and detection systems, access control systems, and closed circuit television. The bill also (2) creates the seven-member Security or Life-Safety Systems Advisory Board within the State Fire Marshal's Office and requires the Board to adopt rules governing the licensing and operations of security and life-safety systems companies and their registered employees as well as the procedures of the Board, (3) generally prohibits local authorities from enacting any ordinance that conflicts with the bill, and (4) creates the Security or Life-Safety Systems Fund and requires the money in the fund to be used to pay the costs the State Fire Marshal and the Board incur in administering the bill.

According to the 2002 Economic Census, there are 206 security system services establishments in this state. The 2002 Economic Census also indicated 100 locksmith establishments, but this number may be higher than the number of companies licensed since it includes safe and vault establishments, which the bill exempts from licensure. May 2006 data from the Bureau of Labor Statistics' Occupational Employment Statistics (OES) survey estimated 1,590 security and fire alarm systems installers (which include individuals installing, programming, maintaining and repairing such systems) and 530 locksmiths and safe repairers (safe repairers are exempt from licensure unless they are otherwise engaged in an activity requiring licensure) working in the state.

State fiscal effects

License fee revenue

As noted above, the bill creates the Security or Life-Safety Systems Fund in order to pay the costs associated with the regulatory requirements of the bill, as well as to receive license fees and any other related revenue. The bill sets the fees as follows: \$260 for the initial licensure for a security or

life-safety systems company, \$150 for the annual renewal of a company license, and \$40 for initial licensure and renewal as a technician, operator, or salesperson. The bill also requires the Security or Life-Safety Systems Advisory Board to adopt rules to (1) establish fees to cover the cost of each examination that an applicant for licensure as a technician, salesperson, or operator must successfully pass and (2) to establish reduced fees that a licensee must pay to obtain licensure in multiple specialties or to obtain multiple licenses as a technician, salesperson, or operator. The Board may, subject to Controlling Board approval, increase fees if the cost associated with administering and enforcing the bill increases, provided that the fees do not increase by more than 50%.

While the bill designates the Security or Life-Safety Systems Fund to receive operating revenue for the State Fire Marshal in administering the licensing program, there would not be any revenue in the short term. This is because the bill provides that the licensing provisions take effect 480 days after its effective date. From all appearances, the practical effect of the bill's various effective dates is that, until licensing and regulatory activities commence, there will likely be no revenues generated for deposit in the Security or Life-Safety Systems Fund for the purpose of developing and implementing the bill's various provisions. Assuming that were true, then it is unclear how the Department of Commerce will finance the program's development and implementation. It may be that the State Fire Marshal's Office would pay for any of the program's initial activities through other resources.

However, once licensing activities commence, the Security or Life-Safety Systems Fund may gain approximately \$164,360 in revenue the first year of licensing (as of this writing, the licensing requirements would become effective approximately midway through FY 2009, which may have a limiting effect on revenue in that year). In subsequent years, the Fund would likely receive less revenue because the renewal fee for companies is less than the initial license fee. Ongoing revenue would be approximately \$130,700 annually if the number of licensees remained relatively constant. The table below summarizes these estimates. There may also be some additional revenue generated through reciprocal license fees, the amount of which is uncertain.

Security or Life-Safety Systems Fund Initial and Ongoing Revenue Estimates					
License Category	Estimated Licensees	Initial Fee	Estimated Initial Revenue	Renewal Fee	Estimated Annual Revenue
Security or Life-Safety System Companies	206	\$260	\$53,560	\$150	\$30,900
Locksmith Companies	100	\$260	\$26,000	\$150	\$15,000
Security or Life-Safety System Individuals	1,590	\$40	\$63,600	\$40	\$63,600
Locksmith Individuals	530	\$40	\$21,200	\$40	\$21,200
Totals	2,426		\$164,360		\$130,700

Source: 2002 Economic Census (U.S. Census Bureau), May 2006 Occupational Employment Survey (U.S. Bureau of Labor Statistics)

Data assumptions and limitations

The company estimates above use data obtained from the 2002 Economic Census, conducted by the U.S. Census Bureau. However, in testimony on this bill, the Ohio Electronic Life Safety and Security Association (OELSSA), a nonprofit security professional association, reported that there are

approximately 500 alarm dealers operating in the state. If so, there may be more company licenses issued, which would increase license fee revenue accordingly. The estimates above assume that all companies and individual technicians, operators, or salespersons become licensed shortly after the license requirements take effect. The estimates also assume that each technician, salesperson, or operator would receive a license in only one category or specialty. If individuals were to seek licensure in multiple categories or specialties, revenue to the Security or Life-Safety Systems Fund will be higher.

As noted above, the number of locksmith companies and individuals may be higher than the number of companies licensed since those categories include safe and vault establishments and safesmiths, which are exempt from licensure. It is uncertain how many companies and individuals exclusively work with safes and vaults. However, the company estimates from the Economic Census count those companies "primarily engaged" in security system or locksmith services, which may leave out companies that perform other functions but would still need to be licensed.

Regulatory costs

State Fire Marshal start-up costs

There would be a number of start-up costs associated with performing the duties and responsibilities required by the bill. Start-up costs for such things as a registry to track licensees and applicants; equipment such as computers, phones, and other office overhead; initial payroll costs; and maintenance, travel, and other miscellaneous expenses may be in the hundreds of thousands of dollars. As noted above, the bill provides that the licensing provisions take effect 480 days after its effective date, so it may be that the State Fire Marshal's Office would pay for the program's development and implementation through other sources than license fee revenue.

Ongoing regulatory costs – personnel and maintenance

The bill allows the State Fire Marshal to employ administrative staff and field investigators as necessary to carry out licensing and regulatory activities for security or life-safety systems companies and their licensed employees. It is uncertain how many personnel would be needed to help carry out the bill's licensing and regulatory requirements, but it is likely that the Testing and Registration Bureau within the State Fire Marshal's Office would house the additional employees needed. The Testing and Registration Bureau currently has nine employees. Ongoing expenses for payroll, hearing officers, and maintenance costs may be in the hundreds of thousands annually, but, presumably, would be limited to available revenues. At the outset of regulatory activities and with the estimated available revenue, the State Fire Marshal may be able to employ two or three additional employees to assist with administrative duties, examinations, investigations, continuing education requirements, and so forth as needed.

In addition to these personnel expenses, the State Fire Marshal may incur ongoing maintenance expenses for supplies as well as charges for network access, telephone, fax, and other information technology services. Such maintenance expenses may be several thousand dollars or so annually. There may also be costs to administer license examinations. However, the Board is authorized to establish fees to cover these costs.

Background checks

The bill requires criminal background checks to be conducted for each applicant for any type of license and requires the Security or Life-Safety Systems Advisory Board to establish procedures to have criminal background checks conducted for all applicants. Presumably, the rules adopted would require the applicant to pay for the criminal background checks. However, this would be an added cost if the State Fire Marshal were required to pay for the checks. The Ohio Attorney General's Bureau of Criminal Identification and Investigation (BCII) ordinarily charges a \$15 fee to do a search of the state's criminal records database and \$24 for a search of the FBI's national databases.

If both state and national checks were conducted, such checks may add to the State Fire Marshal's expenses in carrying out the functions of the bill by approximately \$100,000 in the first year or so of licensing activities if most companies and their employees were to apply for licensure. In subsequent years, costs for the background checks would likely decrease significantly as background checks would be conducted only on applicants for initial licensure.

All of the criminal records check moneys would be deposited into the General Reimbursement Fund (Fund 106) in the Attorney General's Office, which is to be used to fund the ongoing costs of operating BCII's criminal records check system. The General Reimbursement Fund would experience a gain in revenue of up to \$100,000, but the actual amount may be less than this, as some local governments may currently require background checks as part of their licensure or registration requirements for alarm businesses or their employees.

Security or Life-Safety Systems Advisory Board expenses

The bill creates the seven-member Security or Life-Safety Systems Advisory Board within the State Fire Marshal's Office in the Department of Commerce. The Board will be responsible for adopting the rules governing the licensing and activities of security systems companies and their licensed employees. Board members will not be compensated, but are eligible for the reimbursement of actual expenses incurred in the performance of their duties, however, the bill does not specify how often board meetings are to take place. Such reimbursements may only cost the state several thousand dollars or so annually.

State court cost revenue

The bill creates a penalty for security or life-safety systems companies and employees that operate for a profit without being licensed by the State Fire Marshal: a misdemeanor of the third degree. This creates the possibility that the GRF and the Victims of Crime/Reparations Fund (Fund 402) may gain a negligible amount of state court cost revenue. For each misdemeanor, the GRF receives \$15 per case and the Victims of Crime/Reparations Fund (Fund 402) receives \$9 per case.

Local fiscal effects

Preemption of local licensing authority

Currently, many municipalities and townships require alarm businesses and/or their employees to be licensed or registered. The regulatory authority in charge of such licensing or registration at the local level varies. For some communities, police or fire departments perform this function and for others it may be the local building department or some other agency. This bill generally prevents political subdivisions from requiring the licensure or registration of such companies.

Presumably, current license and registration fees assessed by local governments would relate at least loosely to the cost of licensing and regulating an activity. Therefore, if a municipality were to lose the authority to license or register alarm businesses or their associated employees, the municipality's costs should also be reduced at the same general level as revenue. The local governments most impacted by the loss of this regulatory authority would be those that have the largest number of licensees and would likely reduce expenses in an effort to offset the revenue lost. For example, the City of Cincinnati, which registers 165 alarm businesses annually, noted that there would be a reduction in expenditures to negate any loss of revenue. LSC fiscal staff makes this assessment from results obtained from an informal survey of municipalities by the Ohio Municipal League. Smaller communities that license and register a relatively small amount of companies annually would also likely experience only a minimal loss in revenue.

New criminal penalty

As noted above, the bill creates a third degree misdemeanor penalty for security or life-safety systems companies and employees that operate without being licensed by the State Fire Marshal, which carries a maximum sentence of 60 days and a maximum fine of \$500. Some persons who may not have been prosecuted and convicted under existing law could be prosecuted and sanctioned under the bill. These effects could in turn increase local criminal justice expenditures relating to investigating, prosecuting, adjudicating, and sanctioning offenders who violate the bill's prohibition. It is uncertain how many new cases will result from the penalty. The severity of the sentence in a case involving a misdemeanor is entirely up to the judge's discretion, as several factors, such as available bed space, severity of the crime, the presence of a repeat offender, and the judge's attitudes about the crime in question, can influence the decision.

With new criminal cases, there could be additional court cost and fine revenue to be collected by county and municipal courts that would mitigate any new costs brought about by the new penalty. As such, it is likely that any new costs for county and municipal criminal justice systems are likely to be minimal as a result of the bill.

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