



# Oregon

John A. Kitzhaber, MD, Governor

## Department of Public Safety Standards and Training

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Date: March 26, 2013

To: House Judiciary Committee

### Membership:

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Jeff Barker, Chair  
Chris Garrett, Vice-Chair  
Wayne Krieger, Vice-Chair  
Brent Barton  
Kevin Cameron  
Wally Hicks  
Andy Olson  
Carolyn Tomei  
Jennifer Williamson

From: Brian Henson, Facilities and Information Technology Director  
Interim Private Security/Investigator's Program Manager

Subject: HB 2548 which would establish a commercial bail system

### Background

The Department of Public Safety Standards and Training (DPSST) oversees Oregon's regulation of private investigators. DPSST is responsible to ensure that private investigators meet minimum standards upon entering the profession and comply with those standards throughout their careers. Licensure to work as a private investigator in Oregon has been required since 1998. Applicable definitions, standards and licensing requirements for private investigators are detailed in ORS 703.401-703.995. The program is fee based; and applicants for initial licensure or renewal pay a licensing fee, testing fee, and background check fee.

### Summary

HB 2548 places the regulation of bail recovery agents under the purview of the DPSST by adding an endorsement to the private investigator license. By the bill's definition, bail recovery agents locate, apprehend and surrender fugitive criminal defendants to authorities. The language of the bill implies that bail recovery agents will have the added authority of search and seizure, and arrest. Currently private investigators do not hold that same authority, and

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their field of expertise includes completely different tasks, functions, and skills. For example, in the state of Washington, in 2009, 75% of the bail recovery agents were licensed as armed recovery agents. Oregon does not oversee an armed private investigator license. Under the bill, DPSST will endorse the licensure of a private investigator with a bail recovery agent endorsement, once that investigator demonstrates s/he meets the requirements established by the Board on Public Safety Standards and Training (Board), and has paid the appropriate processing fee. The requirements must include training and continuing education in the lawful location and apprehension of fugitive criminal defendants.

Specific requirements will need to be established by the Board for bail recovery agents, and more staff will be needed to develop and provide training, and conduct compliance checks and investigations. These costs associated with obtaining a license endorsement for bail recovery agents are to be funded by fees authorized in Section 51 of the bill. The fees, along with other program requirements, are to be approved by the Board on Public Safety Standards and Training. Because DPSST does not have accurate information about the number of bail recovery agents anticipated to seek licensure in Oregon, it is not possible for us to estimate at this time the number of personnel that may be required to administer this program on an ongoing basis, once the initial curriculum and program rules have been developed. Our fiscal impact statement provides an initial estimate of costs associated with initial program development.

HB 2548 also includes a provision to add an additional member to the Private Security Policy Committee. Section 52 of the bill, adds one additional private investigator to the policy committee membership. The investigator must also represent the bail industry. This brings the policy committee membership to 13 members representing the private security and private investigative industries and the public at large. Currently, there are 17,541 issued private security certification and/or licenses in the state. There are 773 issued private investigators licensed. Based on the state of Washington's 2009 licensure levels, DPSST estimates the total number of private investigator licensees could increase to about 900 with the addition of the bail recovery agent endorsement. With the addition of the third private investigator seat on the policy committee, private investigators would hold 23% of the policy committee positions, yet they would represent less than 5 percent of the total licensees.

HB 2548 also includes a number of provisions governing communication and coordination with law enforcement. The costs of providing the additional training that will be required for law enforcement personnel (including police, corrections, and dispatch) are to be funded through a tax paid by surety insurers who underwrite bail bonds. The tax is to be paid to DCBS no later than April 1st of each year. The tax is one percent of the gross amount of premiums received in the preceding calendar year. The funds are to be transferred to the Police Standards and Training Account. Because of this funding transfer provision, DPSST assumes that we are to be responsible for providing this law enforcement training, although the bill does not explicitly state this. Training development costs are reflected in the fiscal, showing heavy development in the first biennium of oversight, with roles changing from development to delivery, maintenance and compliance in Biennia 2015-2019. Section 56 of the bill provides for a

January 1, 2015 operative date, and Section 57 authorizes DPSST to take any action necessary before the operative date to exercise all the duties, functions, and powers conferred on the department. It is assumed that revenue generated from these taxes would first be available to DPSST after April 1, of 2015, for the 2014 tax year. The private investigator program is fee based, and cannot act on the provisions of the bill until funding is available.

### **Technical Concerns**

As identified above, DPSST is unable to provide an accurate estimate of the fiscal or revenue impacts of this bill at this time, as we have no information about anticipated numbers of licensees, or about the start-up and operational costs, or amount of revenue transfer associated with training law enforcement personnel.

In addition, the bill's current language requires the licensing program to be developed before any endorsements can be issued and before we receive the associated revenue that is required in order for DPSST to fund the needed program development. DPSST's Private Investigator's program is a small fee-based program without the capacity to fund the program development in advance.

A similar concern applies to the costs associated with developing and delivering the required training to law enforcement personnel. The program's operative date is January 1, 2015. Because law enforcement training is to be funded by a tax on the prior year's premiums received by surety insurers, it appears as though no funding would be available to begin development or delivery of this training until at least April 2015. Given the time required to then develop the training, it is possible that the necessary law enforcement training may not be available for delivery until 2017, at least two years after the operative date of the bill.