OFFICE OF FISCAL ANALYSIS
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sHB-5824
AN ACT CONCERNING REQUIREMENTS FOR PROFESSIONAL BAIL BONDSMEN AND SURETY BAIL BOND AGENTS.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 $	FY 25 $
Insurance Dept.	IF - Cost	See Below	At least 457,673
Insurance Dept.	GF - Revenue Impact	Minimal	Minimal
Department of Emergency Services and Public Protection	GF - Cost	See Below	At least 50,000
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: IF=Insurance Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill requires both professional bail bondsmen and surety bail bond agents to create trustee accounts subject to state audits, and establishes penalties for failure to do so, resulting various impacts to the agencies described below.

Sections 1-4 require: (1) professional bail bondsmen to keep collateral security or other indemnity in a trustee account established and maintained by the professional bail bondsmen, and (2) the Department of Emergency Services and Public Protection (DESPP), which regulates such persons, to audit each such trustee account at least annually, resulting in a cost of at least $50,000 annually.

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DESPP does not currently employ any fiscal auditors and will need to contract with a third party to perform the audits. Costs will depend on: (1) the complexity and scope of the audits, and (2) the number of trustee accounts to be audited. Currently, there are about 20 bail bondsmen that would be required to have at least one trustee account subject to these audits. Given the bill's October 1, 2023, effective date for when the accounts must be established, it is not clear if any audits will be conducted in FY 24. Annualized costs described above would begin in FY 25.

Sections 5-7 require: (1) surety bail bond agents, prior to forfeiture of a bail bond, to keep collateral security or other indemnity in a trustee account established and maintained by the surety bail bond agent, and (2) the Insurance Department (DOI), which regulates such agents, to audit each such trustee account at least annually. DOI does not conduct financial audits for these licensees currently.

This results in a cost to DOI from the Insurance Fund, anticipated to be at least $457,673 annually, for either: (1) three or more additional staff or (2) contract costs for a third party to perform the audits. According to DOI, there are currently 237 licensed surety bail bond agents. Under the bill, each agent would be required to have at least one trustee account audited by DOI annually. Costs will depend on: (1) the complexity and scope of the audits, and (2) the number of trustee accounts to be audited.

Should the agency conduct the audits internally, DOI is anticipated to hire three or more Accounts Examiners (each with a starting salary of $75,000 and fringe benefit costs of $77,558 annually), at a total annualized cost of at least $457,673.[1] Given the bill's October 1, 2023, effective date for when the accounts must be established, it is not clear if DOI will conduct any audits (and so incur partial year costs) in FY 24.

[1] The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, as opposed to the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 103.41% of payroll in FY 24.

Annualized costs described above would begin in FY 25.

Under current law and unchanged by the bill, surety bail bond agents pay an annual fee of $450 dollars to support examination, which DOI conducts as needed, to evaluate compliance with applicable laws. Revenue from the fee is about $100,000 annually. DOI typically contracts with a third party at a cost of $3,000-$5,000 per examination.[2] It may be possible for these examinations to be increased in scope at a lower marginal cost than contracting for a full new audit, partially reducing anticipated contracting costs for annual audits of all licensees under the bill, should the agency pursue that approach.

Sections 4 and 6 subject professional bail bondsmen and surety bail bond agents to the penalties of larceny[3] for failure to establish and maintain a trustee account resulting in a potential cost to the Judicial Department and the Department of Correction and a potential revenue gain from fines to the extent violations occur. On average, the marginal cost to the state for incarcerating an offender for the year is $2,500[4] while the average marginal cost for supervision in the community is less than $800[5] each year.

Section 8 may result in a minimal change to General Fund revenue associated with fines assessed by DOI. While the section potentially reduces fine revenue by lowering the maximum fine that may be assessed against surety bail bond agents to $3,500, other provisions of the bill may result in more actions being brought against licensees, offsetting that effect and increasing fine revenue. Any revenue impact

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[2]Revenue in the account is only sufficient to examine a fraction (less than 20%) of licensees annually at these costs.

[3] Larceny charges range from a C misdemeanor to a class B felony.

[4] Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

[5] Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

is anticipated to be minimal, based on recent activity.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the scope and number of audits conducted.