

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled for the proposed action.

Subject Matter of Proposed Regulations: Private Investigator Fees

Section(s) Affected: Section 639 of Division 7 of Title 16 of the California Code of Regulations (CCR)

Specific Purpose of Each Adoption, Amendment, or Repeal:

1. Background and Statement of the Problem:

The Bureau of Security and Investigative Services (Bureau) regulates professions in six (6) practice acts: Alarm Company Act, Locksmiths, Private Investigator Act, Private Security Services Act, Proprietary Security Services Act, and Collateral Recovery Act. Every Bureau licensee is required to carry proof of licensure in the form of a pocket card issued by the Bureau, which is mailed to the licensee at the time of initial licensure and at each renewal cycle.

The Bureau is a self-supporting, special fund agency that obtains its revenues from licensing, permit, registration and application fees. Under existing law, Business and Professions Code (BPC) section 7570, the Bureau is authorized to collect fees to support its functions. The fees are intended to be sufficient to cover the cost of the Bureau's regulatory services.

As part of its effort to manage its financial resources wisely, the Bureau underwent two independent fee audits, one for the Private Investigator Fund (PI Fund) and one for the Private Security Services Fund (PSS Fund) (see documents entitled "California Bureau of Investigative and Security Services, Fee Audit Review - Private Investigator Fees, September 7, 2018 (Final Report), CPS HR Consulting" and "California Bureau of Security and Investigative Services, Performance and Fee Review, April 14, 2017 (Final Report), CPS HR Consulting," respectively (collectively, "audit")), that reviewed the licenses and fees supporting the fund conditions. The process used for collecting and analyzing the data for the audit required active participation by the Bureau's and Department of Consumer Affairs' management and staff.

The scope and objectives of the PI Fund audit included the following:

- Assess and correlate the workload for approximately six (6) Bureau employees supported by the PI fund to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.

- Analyze all fees and other revenues collected by the Bureau within the PI fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Determine a cost basis to fairly increase existing fees to: cover all PI-related costs, ensure a sufficient PI fund reserve, and assess other PI funded services provided by the Bureau when a separate fee is not provided by statute or regulation.
- Based on the financial analysis, project fees/revenues and related costs for the next three to five fiscal years.
- Prepare a written report of the findings and recommendations.

The Legislature enacted legislation to increase statutorily authorized fees for the Bureau where necessary to sufficiently fund operations and recover costs in accordance with the PI audit. Effective July 1, 2020, SB 609 (Glazer, Ch. 377, Statutes of 2019) amended BPC section 7570 to increase the statutory minimums amounts of various fees, including the application and examination fee, the branch office certificate fee, the fee for an original private investigator license, the fee to obtain a certificate of licensure, and the reexamination fee for applicants and qualified managers.

As reflected on page 9 in the Senate Committee on Business, Professions and Economic Development’s analysis dated September 12, 2019 for SB 609, the private investigator application, licensing, renewal and re-examination fee increases were deemed necessary for the following reasons:

On September 7, 2018, an independent consulting firm completed its fee audit review of BSIS’s PI fees. The audit found that “fee income” has been up and down slightly over the last three Fiscal Years (FY), but overall revenues have not kept up with expenditures since FY 14-15. Moreover, scheduled fees have not been raised for 20 years. The current PI fee structure is insufficient to recover PI-related costs and will deplete the reserve in FY 19-20 unless action is taken before then to increase fees.

Unless fee adjustments are made in the near future, the BSIS will have insufficient revenue to continue operating many of its licensing programs funded through PI fees. SB 609 would increase fees within the PI Act, including those for application, examination, and license renewal. The fee increases are outlined in the following table.

Fee Type	Current Fee	Audit recommendation	SB 609
PI Application	\$50	\$340	\$340 floor, \$374 ceiling
PI Branch Application	\$30	\$90	\$90 floor, \$99 ceiling
PI initial license	\$175	\$385	\$385 floor, \$424 ceiling
PI license biennial renewal	\$125	\$265	\$265 floor, \$292 ceiling
PI re-examination license	\$15	NA, parallel to Repossessors fee (BPC 7511)	\$60 floor, \$66 ceiling
PI branch license biennial renewal	\$30	\$65	\$65 floor, \$72 ceiling
License assignment	\$125	NA, parallel to Repossessors fee (BPC 7511)	\$400 floor, \$440 ceiling
Authorization to use fictitious name	\$25	NA, parallel to Private Security Services fee (BPC 7582.17)	\$75 floor, \$82 ceiling

BPC section 7570 enacted and codified the audit and legislative recommendations set forth above as the minimum and maximum PI fees the Bureau could charge.

The scope and objectives of the PSS Fund audit included the items listed below. Page 6 of the audit clarifies its applicability to the PI Act, stating “pursuant to a cross reference to the Private Security Services Act, the Act authorizes PI licensees and qualified managers to obtain a Bureau-issued firearm permit under specified conditions.”

- Assess and correlate the workload for approximately 65 Bureau employees to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.
- Analyze all fees and other revenues collected by the Bureau within the PSS fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.

- Determine a cost basis to fairly increase existing fees to: cover all PSS-related costs, ensure a sufficient PPS fund reserve, and assess other PSS-funded services provided by the Bureau when a separate fee is not provided by statute or regulation.
- Based on the financial analysis, project fees/revenues and related costs for the next three to five fiscal years.
- Prepare a written report of the findings and recommendations.

The Legislature also enacted legislation to increase statutorily authorized fees for the Bureau where necessary to sufficiently fund operations and recover costs in accordance with the PSS audit. Effective July 1, 2018, SB 547 (Hill, Chapter 429, Statutes of 2017) amended BPC section 7588 to increase the statutory minimums amounts of various fees, including the firearms permit fee and the firearms permit renewal fee, for private patrol operators, private patrol operator qualified managers, and security guards. (Bus. & Prof. Code, § 7588, subds. (i)(1) and (i)(2).)

As reflected on page 14 in the Senate Committee on Business, Professions and Economic Development’s analysis dated September 15, 2017 for SB 547, various fee increases, including the firearms permit fee and the firearms permit renewal fee for private patrol operators, private patrol operator qualified managers, and security guards, were deemed necessary for the following reasons:

The BSIS conducted an independent fee audit in April 2017, which found that the current fee structure needed to be adjusted. As a result, the BSIS proposed fee increases for many of its licensing categories based on the recommendations from the audit. The proposed fee adjustments address the impact of inflation as well as more appropriately aligning fee amounts with the workload incurred by the BSIS associated with each fee.

Section 7588(i)(1) and (i)(2) established fees related to firearms permits for private patrol operators, as follows:

- (i)(1) A firearms permit fee shall be at least one hundred dollars (\$100) and may be increased to an amount not to exceed one hundred ten dollars (\$110).
- (i)(2) A firearms permit renewal fee shall be at least eighty dollars (\$80) and may be increased to an amount not to exceed eighty-eight dollars (\$88).

Effective January 1, 2019, SB 1217 (Morrell, Chapter 791, Statutes of 2018), enacted at BPC section 7570(i) and (j), established statutory minimums for the firearms permit and renewal fees to \$100 and \$80, respectively, for PIs. Prior to the enactment of BPC section 7570(i) and (j) in 2019, the PI Act cross-referenced firearm provisions in the

PSS Act, including the requirement for an applicant to pay application fees. As such, PIs applying for an initial or renewal firearms permit paid the fee as required by BPC section 7588, which was increased in 2018 as a result of the PSS audit.

Effective January 1, 2021, Senate Bill (SB) 385 (Jones, Chapter 326, Statutes of 2019), amended Business and Professions Code (BPC) section 7529 to require the Bureau to issue an enhanced photo identification card to licensees upon issuance or renewal beginning January 1, 2021. Prior to the bill's enactment, private investigators (PIs) were required to carry a photo identification card. (Bus. & Prof. Code, § 7529.) Presently, the Bureau has a contract with Psychological Services Industries (PSI) to provide photo identification cards to Bureau licensees for a five-dollar (\$5) fee, which includes a \$1 processing fee. The enhanced photo identification card will contain the name of the licensee, license expiration date, and a photograph of the licensee.

BPC section 7529 authorizes the Bureau to recover costs for the enhanced photo identification card by including the fee in the initial and renewal application fee. As the Bureau will now collect the fee for the enhanced card from licensees, PSI will bill the Bureau directly for the card, which will eliminate the \$1 processing fee. Accordingly, licensees will pay only \$4 for the card.

The fee increases in this proposal reflect the audit recommendations and legislative determinations that these fee increases are necessary to support the PI license, application and firearms permit functions provided by the Bureau. The proposed increase in fees are necessary to enable the Bureau to sustain operations to effectively protect consumers through its licensing and enforcement functions.

This proposal will:

- Increase the initial and renewal private investigator application fees to include a four-dollar (\$4) per person (all license principals and qualified manager) charge for the cost of the enhanced photo identification card as authorized by SB 385;
- Increase the following private investigator (PI) fees to the statutory minimums required by SB 609's amendments to BPC 7570 (and reflected as the "floor" in the table above), which became operative on July 1, 2020: (a) PI original license application and examination fee, (b) original branch office certificate application fee, (c) original PI license fee, (d) PI license renewal fee, (e) branch certificate renewal fee; and, (f) assignment of PI license fee; and,
- Adopt fees for the firearm permit and renewal fees consistent with the statutory minimums required by SB 1217, which are \$100 and \$80, respectively.

2. Anticipated Benefits from this Regulatory Action:

The proposed amendments to the Bureau's fees will enable the Bureau to recoup the costs of producing enhanced photo identification card, and continue operating its licensing programs funded through PI fees, including the Private Security Services

Fund. The proposal will also eliminate any confusion caused by an inconsistency between the statutes and the regulation, and will therefore provide clarity to licensees.

Factual Basis/Rationale:

Amend section 639 of Article 1 of Division 7 of Title 16 of the CCR (Private Investigator Fees)

Amend section 639's introductory sentence

The Bureau proposes to delete "section" and insert "sections 7529" because BPC section 7529 provides the Bureau "may recover its costs in an amount sufficient to reimburse the department's costs for furnishing the enhanced photo identification card." (Bus. & Prof. Code, § 7529, subd. (a)(2).) This amendment is necessary to provide complete notice of all the Bureau's statutory fee authority with respect to PI fees and to clarify the Bureau's authority to establish the fees in this section.

Amend section 639(a): PI application and examination fee increase to \$340, plus fee for enhanced photo identification card(s)

The Bureau proposes to strike the current fee of fifty dollars (\$50) and to increase the application and examination fee for an original license to the BPC 7570(a) statutory minimum of \$340 "plus" the fee for enhanced photo identification card(s), (an additional \$4 fee per card for each licensee including each individual, partner of a partnership, officer of a corporation, member, manager, or officer of a limited liability company, and any qualified manager for the enhanced photo identification card as specified in subdivision (i)).

It is necessary to establish the authority to charge a \$4 fee as part of this application and examination fee to recoup the costs of producing the enhanced photo identification card as authorized by BPC section 7529(a)(1)(D)(2). This is the price PSI currently charges the Bureau to produce the card, which PI applicants will now pay to the Bureau to recover its costs under this proposal.

It is necessary to increase the application and examination fee for statutory consistency and to address the underlying cost recovery issues uncovered by the audit. SB 609 increased the minimum fee to \$340, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (a).) based upon the PI audit's recommendation the Bureau set its fee at \$340. Adoption of the increased fee at the statutorily mandated minimum plus the fee(s) for any photo identification card will address the audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Amend section 639(b): Original Branch Office Certificate fee increase to \$90

The Bureau proposes to strike the current fee of thirty dollars (\$30) and increase the

application fee for an original branch office certificate to the statutory minimum of \$90.

It is necessary to increase the application fee for an original branch office certificate for statutory consistency and to address the underlying cost recovery issues uncovered by the audit. SB 609 increased the minimum fee to \$90, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (b)) based upon the PI audit. Adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Amend section 639(c): PI Original license fee increase to \$385

The Bureau proposes to strike the current fee of one hundred and seventy-five dollars (\$175) and increase the fee for an original license for a private investigator to the statutory minimum of three hundred and eighty-five dollars (\$385).

It is necessary to increase the fee for an original license for a private investigator for statutory consistency and to address the underlying cost recovery issues uncovered by the audit. SB 609 increased the minimum fee to \$385, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (c).) Adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Amend section 639(d)

Subdivision (d)(1): Increase the PI renewal fee to \$265, plus fee for enhanced photo identification card(s)

The Bureau proposes to strike the current renewal fee of one hundred and twenty-five dollars (\$125) and to increase the renewal fee for the private investigator license to the statutory minimum of \$265, and provide the fee includes an additional enhanced photo identification card fee (cross-referenced at subdivision (i) as \$4 fee per card for each licensee including each individual, partner of a partnership, officer of a corporation, or member, manager, or officer of a limited liability company, and any qualified manager).

It is necessary to establish the \$4 fee to recoup the costs of producing the enhanced photo identification card. This is the price PSI currently charges the Bureau to produce the card, which licensees will now pay to the Bureau to recover its costs.

It is necessary to increase the renewal fee for the private investigator license for statutory consistency and to address the underlying cost recovery issues uncovered by the audit. SB 609 increased the minimum fee to \$265, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (d)(1)) based upon the PI audit. Adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Subdivision (d)(2): Delete obsolete license type

The Bureau proposes to delete the entirety of subdivision (d)(2) which sets forth the fee for the combination license as a private investigator and private patrol operator. This is necessary because this is an obsolete license type that was repealed by SB 1196 as amended on August 15, 2016. (Hill, Chapter 800, Statutes of 2016.)

Subdivision (d)(3): Increase fee for branch office certificate for private investigator to \$65 and delete outdated license type;

The Bureau proposes to delete the current renewal fee of thirty (\$30) and increase the renewal fee for a branch office certificate for a private investigator to the statutory minimum of \$65.

It is necessary to increase the renewal fee for a branch office certificate for statutory consistency and to address the underlying cost recovery issues uncovered by the audit. SB 609 increased the minimum fee to \$65, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (d)(2)) based upon the PI audit. Adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Amend section 639(e): Increase the fee for applicant or manger reexamination to \$60

The Bureau proposes to delete the current fee of fifteen dollars (\$15) and increase the fee for reexamination of an applicant or his or her manager to BPC section 7570's statutory minimum of \$60.

It is necessary to increase the fee for reexamination of an applicant or his or her manager for statutory consistency. SB 609 increased the minimum fee to \$60, effective July 1, 2020 (Bus. & Prof. Code, § 7570, subd. (g).) based upon the legislative determination that \$60 would address the Bureau's funding issues with respect to this licensing function. Additionally, adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Amend section 639(f): Increase the fee for assignment of PI license to \$400

The Bureau proposes to delete the current one hundred and twenty-five dollar (\$125) license assignment fee and increase the fee for assignment of a private investigator license to BPC section 7570's statutory minimum of \$400.

It is necessary to increase the fee for assignment of a private investigator license for statutory consistency. SB 609 increased the minimum fee to \$400, effective July 1, 2020. (Bus. & Prof. Code, § 7570, subd. (h)) based upon the audit findings and

legislative determination that \$400 would address the Bureau's funding issues with respect to this licensing function. Additionally, adoption of the increased fee will address the PI audit's concern that BSIS have sufficient revenue to continue operating its licensing programs funded through PI fees.

Adopt section 639(g): Adoption of \$100 firearms permit fee

The Bureau proposes to adopt a firearms permit fee in the minimum statutory amount of \$100. BPC section 7570(i) directs that this fee "shall be at least one hundred dollars (\$100)."

It is necessary to establish the fee for statutory consistency. SB 1217 established the minimum fee at \$100, effective January 1, 2019. (Bus. & Prof. Code, § 7570, subd. (i).) The Bureau has no discretion to adopt a fee which is lower than the minimum set forth in the statute.

Adopt section 639(h): Adoption of \$80 firearms permit renewal fee

The Bureau proposes to adopt a firearms permit renewal fee in the amount of \$80. BPC section 7570(j) directs that this fee "shall be at least eighty dollars (\$80)."

It is necessary to establish the fee for statutory consistency. SB 1217 established the minimum fee at \$80, effective January 1, 2019. (Bus. & Prof. Code, § 7570, subd. (j).) The Bureau has no discretion to adopt a fee which is lower than the minimum set forth in the statute.

Adopt section 639(i): Adoption of definition for enhanced photo identification card

The Bureau proposes to adopt a new subdivision (i) to define the fee for enhanced photo identification card referenced in BPC section 7529. Effective January 1, 2021, BPC section 7529 requires the Bureau to issue an enhanced photo identification card to licensees upon issuance or renewal of private investigator license beginning January 1, 2021. Presently, the Bureau has a contract with Psychological Services Industries (PSI) to provide photo identification cards to Bureau licensees for a five-dollar (\$5) fee, which includes a \$1 processing fee. The enhanced photo identification card will contain the name of the licensee, license expiration date, and a photograph of the licensee. In addition, the proposal provides notice that the cards are issued as part of the application process to the following individuals who are listed on the license: individual, partner of a partnership, officer of a corporation, or member, manager, or officer of a limited liability company, and any qualified manager as defined in Section 7512.7 of the Code.

BPC section 7529 authorizes the Bureau to recover costs for the enhanced photo identification card by including the fee as part of the initial and renewal application fee. As the Bureau will now collect the fee for the enhanced card from licensees, PSI will bill

the Bureau directly for the card, which will eliminate the \$1 processing fee. Accordingly, this definition is necessary to specify that an applicant or licensee will pay only \$4 for each card required to be issued under this proposal as part of the PI application and renewal fees set by this section.

Business Impact:

The Bureau has made the initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on the following facts:

The regulations would reduce the costs for licensees to obtain an enhanced photo identification card from \$5 to \$4. The Bureau anticipates 4,962 licensees will save \$1 each or total cost savings of \$4,962 per year and up to \$49,620 over a ten-year period.

The Bureau recognizes that additional fees are being adjusted in this proposal to align with the statutorily required minimum fees for private investigator applications, licenses and renewals and for firearms permits and renewals as set forth in BPC section 7570. However, these adjustments align the regulation with current law (the minimum fees PIs are already required to pay by statute) and will not result in any additional fiscal impact to the PI applicant or licensee population.

Economic Impact Assessment

This regulatory proposal will have the following effects:

It will not create or eliminate jobs, create new business or eliminate existing businesses, or affect the expansion of businesses currently doing business within the State of California because the fees in this proposal align with the statutorily required minimum fees for private investigator applications, licenses and renewals and for firearms permits and renewals as set forth in BPC section 7570. These adjustments align the regulation with current law (the minimum fees PIs are already required to pay by statute) and therefore will not result in any additional fiscal impact to the PI applicant or licensee population.

This regulatory proposal does not affect the health and welfare of California residents or worker safety because this proposal does not involve health and welfare issues or worker safety. This regulatory proposal does not affect the state's environment because this proposal is not relevant to the state's environment. It is solely related to private investigator application, license, renewal and firearms permit and renewal fees.

Underlying Data

- SB 385 (Jones, Chapter 326, Statutes of 2019)
- SB 609 (Glazer, Chapter 377, Statutes of 2019)
- SB 1196 (Hill, Chapter 800, Statutes of 2016)
- SB 1217 (Morrell, Chapter 791, Statutes of 2018)
- SB 547 (Hill, Chapter 429, Statutes of 2017)
- Senate Committee on Business, Professions and Economic Development Analysis for SB 609 dated September 12, 2019
- California Bureau of Security and Investigative Services, Fee Audit Review - Private Investigator Fees, September 7, 2018 (Final Report), CPS HR Consulting
- Senate Committee on Business, Professions and Economic Development Analysis for SB 547 dated September 15, 2017
- California Bureau of Security and Investigative Services – Performance and Fee Review, April 14, 2017 (Final Report), CPS HR Consulting

Specific Technologies or Equipment

This proposal does not require the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative No. 1: Do not pursue regulations. The Bureau rejected this alternative because without these amendments, section 639 would be inconsistent with the statutory minimums. Furthermore, the Bureau would be without a means to collect the cost of producing the enhanced photo identification card. Without this fee, the Bureau will lose an estimated \$20,000 annually.