

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: Original
POSITION: Oppose

BILL NUMBER: SB 60
AUTHOR: G. Cedillo

BILL SUMMARY: Vehicles: Driver's Licenses

This bill would require the Department of Motor Vehicles (DMV), within 240 days after the Secretary of Homeland Security approves the state's REAL ID implementation plan, to: 1) issue drivers' licenses (DLs) and identification cards (IDs) that are in compliance with the federal REAL ID Act (Act) of 2005, 2) issue DLs that permit driving but are not acceptable for identification by federal agencies to individuals who are unable to provide the documentation required by the Act, 3) and issue DLs that permit driving only to those applicants who do not provide valid documentary evidence of lawful presence in the United States.

FISCAL SUMMARY

Based on the current fee structure, the bill would generate an estimated \$31 million in fee revenue to the Motor Vehicle Account (MVA) from 1 million applicants in each of the first two years, falling to about \$6.2 million in the third year.

DMV indicates it would incur personal services and operating costs of \$42.7 million in the first fiscal year, \$36.7 million in the second fiscal year, and \$9.3 million in the third fiscal year and thereafter. The DMV also indicates it would need \$13 million for a minimum of ten new facilities with a two-year lease of \$1.3 million each to accommodate the influx of new DL/ID applicants as a result of this bill.

According to the Department of Justice (DOJ), this bill would not result in additional costs if, consistent with current practice, fingerprints taken of DL/ID applicants are not submitted to DOJ.

COMMENTS

The Department of Finance opposes this bill for the following reasons:

- This bill is premature given changes in the federal government and the uncertainty regarding the future of REAL ID. DMV indicates that the National Governor's Association is sponsoring legislation that will give the states more flexibility in implementing REAL ID.
The bill requires DMV to begin issuing REAL ID-compliant DL/IDs 240 days after the state is deemed by the Department of Homeland Security to be in compliance with the federal act. It is unclear, however, how this requirement (240 days after compliance) was derived, conforms with the dates for material and full compliance, or by the dates it would be necessary to begin issuing compliant DL/IDs to achieve the 2014 and 2017 deadlines.
This bill does not specify how the DMV would validate the identity of individuals who do not have documented proof that their presence in the United States is authorized under federal law. The Governor has previously stated that verification of identity must be provided before any general purpose identification card is issued by the state. Although DLs/IDs issued to undocumented immigrants would look different from other DLs, the DL serves as an accepted identifier for residents of California as they travel and do business throughout the United States. By failing to require adequate proof of identity, this bill would diminish the value of the DL as a form of identification for security purposes.

Analyst/Principal Date Program Budget Manager Date
(0744) J. Gregg Mark Hill

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

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- The costs to implement the bill are significantly higher than associated revenues.
- It will be difficult for DMV to hire at least 1,200 temporary employees and provide new facilities in time to implement the bill.

ANALYSIS

A. Programmatic Analysis

Current law requires the Department of Motor Vehicles (DMV) to issue drivers' licenses (DL) and identification cards (ID) to eligible applicants who submit appropriate documentation. An applicant for an original DL or ID must submit satisfactory proof that the applicant's presence in the United States is authorized under federal law. The California Code of Regulations specifies approximately 27 documents that may be submitted as satisfactory proof of legal presence status, e.g., U.S. birth certificate, U.S. passport, U.S. military ID. The DMV is prohibited from issuing original DLs to individuals who cannot submit satisfactory proof that the applicant has legal presence status. Current law makes it a misdemeanor for any person to knowingly assist in obtaining a DL or ID for any person whose presence in the United States is not authorized under federal law.

Under current law a federal agency cannot accept a DL or personal identification card (ID) after May 11, 2011, unless the state has been certified by the U.S. Department of Homeland Security, in consultation with the U.S. Department of Transportation, to meet the requirements of the Act. The Act also imposes prescriptive federal DL/ID document standards and specifies what constitutes proof of identification and residency and requires DMV to verify the authenticity of the documents. If an individual's legal status is temporary, the term of the DL/ID may not extend past the expiration of the applicant's legal status. The bill prohibits the use of foreign documents as proof of identity, except for a valid passport. The Act also provides that DLs that do not meet all of its requirements must have a statement on the face of the DL that states that it may not be accepted by federal agencies as identification and must have design or color indicators that are different from DLs which comply with the Act.

This bill requires the DMV to issue DLs that are in compliance with the federal Act no later than 240 days after the Secretary of Homeland Security approves the state's implementation plan. The bill would also:

- Require the DMV to issue DLs that permit driving only but are not acceptable by a federal agency for any official identification purposes, such as boarding airplanes or entering federal buildings.
 - Provide that applicants who are not able to demonstrate that their presence in the United States is authorized under federal law, may be issued a DL or ID that has a distinguishing design or color and clearly states that it may not be used for any official identification purpose, except as a driving-only license.
 - Repeal the provision of law that makes it a misdemeanor to knowingly assist any person to obtain a DL or ID whose presence in the United States is not authorized under federal law.
 - Make it a misdemeanor to knowingly assist in obtaining documents for another person in violation of the federal REAL ID Act of 2005.
- **Discussion:** We understand the intent of this bill is to require the DMV to issue a DL for the sole purpose of operating a motor vehicle and require the DMV to issue DLs that are in compliance with the federal REAL ID Act of 2005. However, neither this bill nor the Act contains specifications as to what identity requirements, if any, would be imposed for driving-only licenses. Additionally, this bill provides no legal authority for the DMV to verify an applicant's date/place of birth, social security number or the legal presence status for driving-only licenses. This could result in a number of applicants with suspended or revoked driving privileges filing an application for a DL using a different name. Finally, the

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provisions of this bill with respect to REAL ID are premature given the change in the federal government and the uncertainty regarding the future of REAL ID.

The regulations outline requirements that almost certainly cannot be complied with by states for several years. This is due, in part, for the need to construct national computer systems to which all states must connect. Additionally, the regulations provide that states are not required to issue compliant REAL IDs until the necessary computer systems are available. Issuing REAL ID compliant DLs within 240 days of state plan approval is not feasible.

Related Legislation:

SB 60 (Cedillo – 2007) was identical to the current SB 60 and would have required the DMV to issue compliant and non-compliant driver's licenses as authorized under the federal Real ID Act; and repeals the state's legal presence requirements allowing undocumented immigrants to receive a non-compliant license. This bill was vetoed mainly because it did not specify how DMV would validate the identity of individuals who do not have documented proof that their presence in the United States is authorized under federal law.

SB 60 (Cedillo – 2005) would have required the DMV to issue DL/IDs according to the standards contained in the federal REAL ID Act of 2005, including the issuance of a document for driving-only purposes; establish a method to provide for the issuance of a DL to individuals who have applied for legal presence, and provide for the repeal of the legal presence requirement upon implementation of the federal regulations implementing the REAL ID Act.

The veto message stated, "the ability to verify documents used to establish an identity must include a way to determine whether an individual is who he or she purports to be and must include a criminal background check. In addition, enacting this bill will result in millions of dollars being spent on a process that ultimately could conflict with federal regulations."

AB 2895 (Nunez – 2004) would have eliminated the requirement that an applicant for an original DL or ID submit satisfactory proof of lawful presence in the United States; allowed the submission of a signed affidavit in lieu of a social security number for an original or renewal DL; and required a criminal history check of an original DL applicant who submits foreign identity documents and an affidavit.

The veto message stated, "One of the most important duties of the Governor of a state is to protect its citizens. Determining the true identity and history of an individual is a key component of that protection. This bill does not adequately address the security concerns that my Department of Homeland Security and I have and I cannot support it."

B. Fiscal Analysis

Based on the current fees and costs and assuming a May 2011 implementation date, this bill would result in the following estimate of Motor Vehicle Account (MVA) expenditures and revenues:

(Dollars in thousands)	Year 1	Year 2	Year 3
Number of Applicants	1,000,000	1,000,000	200,000
Personnel Years	1,200	1,200	240
Revenue	\$ 31,000	\$ 31,000	\$ 6,200
Expenditures – Staffing	\$ 42,700	\$ 36,700	\$ 9,300
Expenditures – facilities	\$ 6,500	\$ 6,500	\$ 6,500
Total Expenditures	\$ 49,200	\$ 43,200	\$ 15,800
Net Expenditure/Revenue	-\$ 18,200	-\$ 12,200	-\$ 9,600

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The federal Department of Homeland Security estimates there are 2.6 million undocumented immigrants in California, and for the purposes of this analysis, we assume that 2.2 million are of legal driving age. Therefore, the conservative cost estimates are based on 1 million undocumented immigrant applicants in the first year of implementation, 1 million more in the second year, and 200,000 in the third year. The DMV estimates it would need at least ten 75,000 square foot facilities with an annual rent of \$650,000 per facility to accommodate the influx of new applicants, and DMV would plan on opening the facilities one month prior to the required implementation date. We estimate that DMV would phase out the facilities during the fourth year when applicant volume declines.

We note that DMV annually issues new licenses to approximately 800,000 applicants, so DMV would be more than doubling the number of new DLs it issues in the first and second years of implementation. It will be difficult for DMV to hire at least 1,200 temporary employees and provide new facilities in time to implement the bill. Therefore, DMV may have to come up with alternative scenarios to meet this workload, such as extending office hours and paying overtime in locations particularly affected by this bill.

The estimated revenue would be generated from the \$31 DL application fee charged to 1 million applicants in the first and second years of implementation and the 200,000 applicants in the third year, as well as charging a \$5 drive re-test fee to individuals who fail the drive test. Renewal revenue would be generated five years after issuance of the initial license.

Currently, DMV takes a thumb print of all applicants, but does not forward it to Department of Justice (DOJ) for processing. Assuming the same process is followed, this bill would not result in additional costs to DOJ. If DMV decides to request fingerprint-based Criminal Offender Record Information, there would be a fiscal impact of approximately \$28.6 million in the first year of implementation, \$56 million in the second year, \$28 million in the third year, and \$5.6 million annually thereafter. Although revenue would be generated from fees for this service, DOJ would need increased expenditure authority.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code	
	LA	(Dollars in Thousands)									
	CO	PROP	2008-2009		2009-2010		2010-2011				
	RV	98	FC		FC		FC				
2740/DMV	SO	No	C	\$0	C	\$49,200	C	\$43,200	0044		
1142/Driver Lic F	RV	No	U	\$0	U	\$31,000	U	\$31,000	0044		
<u>Fund Code</u>	<u>Title</u>										
0044	Motor Vehicle Account, STF										