

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.540/S.169

Name of Bill: An act relating to regulating the use of drones.

Agency/Dept: Public Safety

Author of Bill Review: Captain Tim Clouatre

Date of Bill Review: 1/9/14

Status of Bill: (check one):

XXX Upon Introduction

_____ As passed by 1st body

_____ As passed by both bodies

Recommended Position:

Support

Oppose

Remain Neutral

XXXXXXX

Support with modifications identified in # 8 below

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill proposes to establish regulations for the use of drones, also known as unmanned aerial vehicles. The bill proposes to permit a law enforcement agency to use a drone only if the agency obtains a search warrant. If emergency circumstances exist a search warrant must be obtained within 48 hours. The bill also addresses definitions and the reporting requirements for agencies that use a drone, DPS and the Judiciary.

2. Is there a need for this bill?

Yes. Because drones possess such a powerful capacity to conduct surveillance, regulations are needed on the use of this technology before it is misused or abused across the State and problems are developed. Although we currently don't have a drone we need to have regulations in place before it is used in public safety.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

The fiscal and programmatic implications of this bill for this department will be minimal. The largest piece for DPS is the reporting requirements detailing the use of the drone and describing the incidents/data collected for the time period and accounting for the cost. DPS and Judiciary would have to report on this to the House and Senate committees. DPS is assigned as the record keeper for all agencies and is mandated to provide the report to the House and Senate. If DPS purchased a drone the cost would extend to the purchase, training, use and maintenance of the equipment.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

The fiscal and programmatic implications of this bill for other departments will be minimal and depending on the department would depend on the level of support.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?

The fiscal and programmatic implication for others is not known however based on the use of this technology there will be causes for concern by some groups or individuals. There would also be support from several agencies and regulations and laws will dictate the use of this technology.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

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Any agency that is involved in public safety, law enforcement or homeland security. This technology could be used in assisting all agencies to promote public safety within the State.

6.2 Who else is likely to oppose the proposal and why?

ACLU/HRC would likely think that the use of a drone is an invasion of privacy and that we would be collecting and storing data on innocent individuals for databases.

7. Rationale for recommendation:

There is a specific need for this type of equipment in public safety/homeland security and regulations are needed for the success of the program if and when any agency in the State purchases and uses a drone. In summary, the proposed bill will need further explanation and is very restrictive. The drone could be used in various situations to include emergency management, search and rescue/lost subjects in the backcountry (skier), tactical situations involving an active shooter or hostage situation, homeland security threat, criminal case, drug trafficking case, and crime scene or accident scene processing. A drone could also be used to assist with wildfires, natural disasters or storms. Drones have the ability to greatly enhance and assist public safety and in certain situations keep personnel out of harm's way.

8. Specific modifications that would be needed to recommend support of this bill:

Specific modifications that would be needed to support this bill would be to remove the mandate to get a search warrant within 48 hours of the use of a drone in an emergency situation. As written there are no exceptions. In this current form, the bill does not define an emergency situation and also requires there to be an imminent threat of death or serious bodily injury to any person. Public safety exemptions to the search warrant requirement in the use of the drone could include the following: (Similar to Illinois law) (1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is that risk. (2) If a law enforcement agency is attempting to locate a missing/lost person, and is not undertaking a criminal investigation. (3) If a law enforcement agency is using a drone solely for crime scene and traffic crash scene photography. Crime scene and traffic crash photography must be conducted in a geographically confined and time-limited manner to document specific occurrences. The use of a drone on private property requires either a search warrant or lawful consent to search. The use of a drone on lands, highways, roadways, or areas belonging to this State or political subdivisions of this State does not require a search warrant or consent to search. Any law enforcement agency operating a drone under this paragraph (3) shall make every reasonable attempt to only photograph the crime scene or traffic crash scene and avoid other areas. (4) If Emergency Management deemed necessary to assist in the event of a natural disaster/storm/wildfire. When used as part of a criminal investigation a warrant should be mandated, however there are several uses for this technology where a warrant would not be necessary. Another concern is that a search warrant is based on probable cause that a crime has, is or will be committed and in several of the above listed applications there is no crime.



Secretary/Commissioner has reviewed this document

Date: 1/19/14

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