



**House
Legislative
Analysis
Section**

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**CREATE CORRECTIONS
ELECTRICAL USAGE FUND**

**House Bill 5691 as introduced
First Analysis (12-5-96)**

**Sponsor: Rep. James Ryan
Committee: Appropriations**

THE APPARENT PROBLEM:

House Bill 5620, as amended by the Senate, would allow the Department of Corrections (DOC) to charge an electrical usage fee to all prisoners who used electrical appliances in their cells. The DOC could exempt from these fees any personal property necessary for health or safety reasons, including (but not limited to) medical devices that required the use of electricity. The DOC would be allowed to keep up to 15 percent of the total fees collected annually to pay for the cost of operation. However, the bill doesn't specify where these fees, which would be collected by the Department of Corrections, would be deposited. Legislation has been introduced that would create an account to receive these inmate electrical fees and to direct how these potential revenues would be spent.

THE CONTENT OF THE BILL:

The bill would amend the Social Welfare Act to create "the corrections electrical usage fund" in the state treasury to be administered by the Family Independence Agency (formerly the Department of Social Services) and to be spent solely to help FIA recipients pay the costs of residential utility service. The state treasurer would direct the investment of the fund, with the interest and earnings being credited to the fund. Money in the fund at the end of the fiscal year would stay in the fund and not revert to the general fund. The bill is tie-barred to House Bill 5620.

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FISCAL IMPLICATIONS:

According to the House Fiscal Agency, roughly three fourths of the approximately 40,000 prisoners have electrical appliances of some type. This translates into, at most, \$1.4 million in revenue for the newly created fund. (12-4-96)

ARGUMENTS:

For:

The bill would create an account to receive revenue generated by House Bill 5620, which would allow the Department of Corrections to charge prisoners an electrical usage fee for using personal electrical appliances in their cells.

The enormous increase in corrections costs over the past decade have placed an increasing burden on the taxpayers, and though the rate of increase in prison costs has reportedly slowed these costs still continue to rise. On the average, it costs almost \$25,000 a year to incarcerate a prisoner in Michigan (less for lower security facilities, more for higher security facilities). Given limited prison resources, it seems only sensible to require prisoners who can afford to buy television sets, radios, and other electrical equipment for their personal use to pay a small electrical fee to operate the equipment. As some people also have pointed out, prisoners are not on vacation, but are in prison to pay their debt to society. Part of the debt includes prison expenses, and these bills would contribute toward this end.

Against:

There are several problems with the proposed legislation. In the first place, it is unclear why revenues from a prisoner electrical usage fee program, which would be collected by the DOC, should go to another state agency (the FIA) for distribution to people on welfare. Although the money would be collected from prisoners who used electricity for electrical appliances and then distributed to welfare clients to be used to pay utility (including electrical) bills, it would seem to make more sense to apply such revenues to defraying the costs of incarcerating these prisoners (by, for example, applying them to prison utility bills) instead of sending them to welfare recipients. There has been a movement, nationwide and within the state legislature, to require

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prison inmates to contribute to the costs of their incarceration. Thus, for example, Public Act 234 (enrolled House Bill 4947) of 1996 requires prisoner co-pays for non-emergency medical care, while Public Act 286 (enrolled House Bill 4955) of 1996, requires prisoners to pay for college courses (unless required by court orders or consent decrees). Shouldn't any revenues from prisoners' electrical usage fees go either to the DOC, to defray the costs of incarcerating the prisoners, or, possibly, into a prisoner indigency fund to help those prisoners who couldn't afford to pay these new fees if the department decided to implement the program?

If the DOC decides to implement the proposed fee program, and if House Bill 5691 were to allow 15 percent of the fund to be used by the department for administrative costs, would this be enough to pay for all of the potential administrative expenses? What would happen to the electrical appliances of indigent prisoners? While prisoners do not have a right to have electrical appliances, what if a prisoner already had an electrical appliance but then didn't have enough money in his or her account to pay the required electrical usage fee? Would the department have to confiscate and store the appliance? Would the department be responsible for any damage to or destruction of such stored appliances? Couldn't such a program, if it resulted in the confiscation of prisoner property solely because a prisoner was unable to pay a new usage fee, result in litigation costs to the state? And given the fact that the legislature already is trying to limit prisoner civil suits (through House Bills 4989 and 4990, which would require prisoners to pay filing fees for prisoner-initiated civil suits and court costs for failed civil suits), wouldn't this legislation be counter-productive?

Even if revenues from a DOC prisoner electrical usage fee program should go to the FIA, however, the bill does not provide the FIA with any additional money from the fund in order to administer these funds and distribute them to recipients. If the DOC is allowed 15 percent of the fund to administer the program, shouldn't the FIA also receive some percentage of the fund to administer the revenues? The bill also fails to establish any kind of eligibility criteria for recipients of FIA assistance. Does this mean that every FIA client would receive money from the fund to help pay for their utility bills? What if there isn't enough money for every FIA client to receive such money? Additionally, the FIA reportedly already has some kind of program for helping FIA recipients pay their utility bills. If so, shouldn't the revenues from this DOC fee program go directly to that FIA fund or program?

Finally, there is a purely technical problem with House Bill 5691: House Bill 5620, to which the bill is tie-barred and which would allow the DOC to collect electrical usage fees from prisoners, would allow the department to

keep up to 15 percent of the fees collected in order to pay for operating the program. However, House Bill 5691 has no such provisions and instead specifically would require that the proposed corrections electrical usage fund be "expended solely" for helping Family Independence Agency (FIA) clients in paying for residential utility service. At the very least, House Bill 5691 also should specify that at least 15 percent of the fund would go to the Department of Corrections for administering the program.

POSITIONS:

There are no positions on the bill.

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.