

Legislative Analysis



LEAD ABATEMENT: REVISE EXEMPTIONS

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House Bill 4763 (Substitute H-1)

Sponsor: Rep. Jeff Mayes

Committee: Health Policy

First Analysis (10-15-07)

BRIEF SUMMARY: The bill would exempt volunteers in neighborhood beautification projects from lead professional certification requirements when scraping old paint from houses.

FISCAL IMPACT: House Bill 4763, as introduced, will not have immediate direct fiscal implications for the Michigan Department of Community Health. Nationally, over 80 percent of children with high blood levels are enrolled in the Medicaid program. If the changes made by the bill result in reduced lead exposure and lead poisoning of children, over time the bill may have the fiscal impact of reducing state costs for medical services of the Medicaid program related to lead poisoning.

THE APPARENT PROBLEM:

For 12 years, the Bay City Paint N Pride program brought together volunteers of all ages to paint the homes of the elderly, disabled, and indigent in the community. A one-day beautification project that typically involved about 800 volunteers painting 15 houses, the Paint N Pride program refurbished 221 homes before being suspended after its last project day in 2005.

The problem is due to recent changes in state law regarding lead abatement in paint and rehabilitation projects. Because Bay City is an older community, many of its houses were built prior to the 1978 ban on lead-based paint. Therefore, many of the houses selected for the Paint N Pride program contain lead based paints. Under requirements of the state Lead Abatement Act, individuals engaged in lead-based paint activities (which includes sanding and scraping) must be certified. To be certified, the individual must meet minimum education and/or experience qualifications, successfully complete an accredited training course, and pass a third-party certification examination. The fee for the lowest certification level is roughly \$125, with a \$25 annual maintenance fee.

With the health dangers of lead poisoning from exposure to lead paint chips and dust well documented, especially for children and pregnant women, it is understandable that rehabilitation projects be carefully regulated to reduce or eliminate exposure to lead. However, many volunteers, which include high school and college students, do not have the time to do both the training and the painting, nor pay the application, examination, and yearly maintenance fees to participate in a one-day-a-year project.

THE CONTENT OF THE BILL:

Under state and federal laws, anyone engaging in lead abatement activities must be appropriately trained and certified. "Abatement" is defined generally to mean the permanent

removal of lead-based paint and dust lead hazards. Currently, the act provides several exemptions, including any lead-paint activity performed by a homeowner on his or her own home.

House Bill 4763 would amend the Lead Abatement Act within the Public Health Code (MCL 333.5453) to exempt certain activities from the definition of "abatement" if performed by volunteers from, or under the oversight of, charitable organizations. Specifically, the scraping or removal of paint, painting over paint, or other similar activity that has the effect of reducing or eliminating a lead-based paint hazard, would be exempted from the definition of "abatement" if the activity met all of the following:

- The activity was performed only on residential or multifamily dwellings containing four or fewer units.
- The activity was coordinated by a nonprofit charitable or volunteer organization that was in compliance with the procedures established under federal rules pertaining to eliminating lead-based paint hazards in a residential property receiving federal rehabilitation assistance under a HUD-administered program (24 CFR 35.900 to 35.940).
- The activity was performed only by unpaid volunteers and the organization received no remuneration directly from the owner or occupant of that residence.
- The activity did not involve the use of a lead-based paint encapsulation product that required certification from the Department of Community Health.

BACKGROUND INFORMATION:

A fact sheet prepared by the U.S. Department of Housing and Urban Development (HUD), Office of Lead Hazard Control, entitled "Federal Requirements for Volunteer Paint and Rehabilitation Programs," dated June 2006, can be found at:

www.hud.gov/offices/lead/leadsaferule/FSVPrograms.PDF.

ARGUMENTS:

For:

The health risks associated with exposure to lead in lead-based paint are well documented. Appropriately, state and federal law both require that certain types of rehabilitation projects involving surfaces painted with lead-based paint be performed by individuals who have a minimum level of education and training in the safe removal of the old paint. An unintended consequence of these regulations has been the suspension of community-based beautification projects in which volunteers donate time to scrap and paint old homes in need of repair belonging to senior citizens, persons with disabilities, or low-income families who cannot perform the paint services themselves or afford to hire a qualified person to do them.

The bill would amend the state Lead Abatement Act to extend the current exemption from the act's lead abatement provisions currently in place for homeowners who do their own painting to also include paint services performed by volunteers. The bill would only apply to single family homes or apartments with four or fewer units and only to projects organized by

nonprofit charities and organizations that use a total volunteer force and do not accept payment of any kind from the owners or residents of the homes selected for painting.

However, the sponsoring charity or organization would still have to comply with federal regulations currently pertaining to rehabilitation projects supported by federal funds, even if the project was not paid for with federal money (currently, the federal regulations must be adhered to if federal funds are involved, and non-federally funded volunteer paint and rehabilitation projects are encouraged to comply with the regulations). First, each home selected for participation would be tested for lead paint by a certified lead inspector. Further, the federal requirements emphasize "safe work practices" intended to reduce dust from scraping or sanding surfaces with lead-based paints and prevent further contamination of the property.

In addition, the safe work practices will protect the volunteers and the homes' residents from lead exposure. For example, according to a fact sheet for volunteer paint programs prepared by HUD, children are to be excluded from certain tasks if they would be exposed to lead dust; durable plastic sheeting and tape is to be used to isolate the worksite and protect floors or the ground from additional lead contamination; painted surfaces are to be dampened with water before scraping or sanding to control lead dust; certain methods of paint removal that would release large amounts of lead dust and fumes are prohibited; specialized cleaning of the work areas must be done after the painting is completed to remove lead dust; and clearance examinations (to inspect for hazardous levels of lead) must be performed by a certified lead-based paint inspector.

The bill would solve the problem inadvertently created by tighter regulations governing lead abatement projects, would enable community-based programs like Bay City's Paint N Pride to once again help residents to beautify their properties, and would also protect residents and volunteers from lead exposure by requiring implementation of federal regulations for volunteer paint and rehabilitation programs.

POSITIONS:

The Department of Community Health supports the bill. (10-10-07)

Paint N Pride supports the bill. (10-10-07)

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