



**House  
Legislative  
Analysis  
Section**

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### **THE APPARENT PROBLEM:**

In response to concerns that workers engaged in asbestos abatement projects were neither adequately protected nor properly trained, and that members of the general public were being exposed to asbestos-related health risks, Public Act 135 of 1986 created the Asbestos Abatement Contractors Licensing Act, under which asbestos abatement contracts were to be licensed by the Department of Public Health (DPH). At the same time, Public Act 147 amended the Michigan Occupational Safety and Health Act to require DPH approval and oversight of worker training programs in the health and safety aspects of handling asbestos. Last year, in response to an Environmental Protection Agency requirement that states adopt an accreditation program for school asbestos workers, Public Act 440 created the Asbestos Workers Accreditation Act to provide for the accreditation, licensure, and regulation of those who wished to be accredited in school asbestos abatement projects, and specified that funds appropriated under the act be directed into a special Asbestos Abatement Fund, to be used solely to help the department pay for various costs related to asbestos abatement management. The fund would have been created under House Bill 5779, which would have raised significant revenues by requiring project fees from asbestos abatement contractors, but which did not pass the legislature. With no existing fund specifically intended for asbestos abatement programs, and without the revenues that would have been used to offset the department's expenses for a full-time staff of 12 people to maintain the asbestos program required under federal law, both the department and abatement contractors agree that the department has not been able to effectively regulate asbestos abatement work in the state. Department officials say that revenues collected under the acts should be deposited in an asbestos abatement fund that would be restricted for use by the department for resources and expenditures to implement its responsibilities, and that revenues collected under the acts should directly benefit the department's asbestos program, as was originally intended. In response, it has been proposed that legislation again be introduced to establish a fund and to require that asbestos abatement contractors be charged fees equal to a percentage of the price of an asbestos abatement project.

### **THE CONTENT OF THE BILL:**

The bill would make the following amendments to the Abatement Contractors Licensing Act (MCL 338.3207 et al.):

- Create an Asbestos Abatement Fund in the state treasury which could be used only for the asbestos-related responsibilities of the Department of Public Health. All fees collected under the bill would be deposited in the fund. The investment of the fund would be directed by the state treasurer, and all interest and earnings would be retained by the fund. Money in the fund at the close

## **ASBESTOS CONTRACTORS LICENSING**

**House Bill 4222 (Substitute H-4)**  
**First Analysis (7-27-89)**

**Sponsor: Rep. Thomas Hickner**  
**First Committee: Labor**  
**Second Committee: State Affairs**

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of the fiscal year would remain in the fund, and would not revert to the general fund.

- Exempt a licensed electrician, mechanical contractor, plumber or building contractor from asbestos abatement licensing requirements when engaged in an incidental project involving a residential structure of not more than 160 square feet or 260 linear feet of friable asbestos materials.
- Repeal that section of the Michigan Occupational Safety and Health Act that requires licensed abatement contractors to notify the Department of Labor before beginning an asbestos abatement project.
- Require asbestos abatement contractors to notify the Department of Public Health in writing at least ten days before beginning a project exceeding ten linear feet or fifteen square feet, or both, of friable asbestos materials. The notification would include:
  - the name and address of the owner of the building or structure;
  - the location of the building where the projects would be performed;
  - the schedule for the starting and completion of the project, which could not exceed one year in length;
  - the amount of friable asbestos materials that would be removed or encapsulated.
  - a fee equal to one percent of the bid price of the project contract.

Under the bill, should asbestos in an amount exceeding ten linear or fifteen square feet, or both, be discovered by a person or business entity whose primary licensed trade was not that of an asbestos abatement contractor during the course of a project and after a written contract had been executed, notification would be required before asbestos removal began, and the above notification requirements and fee would be required within ten days of the discovery, with the fee being paid by the primary licensed trade contractor.

Not later than October 1 of each year after the year of the effective date of the bill, the department would be required to report to the legislature, and to the applicable committees in the House and Senate, on the amount of money generated by the fees charged under the bill, the number of asbestos abatement projects inspected, the number of citations issued for violations of the act, and other applicable laws, rules, and regulations.

House Bill 4222 is tie-barred to House Bills 4223, 4224, 4225 and 4226, which would specify that licensing boards of the plumbing, electrical, mechanical contracting, and building trades would have to review complaints and could suspend or revoke licenses for violations of the Asbestos Abatement Contractors Licensing Act. House Bill 4223 would amend the act governing the licensure of plumbers (MCL 338.911b). House Bill 4224 would amend the Electrical Administrative Act (MCL 338.888d). House Bill 4225 would amend the Forbes Mechanical Contractors Act (MCL 338.981). House Bill 4226 would amend the Occupational Code (MCL 339.2411).

**OVER**

H.B. 4222 (7-27-89)

## **FISCAL IMPLICATIONS:**

According to the Department of Public Health, the annual operational budget of the asbestos program is approximately \$650,000, and \$150,000 is collected each year in licensing and accreditation fees. For fiscal year 1988-89, \$641,800 was appropriated for the asbestos program. However, \$500,000 was to be offset by anticipated revenues from the project fees that were to be collected under House Bill 5779 of last session. (The department has estimated that asbestos abatement project fees would generate approximately \$500,000 per year. These estimates were based upon actual asbestos removal notifications received by the department over a five month period). Since that bill was not enacted, the department has requested a supplemental appropriation of \$500,000 for this fiscal year. (7-26-89)

## **ARGUMENTS:**

### **For:**

The bill would generate revenues needed to fund the asbestos abatement program. Without these revenues, the Department of Public Health estimates that it would have to eliminate plans to implement a field inspection and compliance program to monitor the quality of work being provided by asbestos abatement contractors. Asbestos has been found to be hazardous to human health; it is known to cause a number of cancers as well as a form of noncancerous, irreversible lung damage, and the acts involving asbestos abatement were enacted to protect the public health. It is vitally important that the Department of Public Health have the funds to hire inspectors to make sure that guidelines are being followed and that contractors don't cut corners to get jobs done.

### **For:**

Asbestos abatement work is a lucrative industry. By requiring project fees from contractors, the bill places some of the cost of protecting public health in this area on those who profit from the asbestos dilemma. By requiring contractors to notify the department ten days prior to starting a project, the department would be able to prepare for and conduct inspections. This, in turn, will help assure that proper asbestos abatement techniques and procedures are followed during asbestos abatement work in the state.

### **Against:**

The bill should require that an asbestos abatement contractor show proof of insurance before receiving a license, to protect persons from disreputable contractors who may not correctly perform an abatement job. While other construction licenses in the state do not require a proof of insurance prior to licensing, abatement contractors are dealing with a hazardous, cancer-causing material. The customer should be informed so that he or she could decide whether to buy contractor liability insurance.

### **Against:**

The bill is redundant in its requirement that the department report to the legislature on the status of the licensing of asbestos abatement contractors. This requirement is already contained in the act.

### **Against:**

Asbestos has been found to be hazardous to human health, especially when inhaled in the form of microscopic airborne fibers. It is known to cause a number of cancers as well

as a form of noncancerous, irreversible lung damage. The Environmental Protection Agency states that, once released, asbestos fibers in the home may stay suspended in the air for many hours. After they settle, fibers can be stirred up again by a household activity, such as sweeping, and can be inhaled. By exempting projects involving less than 10 linear or 15 square feet of friable asbestos materials, the bill would still leave open the possible hazard of releasing asbestos into the air.

**Response:** The Department of Public Health agrees that a safety hazard could exist. At present, however, the department does not have enough inspectors to investigate even the larger asbestos abatement projects being performed around the state. Since a "boundary" had to be drawn at some point, then, it was decided to set it at 10 square feet or 15 linear feet.

## **POSITIONS:**

The Department of Public Health supports the bill. (7-26-89)

The Department of Labor supports the bill. (7-27-89)

The Michigan Consumers Council has no position on the bill. (7-27-89)

Detroit Edison Company has no position on the bill. (7-26-89)

Representatives of the following organizations testified before the House State Affairs Committee in support of the bill: (7-26-89)

The Associated Builders and Contractors of Michigan

The Michigan Heating and Air Conditioning Contractors Association

The Contractors Legislative Service

The Michigan State Building Trades Council

The Lansing Mechanical Contractors Association

Plumbers and Pipefitters, Local 388

Certified Abatement Service

Metro Detroit Plumbing and Mechanical Contractors Association

Michigan Air Conditioning Contractors of America

The Michigan State AFL CIO

The Michigan Association of Home Builders opposes the bill. (7-26-89)