

# Legislative Analysis



## HOMES FOR THE AGED: BACK-UP GENERATORS

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House Bill 4766 as enrolled

Public Act 397 of 2004

Sponsor: Rep. John Pastor

House Committee: Senior Health, Security and Retirement

Senate Committee: Health Policy

### Third Analysis (1-13-05)

**BRIEF SUMMARY:** The bill would require each home for the aged to have an emergency generator system and for nursing homes to comply with state and federal laws and regulations regarding emergency generator systems.

**FISCAL IMPACT:** The bill would have no impact on state or local costs. The civil penalty imposed on homes for the aged of not more than \$2,000 for each violation and \$500 per day for each subsequent day a violation continues could increase local fine revenue. Any impact, however, would be negligible.

### THE APPARENT PROBLEM:

Nursing homes are required under federal and state laws and regulations to have back-up generators available for use during power outages. However, homes for the aged do not have such a requirement. Homes for the aged serve persons 60 years and older, have more than 20 beds, and provide 24-hour supervision and protection. Services such as help with social activities, dressing, feeding, bathing, and transfer into and out of wheelchairs are provided, but not skilled nursing care. Some homes serve a very disabled population or persons with dementia, where others may serve a very diverse and mobile population.

In case of a power outage, it is imperative that a facility be able to maintain lighting of exits sufficient to safely evacuate residents, and to maintain critical safety systems such as telephones, fire detection and suppression systems (such as smoke alarms and sprinklers), and refrigeration units for safe handling of food and medications. Therefore, some believe that homes for the aged should be required to maintain similar emergency generator systems as required for nursing homes.

### THE CONTENT OF THE BILL:

The bill would add two new sections to the Public Health Code to require a home for the aged seeking a license or a license renewal to have an emergency generator system and for nursing homes to comply with state and federal laws and regulations regarding emergency generator systems. During an interruption of the normal electrical supply, the emergency generator system would have to, at a minimum, be capable of the following:

- Provide not less than four hours of service.
- Generate enough power to provide lighting at all entrances and exits and to operate equipment to maintain fire detection, alarm, and extinguishing systems, telephone switchboards, heating plant controls, and other critical mechanical equipment essential to the safety and welfare of the residents, personnel, and visitors.

A home for the aged that was licensed as of the bill's effective date would not have to comply with the above requirement for an emergency generator system until the home underwent a major building modification as defined in the bill; however, the home would have to notify the local medical control authority and the local law enforcement agency that it did not have an emergency generator on site. In addition, the facility would have to file with the Family Independence Agency a copy of the home's written policies and procedures and existing plans or agreements for emergency situations, including in the event of an interruption of the normal electrical supply.

A home for the aged that failed to comply with the bill's requirements would be subject to a civil penalty of not more than \$2,000 for each violation. Each day a violation continued would be considered a separate offense and would have to be assessed a civil penalty of not less than \$500 for each day during which the failure continued.

Lastly, a licensed nursing home would be required to have, at a minimum, an emergency generator system that complied with existing state and federal law, including state and federal rules and regulations. Failure to comply would subject the nursing home to a civil penalty as provided under existing state and federal law, including state and federal rules and regulations.

(Note: Oversight of homes for the aged lies with the Bureau of Family Services, formerly within the Department of Consumer and Industry Services. Executive Order 2003 – 18, which took effect December 7, 2003, transferred the Bureau of Family Services from CIS to the Family Independence Agency and renamed CIS the Department of Labor and Economic Growth. On March 15, 2005, when Executive Order 2004 – 38 takes effect, the FIA will be renamed the Department of Human Services.)

The bill would take effect April 15, 2005 (six months after it was enacted).

MCL 333.21435 and 333.21735

## ***ARGUMENTS:***

### ***For:***

The bill would require licensed homes for the aged to have an emergency generator system to run critical electrical systems in the event of a power outage. The requirement would be virtually identical to that required of nursing homes. Due to the smaller size of homes for the aged and the typically low-income population they serve, these facilities would not have to have an emergency generator until such time as a facility underwent a

major building modification. Until the time a facility was renovated, compliance with the bill could be accomplished by filing with the regulatory agency a copy of the facility's written protocols for emergency situations, which would include power outages. The local medical control authority and local police would also have to be notified that the home did not have an on-site generator. The provision pertaining to nursing homes merely places in statute a reference to current federal and departmental rule requirements.

***Response:***

Even if a new home for the aged is built or an existing home significantly remodeled, depending on its size and location, it may not be practicable to have an on-site generator due to the amount of fuel that would also have to be stored. All homes for the aged should be allowed to have an alternate way to comply with the bill's requirements; for example, the Family Independence Agency should be granted the discretion to allow a facility to have a contract in force with a company that would supply it – on a priority basis – with a generator if a power outage should occur.

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