Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 378 (Substitute S-2 as reported)
Sponsor: Senator Marty Knollenberg
Committee: Regulatory Reform

CONTENT

The bill would amend the Public Health Code to do the following:

-- Modify the definition of "home for the aged" to refer to a facility at a single address, and to individuals 55 years of age or older, rather than 60 or older.
-- Require the Department of Licensing and Regulatory Affairs (LARA) to grant an exemption from licensure to an existing facility or a facility under construction, under certain circumstances (described below).
-- Specify that an exemption could not be granted after December 31, 2019, except to a successor owner, operator, or governing body.
-- Allow LARA to revoke an exemption under certain circumstances.
-- Limit the number of criminal history checks of prospective employees that LARA would have to pay for, after October 1, 2018, to 40 per year for a home for the aged with fewer than 100 licensed beds, or 50 per year for a home for the aged with 100 or more beds.
-- Require the Bureau of Fire Services to amend rules promulgated under the Code to allow facilities in existence on or before the bill's effective and continuously operating up to the time of application for a home for the aged license, to be reviewed and inspected to comply with certain provisions of a National Fire Protection Association standard.

The bill would require LARA to grant an exemption from licensure to an existing facility or a facility under construction where board was offered through a person not related to the person that provided room or supervised personal care, or both, or supervised personal care was offered through any person whether or not that person was related to the person that provided room or board, or both, if the supervised personal care arrangement had been in effect for at least five consecutive years before the exemption was requested and residents had the option to select any supervised personal care provider, if that facility met the requirements of the bill. The owner or managing company to provide an attestation certifying that the people described in this provision were not related. An exemption would continue to exist for a successor owner, operator, or governing body if the successor filed the attestation.

The Department would have to determine that a facility was exempt from licensure if the owner, operator, or governing body submitted an attestation assuring that 1) the owner, operator, or governing body that provided room and the person that provided supervised personal care were not related, or 2) the entity that provided room and the entity that provided supervised personal care were related and the facility was registered as a continuing care community that included a licensed nursing home. In either case, the applicant would have to acknowledge that the penalty for submitting a false or inaccurate attestation would be an administrative fine of $5,000.

MCL 333.10106 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government. The bill effectively would cap the amount LARA would pay out for employee background checks per facility. According to LARA, the caps on background checks would not significantly change the number that it pays for currently, but rather would control its costs going forward. In fiscal year (FY) 2015-16, LARA paid a total of about $585,500 for background checks for employees at homes for the aged.

Another impact of the bill would be on the number of homes for the aged licensed as such. The bill specifies criteria under which a facility could be exempt from licensure as a home for the aged; it is unknown how many facilities would pursue exemption but those that did would reduce revenue received by LARA, as well as expenditures associated with licensure. The homes for the aged licensure program receives revenue from an annual fee of $6.27 per bed, which in FY 2015-16 generated about $108,000. The Department's total expenditures for the program in that year were about $960,000, with the expenditures in excess of fee revenue covered by Federal sources as well as the State General Fund. Any reduction in the number of licensed homes for the aged would result in some savings to the General Fund.

Additionally, the bill would establish a way for currently unlicensed facilities operating before the bill took effect to pursue licensure with relaxed facilities requirements. To the extent that this provision would cause additional facilities to pursue licensure, LARA would require additional resources from the State General Fund.

Currently, there are 232 licensed homes for the aged. It is unknown what the net impact on the number of licensed facilities would be under the bill, so the fiscal impact of the bill is indeterminate.

Date Completed: 6-22-17 Fiscal Analyst: Josh Sefton