



**House
Legislative
Analysis
Section**

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ELECTRICAL FEE FOR PRISONERS

**House Bill 5620 (Substitute H-2)
First Analysis (5-15-96)**

**Sponsor: Rep. James Ryan
Committee: Public Utilities**

THE APPARENT PROBLEM:

As corrections costs continue to increase, there have been increasing attempts to recover some of the costs of incarcerating prisoners. Earlier in the current legislative session, for example, the House of Representatives passed bills that would require prisoner co-payments for nonemergency medical care (House Bill 4947) and that would require prisoners to pay for college courses unless this requirement would violate a federal consent decree or court order (House Bill 4955). Legislation has been introduced that would apply this cost recovery principle to prisoners' use of electricity for personal property.

THE CONTENT OF THE BILL:

The bill would amend the prison code (Public Act 118 of 1893) to require prisoners to pay a monthly \$3 electrical usage fee for using electrical items in their cells. More specifically, prisoners who used personal property in their cells ("personal housing area") that required the use of electricity would be required to pay an electrical usage fee to the Department of Corrections "at a rate equivalent to" three dollars a month regardless of the number of days of electrical usage. The fee would be collected annually (or at other intervals decided upon by the department) from the prisoner's institutional account. The department could keep not more than 15 percent of the total fees collected annually under the bill to pay for the cost of operation.

MCL 800.43

FISCAL IMPLICATIONS:

Fiscal information is not yet available. (5-14-96)

ARGUMENTS:

For:

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 the bill would contribute toward this end.

Against:

The bill would generate funds but doesn't say where they would go or what they would be used for.

Response:

House Bill 5691, which is tie-barred to House Bill 5620, would create a "corrections electrical usage fund" that would receive money received from the electrical usage fees paid to the Department of Corrections by prisoners under House Bill 5620. The fund would be administered by the Family Independence Agency (formerly the Department of Social Services) and spent solely for helping recipients of family independence assistance in paying for residential utility services.

Against:

The bill would impose equal financial obligations on prisoners without regard to their ability to pay. While those who can afford to pay should do so, what about indigent prisoners? With pending legislation that would require prisoner co-payments for nonemergency medical care or prisoner payment of college courses, it is conceivable that some, if not many, prisoners will be "priced out of the market." Additional charges to prisoners at least ought to be tied to ability to pay, as is proposed in House Bill 4955, which would require prisoners to pay for college courses under the State Correctional Facility Reimbursement Act. That act requires a determination by the attorney general that before the state tries to recover a prisoner's cost of care the affected prisoners have recoverable assets to pay for at least ten percent of the estimated cost of care of that prisoner or ten percent of that cost for two years, whichever is less. Under the facility reimbursement act, the state is allowed to recover some of the cost of caring for prisoners, where "cost of care" is defined to

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mean "the cost to the Department of Corrections for providing transportation, room, board, clothing, security, medical, and other normal living expenses of prisoners under the jurisdiction of the department, as determined by the commission of corrections." That act also defines which prisoner assets the state may claim, excluding from the definition the homestead of a prisoner of up to \$50,000, prisoner wages earned during confinement, and any settlement or judgment involving a prisoner's successful claim against the department. Before charging prisoners various kinds of usage fees, shouldn't the prisoner's ability to pay be taken into consideration? And if prisoners, whose work and educational opportunities are limited at best, can't even afford to pay for the electricity to power such harmless distractions as television and radio, won't this just increase prisoners' boredom and anger, thereby creating security problems and added danger for already overworked corrections officers? Finally, some people argue that corrections costs are soaring because the social safety net has been shredding. Prevention is always much less expensive than incarceration, and many people would argue that corrections costs would best be contained by devoting more social resources to providing adequate education, jobs, mental health services, and other social supports to the disadvantaged so that people don't wind up in the corrections system in the first place.

Response:

In the first place, three dollars a month is a ridiculously low figure even for prisoners who may or may not have a prison job from which they could earn money. If a prisoner can afford to buy a television set isn't it reasonable to assume that he or she could afford \$36 a year to operate it? Many people believe that prisoners already are too coddled, receiving housing, food, medical, and educational benefits that many poor, and much more deserving, honest citizens are not afforded. Prisoners are incarcerated for a reason: they have broken the law and are required to repay the society they have harmed. If they want special privileges in prison, such as personal access to radios and television sets, then they should be made to pay for these privileges. Despite what many prisoners may have come to believe, there is no free lunch, and the sooner they realize this the better it will be for them and for society at large. Perhaps they will begin to realize that privileges are not rights, and will begin to take responsibility for earning those privileges instead of just assuming them as some kind of right.

POSITIONS:

The Department of Corrections supports the bill. (5-14-96)

Michigan Citizens United for the Rehabilitation of Errants (MICURE, a prisoner advocacy group) opposes the bill. (5-14-96)

■ 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.