

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6481

BILL NUMBER: SB 92

NOTE PREPARED: Dec 7, 2006

BILL AMENDED:

SUBJECT: Smoke Detectors in Nursing Homes.

FIRST AUTHOR: Sen. Landske

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires hard-wired smoke detectors to be installed in certain health facilities. The bill makes the failure to install the detectors a Class A infraction and a Class D felony if bodily injury or death occurs as a result of a fire in the health facility.

Effective Date: July 1, 2007.

Explanation of State Expenditures: The bill requires that licensed comprehensive nursing facilities have a hard-wired smoke detection system that meets certain specifications installed by July 1, 2008. Currently, facilities that are fully sprinklered are not required to have smoke detectors in patient rooms. The extent to which fully sprinklered nursing facilities in Indiana also have hard-wired smoke detection systems that meet the specifications in the bill is not known. The federal Centers for Medicare and Medicaid Services (CMS) certification requirements have been revised to require that certified nursing facilities install battery-operated smoke detectors in resident rooms and public areas if they do not have an automatic sprinkler system or a hard-wired smoke detection system in those areas. This requirement was effective in March 2006.

Indiana Veterans' Home: The Indiana Veterans' Home will have smoke detection systems in all patient rooms by July 1, 2007. The status of the systems with regard to the emergency power or required dedicated battery back-up is not known at this time.

Medicaid Impact: The estimated fiscal impact of requiring the installation of hard-wired smoke detection systems in all certified nursing facilities has been estimated to be an annual total of \$569,000 in state and federal dollars. The state share of the additional expenditure would be approximately \$216,300 each year due to the increased capital cost. This estimate is based on 2005 rate information, a cost estimate of \$250 per

bed, and assumes that no facilities currently have hard-wired smoke detection systems.

Fire and Building Safety Division, Department of Homeland Security: The bill requires the State Fire Marshal's Office to conduct inspections of health facilities as a part of its normal inspection process to determine if the smoke detectors are installed and functioning . Currently, the Fire and Building Safety Division annually inspects health facilities for compliance with fire safety requirements. Additionally, local fire departments also have the authority to inspect these facilities if they choose to do so. Any evidence of a violation of the requirements of the bill would be turned over to the prosecuting attorney of the county in which the violation occurred. The Fire and Building Safety Division is further required to promulgate rules detailing specifications for tamper-resistant covers for smoke detectors with dedicated battery back-up. This administrative requirement should be accomplished within the current level of resources available to the Division.

Criminal Penalties: The bill provides that an owner commits a Class D felony if he knowingly or intentionally violates the requirements of the bill and bodily injury or death occurs as the result of a fire. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Class D Felony:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Class A Infraction: The bill creates a Class A Infraction that applies to owners of facilities that do not comply with the requirement for the specified smoke detection systems. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: Nursing facilities that are owned and operated by local units of government would be required to install smoke detection systems that meet the specifications of the bill. The smoke detection system status of these facilities is unknown.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur due to injury or death as a result of a fire in a noncompliant health facility and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

If additional court actions are filed due to lack of a compliant smoke detection system in a health facility and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Office of Medicaid Policy and Planning, Family and Social Services Administration; Fire and Building Safety Division, Department of Homeland Security; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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