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DONATION OF FORFEITED PROP.

House Bill 4562 with committee
amendment
First Analysis (7-20-93)

Sponsor: Rep. Candace Curtis
Committee: Public Health

THE APPARENT PROBLEM:

The Public Health Code contains a forfeiture law that authorizes the seizure and forfeiture to the government of property used in connection with drug trafficking. When property is forfeited under the health code, the state or local unit of government that seized the property may keep the property for official use or sell whatever doesn't, by law, have to be destroyed. The proceedings of sales of drug-forfeited property go to the unit of government that seized the property.

Certain items seized in drug raids, such as weighing scales and lights used for growing plants, could be used by schools for educational purposes, but local officials in at least one county are reluctant to donate this equipment out of fear that they may be perceived as misusing drug-forfeited property. Legislation has been introduced that would address this concern.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code (Public Act 368 of 1978) to allow local units of government to donate lights for plant growth or scales forfeited under the health code to elementary schools, secondary schools, or institutions of higher education for educational purposes. Donations would be made to schools in the order in which their written requests were received by the seizing unit of government. Local units of government also could limit the number of lights and scales available to each school.

MCL 333.7524

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bill would clarify in statute that local units of government that had seized lights for plant growth and scales under the drug-forfeiture part of the Public Health Code could donate these items to schools and colleges on a "first come, first served" basis. Especially in a time of shrinking budgets and rising costs, these donations could be put to good educational use by schools without the schools' incurring the costs of having to buy them. At the same time, the bill would preclude any misperceptions that such donations by local governments was somehow a misuse of the property. Finally, donating these items to schools also would be putting them to a better use than destroying them, using them officially, or selling them, particularly since the buyers of plant growth lights and scales offered at public auction reportedly are primarily other drug dealers. The bill thus would benefit state schools while removing these items from the hands of drug dealers.

Against:

Although the amendment adopted by the House Committee on Public Health would clarify which schools would receive the proposed donations, there is no mechanism for notifying the schools that such equipment will be available for free upon request. Perhaps some kind of notification requirement should be included.

Response:

There really is no need to turn the bill into a complicated program. Rather than establishing a complicated program that might also then even require some kind of state funding, the bill will simply allow -- and not mandate -- donations of drug-forfeited plant growth lights and scales to schools. Surely state legislators would want to let their local school districts know that such an opportunity existed, without needing some kind of

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official -- and potentially costly -- notification requirements in the bill itself.

POSITIONS:

The Flint Area Narcotics Group (FANG) supports the bill. (7-15-93)