

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1694-01
Bill No.: HB 786
Subject: Certificate of Need; Nursing Homes and Long-term Care Facilities; Boards, Commissions, Committees, and Councils; Health Care; Department of Health and Senior Services
Type: Original
Date: April 14, 2017

Bill Summary: This proposal modifies certificate of need requirements for long-term care facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue	(Up to \$371,706)	(Up to \$495,975)	(Up to \$449,712)	(Up to \$201,688)
Total Estimated Net Effect on General Revenue	(Up to \$371,706)	(Up to \$495,975)	(Up to \$449,712)	(Up to \$201,688)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Federal*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

* Income and expenses net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue	0.5	0.5	0.5	0
Federal	0.5	0.5	0.5	0
Total Estimated Net Effect on FTE	1	1	1	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§197.321 - Suspension on issuance of CON

Officials from the **Department of Health and Senior Services (DHSS)** state the proposed legislation creates a suspension on new facilities being built within the state. This requirement will eliminate the applications for a Certificate of Need (CON) from new facilities. The total amount of CON application fees received for new facilities for the past three years is \$301,776 in FY14; \$506,190 in FY15; and \$315,760 in FY16 for an average of \$374,575 annual reduction to the General Revenue Fund. DHSS estimates a loss of CON revenue of \$374,575 for FY18; \$383,939 for FY19 and \$393,538 for FY20.

Oversight notes the suspension on the issuance of CON will continue for 6 months into FY21 and assumes a loss of 6 months of CON fees or \$201,688 ($\$393,538 \times 1.025\%$ inflation rate = $\$403,376 \times \frac{1}{2}$ year = \$201,688).

Officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** state this proposal places a suspension on increasing the number of nursing facility beds until December 31, 2020. While this proposal could reduce the number of empty beds in the market, there is no language requiring MHD to rebase rates. Therefore, there is no fiscal impact to the nursing facility rates in MHD.

§197.322 - Missouri Task Force on CON

DHSS officials state section 197.322 of the proposed legislation creates the Missouri Task Force on Certificate of Need within the Department of Social Services. DHSS assumes no fiscal impact for this section.

MHD officials state the proposal establishes a sixteen member task force within DSS, entitled the "Missouri Task Force on Certificate of Need". The committee is tasked with the following:

- 1) Review other state CON practices for long-term care facilities and consider how CON supports or detracts from quality care, cost containment, access, choice, occupancy, and accountability;
- 2) Review current occupancy and utilization of long-term care beds compared to other states;
- 3) Evaluate the relationship between CON laws and their impact on senior care;
- 4) Evaluate MO HealthNet reimbursement rates on the long-term care marketplace and possible changes in reimbursement structure;

ASSUMPTION (continued)

- 5) Develop appropriate factors to determine the need for new or additional beds; and
- 6) Propose goals, objectives, strategies, and tactics to end or improve the CON process.

Subject to appropriations, members may be reimbursed for actual and necessary expenses incurred and the task force may engage the services of a consulting firm with experience in long-term care.

MHD assumes the task force will contract with a consulting firm to gather other state information and guide the members in a process to revise the current CON process. MHD assumes 520 hours will be needed by the consultant annually (40 hrs/wk X 52 weeks X 25%). Based on known hourly fees for existing MHD consultant work, MHD assumes an hourly rate of \$200 for a cost of \$104,000 per year in consulting fees. Because the committee will meet at least six times per year, MHD further assumes one additional staff at a Management Analyst Specialist II level will be needed to serve as the liaison between the consultant, department, and task force, provide data and policy analysis, and to provide general support to the membership. Because consulting fees are estimated to cost \$200/hour, MHD believes resources can be best utilized by adding an FTE to serve as a project manager and team leader of the CON task force while the consultant is used in a limited capacity for their expertise. MHD foresees this position as guiding the task force through their review of the CON process in Missouri and other states. Duties will also include planning, organizing, leading, and keeping the project on track for completion. MHD estimates additional funds will be needed to reimburse members for actual and necessary expenses incurred (i.e. travel, lodging, meals, etc.). It is assumed \$17,280 will be needed annually for this purpose (\$180/member per meeting X 16 members X 6 meetings per year). MHD assumes the first task force meeting would occur in January 2018 and the task force would commence its work before January 2020.

FY18 (6 months): \$104,248 (\$43,477 GR; \$60,771 Federal);
FY19: \$194,430 (\$79,921 GR; \$114,509 Federal); and
FY20 (6 months): \$97,588 (\$40,147 GR; \$57,441 Federal).

Oversight assumes the DSS does not need additional rental space for one FTE.

Officials from the **Office of the Governor (GOV)** state section 197.322 establishes the "Missouri Task Force on Certificate of Need" that shall be composed of 16 members including 10 gubernatorial appointees. There should be no added cost to the Governor's Office as a result of this measure. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

ASSUMPTION (continued)

Bill as a whole

Officials from the **Missouri House of Representatives (MHR)** assume the proposal will have no fiscal impact on their organization. MHR assumes the DSS will cover any expenses of House members serving on the task force.

Officials from the **Department of Mental Health** and the **Missouri Senate** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
GENERAL REVENUE FUND				
<u>Costs - DSS</u> (\$197.322)				
Personal service	(\$10,485)	(\$21,180)	(\$10,696)	\$0
Fringe benefits	(\$5,699)	(\$11,461)	(\$5,762)	\$0
Equipment and supplies	(\$9,964)	(\$12,565)	(\$6,301)	\$0
Consultant expenses	<u>(\$33,412)</u>	<u>(\$66,830)</u>	<u>(\$33,415)</u>	<u>\$0</u>
Total <u>Costs - DSS</u>	<u>(\$59,560)</u>	<u>(\$112,036)</u>	<u>(\$56,174)</u>	<u>\$0</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE	0 FTE
<u>Loss - DHSS</u> (\$197.321)				
Reduction in CON fee revenue	Up to...	Up to...	Up to...	Up to...
	<u>(\$312,146)</u>	<u>(\$383,939)</u>	<u>(\$393,538)</u>	<u>(\$201,688)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND				
	<u>(Up to \$371,706)</u>	<u>(Up to \$495,975)</u>	<u>(Up to \$449,712)</u>	<u>(Up to \$201,688)</u>
Estimated Net FTE Change on the General Revenue Fund	0.5 FTE	0.5 FTE	0.5 FTE	0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
FEDERAL FUNDS				
<u>Income - DSS</u> (\$197.322)	\$59,562	\$112,036	\$56,174	\$0
<u>Costs - DSS</u> (\$197.322)				
Personal service	(\$10,485)	(\$21,180)	(\$10,696)	\$0
Fringe benefits	(\$5,699)	(\$11,461)	(\$5,762)	\$0
Equipment and supplies	(\$9,964)	(\$12,565)	(\$6,301)	\$0
Consultant expenses	<u>(\$33,414)</u>	<u>(\$66,830)</u>	<u>(\$33,415)</u>	<u>\$0</u>
Total <u>Costs - DSS</u>	<u>(\$59,562)</u>	<u>(\$112,036)</u>	<u>(\$56,174)</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Federal Funds	0.5 FTE	0.5 FTE	0.5 FTE	0 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal may result in a loss of construction and employment opportunities for small business construction companies.

FISCAL DESCRIPTION

This bill imposes a three year suspension on the issuance of certificates of need by the Missouri Health Facilities Review Committee for additional beds in any residential care facility, assisted living facility, intermediate care facility, or skilled nursing facility. This suspension does not apply to the following: (1) Bed additions, expansions, transfers, relocations, or replacements; (2) Renovation, repair, or replacement of existing facilities and beds on a single campus; (3) Reallocation of licensed beds among licensed facilities with common ownership or affiliated operators on a single campus; or (4) Certificates of need issued prior to August 28, 2017, with specified exceptions.

The bill creates the "Missouri Task Force on Certificate of Need" and specifies the task force members, rules, and duties. The goals of the task force are to develop a comprehensive proposal to reform Missouri's certificate of need law as applied to long-term care facilities. The task force is required to review long-term care facility certificates of need in other states and current occupancy, utilization rates, and staffing, among other specified duties. The task force is required to submit a report, no later than October 1, 2018 on its findings to the Governor and General Assembly. The task force expires on January 1, 2020, or upon admission of the report, whichever occurs earlier.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Mental Health
Department of Social Services -
 MO HealthNet Division
Office of the Governor
Missouri House of Representatives
Missouri Senate



Mickey Wilson, CPA

Ross Strobe

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