COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0393-03
Bill No.: SB 235
Subject: Certificate of Need; Boards, Commissions, Committees, and Councils; Elderly; Health Department; Nursing and Boarding Homes; Medical Procedures and Personnel
Type: Original
Date: February 13, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	($39,526)	($39,526)	($39,526)
Total Estimated Net Effect on All State Funds	**($39,526)**	**($39,526)**	**($39,526)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health** (**DOH**) state they would be required to have a representative serve as a member of the Health Facilities Review Committee. DOH states this responsibility would be performed by existing administrative staff. DOH also states the proposal would make changes to an already existing program and procedure. DOH estimates this would have very little fiscal impact on their agency.

Missouri Health Facilities Review Committee (**MHFRC**) officials state that based on their review, they have made the assumption that the workload would remain close to current levels; therefore, there would be no need for additional staff. They based their assumptions on a review of the Committee's decisions for the past three calendar years (1998, 1999, and 2000). They also examined those projects which had previously been determined to be non-applicable because they were under an expenditure minimum, but would now be reviewable as a result of this proposal. They also calculated the impact to General Revenue Fund. MHFRC states that from 1998-2000, the Committee reviewed 33 Residential Care Facilities (RCF) applications. This resulted in $41,942 in application fees going into General Revenue. As a result of this proposal, RCF projects would no longer require review; therefore, no application fee would be required. This would result in a loss to General Revenue. During this same period (1998-2000), the Committee reviewed 210 non-applicability requests. These proposals did not require an application fee. As a result of this proposal, 69 of the requests would now require review, resulting in an additional $78,176 in application fees going into General Revenue. MHFRC believes that there have been a significant number of proposals which, because they were under the expenditure minimum, were never brought before the Committee as non-applicability requests. Many of these proposals would now require review. Therefore, as a result, MHFRC has assumed that approximately 70 additional applications would be submitted. If each of these applications required the minimum $1,000 application fee, this would result is an additional $70,000 going into General Revenue. Also, during this period, MHFRC reviewed 176 full applications. Of that number, 107 would no longer require review under the proposal, resulting in a loss of $224,812 in application fees going into General Revenue. MHFRC analysis indicates that, applying the provisions of the proposed bill to the projects reviewed for the last three years, there would have been a net loss to General Revenue of $118,578 or an average of $39,526 per year. There are several assumptions which could be made which might positively affect the amount of revenue which would go into General Revenue for the next three years. At this time, the occupancy for both the 15-mile radius and the county are considered when reviewing proposals for additional long term care beds. It is possible there would be an increase in the number of nursing home projects for additional beds since MHFRC would only consider the county occupancy. It is also possible that hospitals may have been holding back on submitting proposals for large projects waiting to see what would happen with the implementation of §197.366 in the current statute. This provision is not in the proposal; therefore, we could see an

ASSUMPTION (continued)

increase in the number of hospital projects. This would have a positive impact on revenue going into General Revenue; however, it is difficult to determine the number and size of such potential projects. If applicants know that a project is reviewable, regardless of cost, they may decide to go with high-end equipment and construction. In the past, in order to stay below the expenditure minimums, often times applicants might use minimum construction standards. As a result of this proposal, quality of care may be enhanced because minimum standards would no longer be used for construction. Many applicants who had received a Non-Applicability CON letter in the past, would have difficulty proving a need for the service under the proposal. This could result in a higher level of debate and competition.

Officials from the Department of Social Services - Division of Aging (DA) state this proposal would modify current law; however, most of the modifications do not materially change the license fees collected as a result of facilities purchasing, selling, transferring, or relocating beds. DA states a section in the proposal would allow Residential Care Facilities, for the purpose of continuance of care, to purchase beds from a skilled nursing facility if they have no patient care class I deficiencies, have maintained ninety percent (90%) occupancy for the previous six (6) quarters, and have made an effort to purchase beds for the last eighteen (18) months. The purchase may be for no more than ten percent (10%) of the licensed residential care facility beds in the purchaser's facility. The residential care facility must then obtain a license to operate the skilled nursing beds at its current location. DA states that currently 134 Residential Care Facilities have experienced ninety (90%) occupancy for the previous six (6) quarters. Approximately four percent of the residential care residential care facilities had class I patient care violations within the past eighteen months. Therefore, DA would estimate that about 129 facilities would be eligible. DA staff familiar with the licensing processes and trends estimate that ten percent or 13 of these facilities may be interested in modifying their facilities to comply with the licensure requirements for a skilled nursing facility. DA staff estimate that only fifty percent or 6 of these facilities would be able to purchase individual long-term care beds from other facilities. These transactions would result in both a licensure fee for the facility with a bed increase and a licensure fee for the facility with a bed decrease or $450 ((6 x ($50 + $25)). Since it cannot be determined how many of these facilities may engage in multiple transactions, the revenue projections are computed based upon singular transactions only. Licensure fees would be assessed when the beds are ready for occupancy and most of these beds increases would require licensure modifications to the physical plant; therefore, it is estimated that no additional revenue would be received during FY 2002.

Oversight assumes there would be additional revenues to the General Revenue Fund in FY 2003 and FY 2004 but is unable to determine how many beds may possibly be sold, purchased, transferred, or relocated.

FISCAL IMPACT - State Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
Loss - Missouri Health Facilities Review Committee			
Lower required applications	($39,526)	($39,526)	($39,526)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	($39,526)	($39,526)	($39,526)

FISCAL IMPACT - Local Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses (nursing homes) could expect to be fiscally impacted to the extent that they would incur additional revenue and/or expenses as a result of the requirements of this proposal.

DESCRIPTION

This proposal would revise the Certificate of Need (CON) statutes. Current CON Sections 197.300 to 197.367, RSMo, are repealed and new Sections 197.370 - 197.398 regarding "review certification" are enacted. Sections 197.370 to 197.374 would designate the proposal as the "Missouri Health Facilities Review Law" and states the purpose of the Office of Health Facilities Review. Revised definitions would be provided. Section 197.376 would establish the Missouri Health Facilities Review Committee, consisting of seven members and the director of the Division of Health Standards and Licensure and the Division of Aging. The Committee would meet at least twice per year. Section 197.378 lists duties of the Committee, including the review and approval or disapproval of all applications for review certification. Sections 197.380 to 197.382 would outline the procedures for application submission. A letter of intent would be submitted thirty days before filing an application and a fee must accompany the application. Applicants have the right to appeal the Committee's decision. Sections 197.384 states any person proposing a new institutional health service, first-time service, or the addition of newly licensed beds must obtain a non-transferable review certification. Certification would be granted to those

DESCRIPTION (continued)

meeting the health needs of the community. If costs would exceed ten percent of the approved amount, the Committee must consent to the increase. Applicants would submit periodic reports and the Committee may revoke certification in certain situations. State agencies would not license, certify, or provide funds without a person or facility first obtaining review certification, if required to do so. Section 197.386 would state an application for review certification would not be required for previously certified facilities which are run by the state, facilities operated for the purpose of treating AIDS patients, and other nonreviewable projects. Section 197.388 states a review certification would not be issued until January 1, 2006, for additional intermediate care facility (ICF) or skilled nursing facility (SNF) beds, unless they are exempt from review certification requirements, or for hospital beds which would be reallocated to nursing care beds. Section 197.390 would state the Department of Health would determine existing need for additional beds by county. Occupancy within a county would exceed ninety percent for at least four consecutive quarters and the Department may make other considerations, as well. Section 197.392 would outline the procedure for increasing licensed bed capacity in an ICF or a SNF. This section also would allow residential care facilities (RCF)to purchase licensed beds from SNFs for the purpose of continuum of care. The RCF may purchase up to ten percent of its current licensed bed capacity. Any facility that transfers or sells beds may not expand its bed capacity for five years after the transaction. This section does not prohibit a health care facility from being replaced in its entirety within fifteen miles of its existing site. Section 197.394 would require any person paid to support or oppose a project to register with the Committee. Persons regulated by chapters 197 or 198 are prohibited from soliciting Committee members while an application is pending. Sections 197.396 to 197.398 state reimbursement for new institutional health service project costs over ten percent of the initial estimate will not be paid for the first three years that a facility receives payment for services through Medicaid. A review certification must be granted before payment for excess project costs will be made. The Committee would be given rule authority to enforce these sections.

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
Missouri Health Facilities Review Committee
Department of Social Services

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