

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4179-02
Bill No.: SCS for SB 1087
Subject: Certificate of Need; Health Care; Health Dept.; Nursing and Boarding Homes;
 Hospitals
Type: Original
Date: March 18, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$197,785)	(\$163,330)	(\$127,707)
Total Estimated Net Effect on <u>All</u> State Funds	(\$197,785)	(\$163,330)	(\$127,707)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

* Expenditure savings and lost Federal Match exceed \$100,000 annually and net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** and **Office of Administration - Division of Budget and Planning** assume the proposed legislation will not fiscally impact their organizations.

Officials from the **Missouri Health Facilities Review Committee (MHFRC)** stated they believe at least one additional Health Planning Specialist (HPS) would be required to handle the increased workload associated with the additional acute care applications which would become reviewable. The workload will also increase due to the new notification and exemption process.

This HPS would be responsible for reviewing applications and requests for exemptions; he/she would also be responsible for processing notification projects, conducting investigations, and followup. The salary (including fringe) for the first fiscal year would be \$45,365. No additional equipment or furniture would be required.

Replacement and renovation projects which would have been reviewable under the previous version of this bill would not be reviewable under this version. Therefore, there would be an annual loss to General Revenue through the loss of application fees. The MHFRC's assumptions are based on a review of the projects, from 1999 through 2001, which had received a Certificate of Need (CON), but would no longer be reviewable.

The result was an annual average of approximately \$194,360 in application fees for the first fiscal year. We assumed that there would be a 5 percent increase each year thereafter.

Officials from the **Office of the Secretary of State (SOS)** state this bill revises the certificate of need law. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 30 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,845 [(30 pp x \$27) + (45 pp x \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

ASSUMPTION (continued)

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated changing the dollar cap on non-reviewable projects from \$1 million to \$20 million could have an impact on DMS, however it is believed the impact would be a minimal savings.

Under current regulations, a facility must have a CON in order to request a rate adjustment. Increasing the threshold from \$1 million to \$20 million will reduce the number of projects that qualify for a rate adjustment thus reducing rate requests. However, a review of the rate requests received in the last two calendar years showed only six rate requests were under \$20 million. The rate adjustment allows a hospital to receive rate relief for a capital expenditure earlier than waiting for the cost report rebase that includes the capital expenditure. The delay from a rate adjustment cost to cost report rebase averages three years. The cost to DMS for these six requests over a two year period would be \$237,877 annually. One-half of this amount, \$118,989 is an average annual cost for rate adjustments for capital expenditures between \$1 million and \$20 million for the first year and this same amount saved again in the next year.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services - Division of Medical Services</u>			
Rate Request Adjustment Savings	<u>\$38,427</u>	<u>\$92,225</u>	<u>\$138,338</u>
Total <u>Savings</u> - Department of Social Services	<u>\$38,427</u>	<u>\$92,225</u>	<u>\$138,338</u>
<u>Loss - Missouri Health Facilities Review Committee</u>			
Application fees	<u>(\$194,360)</u>	<u>(\$204,078)</u>	<u>(\$214,281)</u>
Total <u>Loss</u> - Missouri Health Facilities Review Committee	<u>(\$194,360)</u>	<u>(\$204,078)</u>	<u>(\$214,281)</u>
<u>Costs - Missouri Health Facilities Review Committee</u>			
Personal Service Costs (1 FTE)	<u>(\$30,771)</u>	<u>(\$37,848)</u>	<u>(\$38,794)</u>
Fringe Benefits	<u>(\$11,081)</u>	<u>(\$13,629)</u>	<u>(\$13,970)</u>
Total <u>Costs</u> - Missouri Health Facilities Review Committee	<u>(\$41,852)</u>	<u>(\$51,477)</u>	<u>(\$52,764)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$197,785)</u>	<u>(\$163,330)</u>	<u>(\$128,707)</u>
FEDERAL FUNDS			
<u>Savings - Department of Social Services - Division of Medical Services</u>			
Savings from Reduced CON Expenditures	\$60,689	\$145,652	\$218,478
<u>Loss - Department of Social Services - Division of Medical Services</u>			
Loss in Federal Match for CON Expenditures	<u>(\$60,689)</u>	<u>(\$145,652)</u>	<u>(\$218,478)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2003
(10 Mo.)

FY 2004

FY 2005

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act modifies the Certificate of Need statutes. The current certificate of need (CON) sections 197.300-197.367 are repealed and new sections 197.805 - 197.851 regarding "review certification" are enacted.

This act may be cited as the "Missouri Health Facilities Review Law" and states the purpose of the Office of Health Facilities Review. Revised definitions are provided, as well (Sections 197.805, 197.808, and 197.812).

The Missouri Health Facilities Review Committee is established, consisting of eleven members. The Committee must meet at least twice per year. The duties of the Committee are outlined, including the review and approval or disapproval of all applications for review certification (Sections 197.815 and 197.818).

Procedures for application submission are outlined. A letter of intent should 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 197.821 and 197.824).

Any person proposing a new institutional health service, first-time service, the addition of newly licensed beds, renovations over a certain amount, or MOHEF. A financing must obtain a non-transferable review certification. Certification will be granted to those meeting the health needs of the community. If costs exceed 10 percent of the approved amount, the Committee must consent to the increase. Applicants must submit periodic reports and the Committee may revoke certification in certain situations. A review certification may be forfeited for failure to spend 20 percent of the total approved cost within twelve months. State agencies may not license, certify, or provide funds without a person or facility first obtaining review certification, if required to do so. Review certifications may not be denied for failure to provide abortion-related services. A review certification will not be required for new medical technology to be used in clinical trials (Section 197.827).

An application for review certification will 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 197.830).

DESCRIPTION (continued)

Review certification will not be issued for additional RCF I or II, ICF, or SNF beds or for hospital beds which are reallocated to nursing care beds, with the exception of beds located in counties with no existing nursing facilities. No review certification will be issued for the reallocation of nursing beds used for the mentally retarded. After January 1, 2003, however, the Committee will not be prohibited from issuing a review certification for additional beds in existing facilities or new beds in new facilities if construction does not begin before January 1, 2004. The Committee must utilize social and economic data in considering applications for new institutional long term care facilities (Section 197.833).

The provisions of Section 197.833 will not apply to RCFs I or II, ICF, or SNFs if the Department finds a need for additional beds. Its determination must be based on occupancy within a county exceeding 90 percent for at least four consecutive quarters within a fifteen-mile radius of the proposed facility. The Committee may consider ethnic or religious composition of a facility when making its decision. Until January 1, 2003, there will be no expenditure minimum for certain facilities, beds, or services listed in Section 197.833. The provisions of Section 197.833 will not apply to facilities with special dietary standards. This act does not apply to litigation pending on or before April 1, 1996.

A facility may expand its licensed bed capacity by submitting a letter of intent to the Department and the Committee; certifying that the facility has no class I deficiencies and has maintained a 90 percent average occupancy rate for the last six quarters; showing it has made an effort to purchase for eighteen months following the letter of intent. The term "effort to purchase" is revised to mean an offer to purchase beds in the same license category from another licensed facility. A review certification will then be issued upon agreement of the buyer and seller. If no agreement is reached, the Committee must permit an expansion for: (1) A facility with over 40 beds and 93% average occupancy in the last 6 quarters = may expand by the greater of 25% or 30 beds or (2) A facility with less than 40 beds and 92% average occupancy in the last 6 quarters = may expand by the greater of 25% or 10 beds.

Any beds sold must remain unlicensed and unused for five years. Beds purchased must remain in the inventory for two years. An RCF may relocate beds of the same licensure within six miles of each other. A facility may transfer or sell beds, but may not expand for five years after the date licensure is relinquished. An existing facility may replace one-half of its beds within thirty miles if it is only operating at 50 percent capacity for four quarters. This section does not prohibit a facility from being completely replaced within fifteen miles of its existing location if it retains the same owners and is not for long term care services (Section 197.836).

Any person paid to support or oppose a project must register with the Committee. Persons regulated by Chapters 197 or 198, RSMo, are prohibited from soliciting Committee members while an application is pending (Section 197.839).

Reimbursement for new institutional health service project costs over 10 percent of the initial estimate will not be paid for the first three years that a facility receives payment for services through Medicaid. A DESCRIPTION (continued)

review certification must be granted before payment for excess project costs will be made

(Section 197.842).

The Committee must submit an annual report to the Governor and General Assembly regarding approved, disapproved, or pending projects. The Committee is given rule authority to enforce these sections. The Committee has rule making authority (Sections 197.845 and 197.848).

Notwithstanding Section 197.812(5), after December 31, 2004, the term "health care facilities" will refer only to long term care facilities or new hospital construction (Section 197.851).

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

Office of Administration - Division of Budget and Planning
Office of State Courts Administrator
Department of Health and Senior Services
Missouri Health Facilities Review Committee
Office of Secretary of State
Department of Social Services



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