

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6515-04
Bill No.: SCS for SB 1076
Subject: Boards, Commissions, Committees, and Councils; Certificate of Need, Health Care; Health and Senior Services Department; Hospitals; Mental Health Department; Nursing Homes and Long-term Care Facilities
Type: Original
Date: April 25, 2016

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 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
General Revenue	(Up to \$346,695)	(Up to \$389,375)	(Up to \$397,512)	(Up to \$164,606)
Total Estimated Net Effect on General Revenue	(Up to \$346,695)	(Up to \$389,375)	(Up to \$397,512)	(Up to \$164,606)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
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 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
General Revenue	0.5	0.5	0.5	0.5
Federal	0.5	0.5	0.5	0.5
Total Estimated Net Effect on FTE	1	1	1	1

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 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS), Division of Regulation and Licensure (DRL)** state section 197.321.2 of the proposed legislation imposes a moratorium for issuance of Certificate of Needs (CON) for any additional beds between August 28, 2016 and December 31, 2019 with the exceptions specified in the act. DHSS has determined that with the exceptions applied, this creates a moratorium on new facilities being built within the state.

The average of the first three (3) quarters of calendar year 2015 is 74.4%; therefore, DHSS estimates that the bed occupancy rate would not reach 90% in the foreseeable future. This requirement could reduce or 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 \$166,826 in FY 2013; \$294,318 in FY 2014; and \$455,972 in FY 2015 for an average of \$305,705 annual reduction to General Revenue. Therefore, DHSS estimates a loss of Certificate of Need revenue of \$305,705 for FY 2017; \$313,348 for FY 2018; and \$321,181 for FY 2019.

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.

Oversight will provide the loss of CON fees as up to the amount provided by DHSS. However, since the moratorium is only in force until December 31, 2019, Oversight will present six months of the potential loss of CON fees for FY 2020.

Officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** and the **Division of Legal Services (DLS)** state this bill places a moratorium on increasing the number of nursing facility beds until December 31, 2019. While this bill 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.

The proposal further establishes an eleven member task force within the Department of Social Services, 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 the MO HealthNet reimbursement rate in the long-term care marketplace;

ASSUMPTION (continued)

- 4) Develop appropriate factors to determine the need for new or additional beds; and
- 5) 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 25% of a consultant would be needed annually or 520 hours (40 hrs/wk * 52 weeks * 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 \$11,880 will be needed annually for this purpose (\$180/member per meeting * 11 members * 6 meetings per year). MHD assumes the first task force meeting would occur in January 2017 and the task force would cease its work before January 2020.

FY17 (6 months): \$99,008 (\$41,840 GR; \$57,168 Federal Funds);
FY18: \$186,195 (\$77,770 GR; \$108,425 Federal Funds);
FY19: \$186,892 (\$78,117 GR; \$108,775 Federal Funds); and
FY20 (6 months): \$90,848 (\$37,760 GR; \$53,088 Federal Funds).

Oversight assumes the DSS does not need additional rental space for 1 FTE.

Officials from the **Office of the Governor (GOV)** state section 197.322 creates the Missouri Task Force on Certificate of Need that is composed of eleven members of which five members shall be appointed by the Governor. There should be no added cost to the GOV 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)

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

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 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2020)
GENERAL REVENUE FUND				
<u>Costs - DSS</u> (\$197.322)				
Personal service	(\$10,485)	(\$21,180)	(\$21,391)	(\$10,803)
Fringe benefits	(\$5,388)	(\$10,832)	(\$10,890)	(\$5,499)
Equipment and expense	(\$3,812)	(\$1,403)	(\$1,438)	(\$737)
Meeting and consulting expenses	<u>(\$21,305)</u>	<u>(\$42,612)</u>	<u>(\$42,612)</u>	<u>(\$21,305)</u>
Total <u>Costs - DSS</u>	<u>(\$40,990)</u>	<u>(\$76,027)</u>	<u>(\$76,331)</u>	<u>(\$38,344)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE	0.5 FTE
<u>Loss - DHSS</u> (\$197.321)				
Reduction in CON fees	<u>(Up to \$305,705)</u>	<u>(Up to \$313,348)</u>	<u>(Up to \$321,181)</u>	<u>(Up to \$164,606)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Up to \$346,695)</u>	<u>(Up to \$389,375)</u>	<u>(Up to \$397,512)</u>	<u>(Up to \$164,606)</u>
Estimated Net FTE Change on the General Revenue Fund	0.5 FTE	0.5 FTE	0.5 FTE	0.5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2020)
FEDERAL FUNDS				
<u>Income - DSS</u> (\$197.322)				
Increase in reimbursements	\$40,991	\$106,683	\$106,987	\$53,674
<u>Costs - DSS</u> (\$197.322)				
Personal service	(\$10,485)	(\$21,180)	(\$21,391)	(\$10,803)
Fringe benefits	(\$5,388)	(\$10,832)	(\$10,890)	(\$5,499)
Equipment and expense	(\$3,812)	(\$1,403)	(\$1,438)	(\$737)
Meeting and consulting expenses	<u>(\$36,635)</u>	<u>(\$73,268)</u>	<u>(\$73,268)</u>	<u>(\$36,635)</u>
Total Costs - DSS	<u>(\$40,991)</u>	<u>(\$106,683)</u>	<u>(\$106,987)</u>	<u>(\$53,674)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE	0.5 FTE
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	0.5 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2020)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This legislation restricts the Missouri Health Facilities Review Committee from approving any certificate of need for any new facilities licensed under Chapter 198, RSMo. This may result in the loss of construction and employment opportunities for small businesses throughout the state.

FISCAL DESCRIPTION

Under this act, no additional beds in any residential care, assisted living, intermediate care, or skilled nursing facility shall be licensed by the Department of Health and Senior Services or the Department of Mental Health unless and until the average occupancy rate of all such facilities is at least 90%, with the exceptions specified in the act. However, any long-term care facility may transfer any of its licensed beds to any other similar facility, provided that the other facility also has an occupancy rate equal to or greater than 90%, the transferring facility surrenders its license for those beds, and the Department of Health and Senior Services reviews the transfer and issues a license for the transferred beds to the other facility.

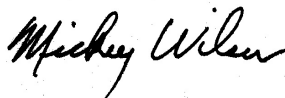
This act creates the Missouri Task Force on Certificate of Need to develop a comprehensive proposal to reform certificate of need law. The act specifies the task force members, rules, and duties. The task force shall review long-term care facility certificates of need in other states and current occupancy and utilization rates, as well as issue findings and proposals to the appropriate public and private organizations about the certificate of need process. On or before December 31, 2019, the task force shall submit a report on its findings to the Governor and General Assembly.

The provisions of this act shall expire on December 31, 2019.

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
 Division of Legal Services
Office of the Governor
Missouri House of Representatives
Missouri Senate



Mickey Wilson, CPA
Director
April 25, 2016

Ross Strobe
Assistant Director
April 25, 2016