

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5167-01  
Bill No.: SB 779  
Subject: Boards, Commissions, Committees, and Councils; Certificate of Need; Disabilities; Elderly; Health Care; Health and Senior Services Department; Hospitals; Nursing Homes and Long-term Care Facilities  
Type: Original  
Date: January 3, 2018

Bill Summary: This proposal modifies provisions of law relating to long-term care certificates of need.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$213,059)	(\$262,062)	(\$268,614)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$213,059)</b>	<b>(\$262,062)</b>	<b>(\$268,614)</b>

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

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §197.310 - Missouri Health Facilities Review Committee members

Officials from the **Department of Health and Senior Services (DHSS)** state section 197.310.2(3) of the proposal removes the legislative members from the Missouri Health Facilities Review Committee (MHFRC). Instead, all nine (9) members shall be appointed by the Governor, each with knowledge and experience in the health care industry or health care accounting, insurance, financing, and banking.

In FY 2017, travel expenses for MHFRC members was \$4,944 (\$4,403 for five current non-legislative members + \$531 for the two current legislative members). A non-legislative member's average annual travel expense was approximately \$881 ( $\$4,403/5$ ) and a legislative member's was approximately \$271 ( $\$541/2$ ). Provided that four legislative members in the Committee will be replaced by their non-legislative counterparts upon implementation of this proposal, DHSS projects that the travel expense of MHFRC is to increase by  $\$2,137$  ( $\$881 - \$271 = \$610 \times 4 \times 2.5\% \text{ inflation} \times 2.5\% \text{ inflation} = \$2,564 * 10/12$ ) in FY 2019; \$2,628 in FY 2020; and \$2,694 in FY 2021, using a 2.5% annual growth rate.

Officials from the **Office of the Governor (GOV)** state section 197.310.2(3) increases the number of gubernatorial appointments from five to nine for the Missouri Health Facilities Review Committee. 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 Truly Agreed To and Finally Passed (TAFP) legislation, there may be the need for additional staff resources in future years.

#### §197.323 - Granting of Certificates of Need

**DHSS** officials state this section of the proposal states that no consideration shall be given to any application for new or additional licensed beds unless the applicant can demonstrate that the average occupancy of all facilities within the service area of the project site has been equal to or greater than eighty-five percent (85%) during the four most recent quarters.

Based on a random sampling of 2017 applications, only 10 percent (10%) of the applications submitted met the 85% occupancy requirement. Therefore, DHSS assumes that 90% of the applications will not be submitted upon implementation of this proposal. In 2017, DHSS generated \$267,678 of General Revenue (GR) from new long-term care bed applications. If 90% of these were not received, the fiscal impact to GR would be a reduction of \$240,910 in application fees. Using a 2.5% annual growth rate, the total fiscal impact projected to GR will be a reduction of application fees of \$210,922 ( $\$240,910$  (FY 17 fees)  $\times 1.025 \times 1.025 = \$253,106 * 10/12$ ) for FY 2019; \$259,434 for FY 2020; and \$265,920 for FY 2021.

ASSUMPTION (continued)

Bill as a whole

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation.

Officials from the **Department of Mental Health, the Department of Social Services, the Missouri Ethics Commission, the Office of State Courts Administrator and St. Louis County** each assume the proposal would not fiscally impact their respective agencies.

Officials from **St. Louis City and Jackson County** did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the following **hospitals**: Barton County Memorial Hospital, Bates County Memorial Hospital, Cass Regional Medical Center, Cedar County Memorial Hospital, Cooper County Memorial Hospital, Excelsior Springs Hospital, Golden Valley Memorial Hospital, Hermann Area District Hospital, Putnam County Memorial Hospital, Samaritan Hospital, the University of Missouri Health System and Washington County Memorial Hospital did not respond to **Oversight's** request for a statement of fiscal impact.

There could be some indirect impact from this proposal including construction, MoHealthNet expenditures, or a brief temporary increase in CON applications before the effective date; however, **Oversight** only reflects the direct fiscal impact of legislation in fiscal notes.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DHSS (§197.310)</u>			
Increase in travel expenses	(\$2,137)	(\$2,628)	(\$2,694)
<u>Loss - DHSS (§197.323)</u>			
Reduction in CON application fees	<u>(\$210,922)</u>	<u>(\$259,434)</u>	<u>(\$265,920)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$213,059)</u></b>	<b><u>(\$262,062)</u></b>	<b><u>(\$268,614)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could negatively impact small business construction companies.

FISCAL DESCRIPTION

This act modifies several provisions relating to long-term care certificates of need (CON), including: (1) Missouri Health Facilities Review Committee membership; (2) CON applications; (3) the long-term care CON need formula; and (4) ex parte communication.

MISSOURI HEALTH FACILITIES REVIEW COMMITTEE MEMBERSHIP (Sections 197.310 and 197.326)

Under current law, the Missouri Health Facilities Review Committee has nine members, four of whom are legislators. This act removes the legislative members from the Committee. Instead, all nine members shall be appointed by the Governor, each with knowledge and experience in the health care industry or health care accounting, insurance, financing, and banking. No more than five of the appointees shall be from the same political party.

CERTIFICATE OF NEED APPLICATIONS (Section 197.315)

This act requires that the operator of the facility be named in the application for a CON. No change in the named operator shall occur without the consent of the Committee.

Under current law, a CON can be forfeited if no capital expenditure on an approved project is incurred within 6 months of approval. The applicant may seek an extension from the Committee. This act prohibits the granting of an extension for approved long-term care projects up to \$30 million for which no substantial capital expenditure has been incurred within 3 years of the original approval date and for approved projects over \$30 million for which no substantial capital expenditure has been incurred within 5 years of the original approval date.

FISCAL DESCRIPTION (continued)

LONG-TERM CARE CON NEED FORMULA (Sections 197.315, 197.318, and 197.323)

This act removes the word "available" when referencing licensed long-term care beds.

Under this act, the Committee shall apply the following when determining whether or not to grant a CON for any new or additional licensed long-term care beds: 1) No consideration shall be given to any other licensed beds located more than 15 miles from the applying facilities in all non-urban areas and 10 miles in all urban areas; 2) Within the 10 or 15-mile service area, the following need formula shall apply: (a) for intermediate care and skilled nursing facilities (ICF/SNF), 53 beds per 1,000 population aged 65 and older minus the current number of ICF/SNF beds; (b) for residential care and assisted living facilities (RCF/ALF), 25 beds per 1,000 population aged 65 and older minus the current number RCF/ALF beds; and © for long-term care hospital beds (LTCH), one-tenth of a bed per 1,000 population minus the current number of LTCH beds; and 3) No CON shall be granted unless the applicant can demonstrate that the average occupancy of all facilities in the same category within the service area of the project site has been equal to or greater than 85% during the four most recent quarters.

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 Attorney General  
Department of Health and Senior Services  
Department of Mental Health  
Department of Social Services  
Office of the Governor  
Missouri Ethics Commission  
Office of State Courts Administrator  
St. Louis County

Ross Strope



Acting Director

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