

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0879-01
Bill No.: SB 165
Subject: Certificate of Need; Health Care; Health and Senior Services Department;
Hospitals; Nursing Homes and Long-term Care Facilities
Type: Original
Date: February 5, 2019

Bill Summary: This proposal repeals the certificate of need law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$281,656 or \$380,557)	(\$349,404 or \$468,085)	(\$361,106 or \$479,787)
Total Estimated Net Effect on General Revenue	(\$281,656 or \$380,557)	(\$349,404 or \$468,085)	(\$361,106 or \$479,787)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	0 or -2	0 or -2	0 or -2
Total Estimated Net Effect on FTE	0 or -2	0 or -2	0 or -2

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 2020	FY 2021	FY 2022
Local Government	\$1,549	\$1,549	\$1,549

FISCAL ANALYSIS

ASSUMPTION

§§197.705, 198.530, 208.169 and 354.095 - Certificate of Need

Officials from the **Department of Health and Senior Services (DHSS)** state the proposed legislation would eliminate Missouri Certificate of Need laws in the state, including §§197.300 and 197.366.

In the FY 2019 Budget, the Certificate of Need Program was cut from the DHSS' budget and the duties were absorbed by the Division of Regulation and Licensure (DRL) Director's Office. DRL is responsible for regulating long-term care facilities. This will require changes to state rules and regulations, section policies and procedures, manuals, and forms. It is assumed it will take approximately 12 additional hours to make the necessary changes. The department anticipates being able to absorb these costs. However, until the FY20 budget is final, the department cannot identify specific funding sources.

Since §§197.300 and 197.366 are being eliminated, the Certificate of Need (CON) would not be required for the implementation of institutional health service projects.

DHSS generates an average of \$434,663 in General Revenue (GR) a year from CON application fees and CON project cost overrun fees. Using a 2.5 percent annual growth rate, the total fiscal impact projected to GR will be a reduction of fees of \$380,557 ($\$434,663 \text{ average fees} * 1.025 * 1.025 = \$456,668 * 10/12$) for FY 2020; \$468,085 for FY 2021; and \$479,787 for FY 2022.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the reduction in CON application fees provided by the DHSS for fiscal note purposes.

Oversight notes this proposal repeals section 197.310 relating to the Missouri Health Facilities Review Committee (MHFRC). The DHSS FY 2020 budget states costs for the MHFRC for FY 2016 were \$106,744; FY 2017 were \$97,227; and FY 2018 were \$95,689 (Governor Recommended \$118,681). The DHSS 2019 budget request was for \$118,681, but the Governor's Recommendation was \$0. DHSS has stated they are still operation this program by using resources within the Division of Regulation and Licensure. Since this proposal is eliminating the MHFRC and CON program, Oversight assumes the DHSS could have a savings of up to \$118,681 annually and a 2 FTE reduction for staff allocated to the MHFRC. However, Oversight notes these resources may be reallocated back to the Division of Regulation and Licensure. Oversight will range this savings as \$0 or \$118,681 and 0 or a reduction of 2 FTE.

ASSUMPTION (continued)

Oversight assumes the elimination of CON application fees and overrun costs could positively impact hospitals and nursing homes run by local governments. DHSS provided information stating in FY 2018, CON fees paid by nursing homes and hospitals owned/operated by local governmental agencies totaled approximately \$1,549. Oversight assumes eliminating CON requirements would save local governments \$1,549 annually.

Bill as a whole

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO has sufficient staff and current resources to handle any potential increase in litigation costs and will reflect no impact to the AGO for fiscal note purposes.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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 require additional resources.

Oversight notes officials from the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health** and the **Department of Social Services** assume this proposal will not fiscally impact their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will no impact to these organizations for fiscal note purposes.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other nursing homes and hospitals were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Savings - DHSS (§197.310)</u>			
Repeal of MHFRC	<u>\$0 or \$98,901</u>	<u>\$0 or \$118,681</u>	<u>\$0 or \$118,681</u>
FTE Change - DHSS	0 or -2 FTE	0 or -2 FTE	0 or -2 FTE
<u>Loss - DHSS (§§197.300 and 197.366)</u>			
Reduction in CON fees	<u>(\$380,557)</u>	<u>(\$468,085)</u>	<u>(\$479,787)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$281,656 or \$380,557)</u>	<u>(\$349,404 or \$468,085)</u>	<u>(\$361,106 or \$479,787)</u>
Estimated Net FTE Change on the General Revenue Fund	0 or -2 FTE	0 or -2 FTE	0 or -2 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL GOVERNMENTS			
<u>Savings - Local Governments</u>			
Reduction in CON fees	<u>\$1,549</u>	<u>\$1,549</u>	<u>\$1,549</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$1,549</u>	<u>\$1,549</u>	<u>\$1,549</u>

FISCAL IMPACT - Small Business

The elimination of Certificate of Need may impact small business building contractors.

FISCAL DESCRIPTION

This act repeals the certificate of need law and certain statutory references to the law.

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 Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Social Services
Office of Secretary of State



Kyle Rieman
Director
February 5, 2019

Ross Strobe
Assistant Director
February 5, 2019