

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1066-01
Bill No.: HB 433
Subject: Health Care
Type: Original
Date: February 8, 2019

Bill Summary: This proposal modifies the law regarding certificates of need.

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

Repeals CON regulations §§197.300 - 197.367

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 ($\$434,663 \text{ average fees} \times 1.025 \times 1.025 = \$456,668 \times 10/12$) 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 operating 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.

Officials from the **Maple Lawn Nursing Home** (Marion County) and the **Tri-County Care Center** (Audrain County) state repealing the entire Certificate of Need (CON) law would leave Missouri open to the construction of unneeded nursing facilities, thereby lowering the average occupancy rate for skilled nursing facilities. The current average occupancy for skilled nursing facilities is approximately 72 percent. Many of the new facilities would be built in areas with the lowest occupancy rates, like St. Louis County, Jackson, Platte and Clay counties around the Kansas City area, and the greater Springfield area, including Greene County.

New facilities are paid higher reimbursement rates than existing nursing facilities. It is estimated that repealing the CON law will eventually attract at least 40 new skilled and 80 new assisted living facilities to Missouri. New facilities tend to attract new nursing home residents away from older, existing facilities, as well as staff, thereby creating greater competition for already scarce labor in the healthcare marketplace, resulting in increased wages overall. The cost for increased wages is then factored into the calculation by MO HealthNet for each new facility's permanent Medicaid per diem rate since its rate is based on actual, allowable costs after the second year of operation. It is estimated for a single facility, this increased cost to the Medicaid program would, on average, be over \$15 per patient per day or \$394,200 annually for a 100-bed facility with average occupancy. The exacerbation of the scarce labor market will put greater pressure on rural facilities, which are already having trouble attracting qualified labor requiring them to increase their labor costs. It is estimated the cost to the state over a three-fiscal year period would be at least \$15,768,000 to fund unneeded and unnecessary skilled nursing home beds.

Oversight does not have any information to the contrary. Oversight assumes the assumptions made about the number of new facilities that may be built in the state to be speculative. Oversight will not present a fiscal impact for the responding nursing facilities as they did not provide a fiscal impact for their facilities.

Oversight notes that the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health** and the **Department of Social Services** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

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 bill repeals the Missouri Certificate of Need Law (Sections 197.300 to 197.366, RSMo).

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 Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Social Services
Maple Lawn Nursing Home
Tri-County Care Center



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Director
February 8, 2019

Ross Strobe
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February 8, 2019