TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2350 - SB 2312

February 24, 2020

SUMMARY OF BILL: Makes various changes to the certificate of need (CON) process for healthcare facilities and services.

Requires the Health Services Development Agency (HSDA) to develop criteria and standards to guide the agency when issuing certificates of need, that are evaluated and updated at least annually, and to seek input on the criteria and standards it is developing from: the Division of TennCare, or its successor; the Departments of Health (DOH), the Department of Mental Health and Substance Abuse Services (DMHSAS), and the Department of Intellectual and Developmental Disabilities (DIDD); the Health and Welfare Committee of the Senate; and the Health Committee of the House of Representatives.

Requires HSDA to conduct studies related to health care, including a needs assessment that must be updated at least annually and to submit a proposal to the General Assembly no later than October 1, 2020, detailing objectives, governance, costs, and implementation timeline of a state all payer claims database.

Exempts certain facilities and services from having to obtain a CON.

Allows the Commissioners of DOH, DMHSAS, and DIDD to submit written reports or statements and send representatives to testify before the agency to inform the agency with respect to applications.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –
Net Impact – $848,800/FY20-21 and Subsequent Years/
Health Services Development Agency
$37,300/FY20-21 and Subsequent Years/General Fund

Decrease State Revenue – $177,900/FY20-21 and Subsequent Years/
Department of Health

Increase State Expenditures –
$296,500/FY20-21/Health Services Development Agency
$369,700/FY20-21/General Fund
$281,200/FY21-22 and Subsequent Years/
Health Services Development Agency
$364,300/FY21-22 and Subsequent Years/General Fund

Pursuant to Tenn. Code Ann. § 68-11-1623(b), the Health Services Development Agency (HSDA) is required to be self-sufficient. As of June 30, 2019, the HSDA's reserve fund balance was $1,900,000. The Governor's FY20-21 proposed budget recommends $1,300,000. The HSDA may increase fees for other certificate of need applicants in the future, if necessary, to remain self-sufficiency.

Assumptions:

Department of Health

- The DOH collected $177,925 in fees for licenses from health care providers used for purposes of supporting the state health planning division in FY18-19.
- The proposed legislation increases the fee schedule and redirects the revenue from the licensing fees to the HSDA; however the DOH is responsible for collecting the fees.
- As a result, the DOH will experience a decrease in state revenue estimated to be $177,925 in FY20-21 and subsequent years.
- The DOH cannot accommodate the proposed legislation within existing resources. The DOH will need one General Counsel 3 and one Public Health Nurse Consultant 1 to accommodate processing new applications and investigating complaints.
- The one-time increase in state expenditures is estimated to be $5,400 for office furniture in FY20-21.
- The recurring increase in state expenditures is estimated to be $199,577 ($142,908 salaries + $36,869 benefits + $15,800 administrative cost + $2,800 communications + $1,200 supplies) in FY20-21 and subsequent years.

Health Services and Development Agency

- The recurring increase in state revenue to the HSDA due to increasing licensure fees for healthcare providers and transferring total fee proceeds to an HSDA account is estimated to be $1,536,493 in FY20-21 and subsequent years.
- The HSDA will reduce the current CON application fees from $5.75 per $1,000 of project costs with a minimum of $15,000 and a maximum of $95,000 to $2.25 per $1,000 of project costs with a minimum of $3,000 and a maximum of $45,000.
- Under the current fee structure, the average CON fee collections from FY16-17 through FY18-19 were $1,465,903.
- This amount represents a higher than typical average of collections; therefore, this analysis assumes this average is 30 percent higher than the projected amount to be collected.
- CON fee collections are estimated to be $1,127,618 ($1,465,903 / 1.3) in FY20-21 and subsequent years under current law.
- Using the reduced fee schedule that HSDA will adopt upon passage of this legislation, the average CON fee collections from FY16-17 through FY18-19 would have been $571,864.
- Adjusting for the higher than average collections during that time-frame, CON fee collections, after the planned reduction in fees, are estimated to be $439,895 ($571,864 / 1.3) in FY20-21 and subsequent years.

- The recurring decrease in state revenue associated with a reduction in CON fees is estimated to be $687,723 ($1,127,618 - $439,895).
- The total net increase in state revenue to the HSDA is estimated to be $848,770 ($1,536,493 - $687,723) in FY20-21 and subsequent years
- The HSDA cannot accommodate the proposed legislation within existing resources and will need to reclassify two existing positions and hire three new positions to accommodate the added requirements of the proposed legislation.
- The one-time increase in state expenditures is estimated to be $15,292 for computer and work stations.
- The recurring increase in state expenditures is estimated to be $281,208 ($215,256 salaries + $55,452 benefits + $7,000 supplies + $3,500 membership fees) in FY20-21 and subsequent years.

Department of Mental Health and Substance Abuse Services

- The proposed legislation allows any hospital licensed under Title 33 or 68 to operate a non-residential substitution-based opioid treatment center if the program is certified by the DMHSAS and the federal Department of Health and Human Services (DHHS). The DMHSAS does not certify opioid treatment programs. They license the programs once they have received a CON from the HSDA and have been certified by the federal DHHS.
- The DMHSAS has been designated as the State Opioid Treatment Authority (SOTA) under federal law and is responsible for program oversight and clinical assistance of any such opioid treatment programs. The clinics are required to be surveyed at least twice a year to maintain licensure.
- The DMHSAS currently licenses 19 mental health hospitals and the DOH licenses 147.
- The DMHSAS currently licenses 14 non-residential office-based opiate treatment facilities. The licensure fee for these facilities is $810.
- This analysis assumes a total of 152 [(19 mental health hospitals - 14 non-residential office-based opiate treatment facilities) + 147 DOH hospitals] facilities would be eligible to apply for licensure in order to operate an opioid treatment program.
- Assuming 30 percent or 46 (152 x 30.0%) hospitals will apply for licensure with DMHSAS to establish an opioid treatment program, the recurring increase in state revenue is estimated to be $37,260 (46 hospitals x $810).
- The DMHSAS will require two additional clinical positions to maintain the current 20 facilities to one position.
- The recurring increase in state expenditures is estimated to be $164,685 {[($47,616 salary + $14,475 benefits) x 2 positions] + $40,503 travel, supplies, computer, etc.} in FY20-21 and subsequent years.

Division of TennCare

- The proposed legislation deletes Tenn. Code Ann. § 68-11-1621 which establishes criteria for issuance of CON for new nursing home beds regardless of site, including conversion of any beds to licensed nursing home beds.
- No CON requests have been denied under this section of code in several years; therefore, any fiscal impact is estimated to be not significant.

Total Fiscal Impact

- The recurring net increase in state revenue to the HSDA is estimated to be $848,770 in FY20-21 and subsequent years.
- The total recurring increase in state revenue to the General Fund is estimated to be $37,260 in FY20-21 and subsequent years.
- The total recurring decrease in state revenue to the DOH is estimated to be $177,925 in FY20-21 and subsequent years.
- The total increase in state expenditures to the HSDA is estimated to be $296,500 ($281,208 + $15,292) in FY20-21 and $281,208 in FY21-22 and subsequent years.
- The total increase in state expenditures to the General Fund is estimated to be $369,662 ($5,400 + $199,577 + $164,685) in FY20-21 and $364,262 ($199,577 + $164,685) in FY21-22 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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