

Senate Study Bill 2068

Conference Committee Text

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1 1 Section 1. Section [135.61](#), subsection 14, Code 1995, is
1 2 amended to read as follows:

1 3 14. "Institutional health facility" means any of the
1 4 following, without regard to whether the facilities referred
1 5 to are publicly or privately owned or are organized for profit
1 6 or not or whether the facilities are part of or sponsored by a
1 7 health maintenance organization:

1 8 a. A hospital.

1 9 b. A health care facility.

1 10

~~c. A kidney disease treatment center, including any~~

1 11

~~freestanding hemodialysis unit but not including any home~~

1 12

~~hemodialysis unit.~~

1 13

~~d.~~

- c. An organized outpatient health facility.

1 14

~~e.~~

- d. An outpatient surgical facility.

1 15

~~f.~~

- e. A community mental health facility.

1 16

~~g.~~

- f. A birth center.

1 17 Sec. 2. Section [135.61](#), subsection 18, paragraphs c, k,
1 18 and m, Code 1995, are amended to read as follows:

1 19 c. Any capital expenditure, lease, or donation by or on
1 20 behalf of an institutional health facility in excess of

~~eight~~

1 21

~~hundred thousand~~

- one million dollars within a twelve-month

1 22 period.

1 23 k. Any air transportation system for transportation of
1 24 patients or medical personnel offered in or through an
1 25 institutional health facility at a specific time, which was
1 26 not offered on a regular basis in or through the institutional
1 27 health facility within the twelve-month period prior to the
1 28 specified time.

1 29 m. Any of the following:

- 1 30 (1) Cardiac catheterization service.
- 1 31 (2) Open heart surgical service.
- 1 32 (3) Organ transplantation service.
- 1 33 (4) Magnetic resonance imaging at a fixed site.
- 1 34 (5) Radiation therapy.

1 35 Sec. 3. Section 135.63, subsection 2, Code Supplement
2 1 1995, is amended by adding the following new paragraphs:

2 2 NEW PARAGRAPH. j. The construction, modification, or
2 3 replacement of nonpatient care services, including but not
2 4 limited to parking facilities, heating, ventilation and air
2 5 conditioning systems, computers, telephone systems, and
2 6 medical office buildings, notwithstanding any provision in
2 7 this division to the contrary.

2 8 NEW PARAGRAPH. k. The redistribution of beds within the
2 9 acute care category of bed usage, notwithstanding any
2 10 provision in this division to the contrary, if all of the
2 11 following conditions are met:

2 12 (1) The hospital reports to the department, on a form
2 13 prescribed by the department, the number and type of beds to
2 14 be redistributed, at least thirty days prior to the
2 15 redistribution.

2 16 (2) The hospital reports the new distribution of beds on
2 17 the hospitals's subsequent annual report to the department.

2 18 If these conditions are not met, the hospital is subject to
2 19 review as a new institutional health service or changed
2 20 institutional health service under section 135.61, subsection
2 21 18, paragraph "d", and subject to sanctions under section
2 22 135.73.

2 23 Sec. 4. Section 135.65, subsection 1, Code 1995, is
2 24 amended to read as follows:

2 25 1. Before applying for a certificate of need, the sponsor
2 26 of a proposed new institutional health service or changed
2 27 institutional health service shall submit to the department a
2 28 letter of intent to offer or develop a service requiring a
2 29 certificate of need. The letter shall be submitted as soon as
2 30 possible after initiation of the applicant's planning process,
2 31 and in any case not less than

~~—sixty~~

~~—thirty~~ days before

2 32 applying for a certificate of need and before substantial
2 33 expenditures to offer or develop the service are made. The
2 34 letter shall include a brief description of the proposed new
2 35 or changed service, its location, and its estimated cost.

3 1 Sec. 5. Section 135.71, unnumbered paragraph 1, Code 1995,
3 2 is amended to read as follows:

3 3 A certificate of need shall be valid for a maximum of one
3 4 year from the date of issuance. Upon the expiration of the
3 5 certificate, or at any earlier time while the certificate is
3 6 valid the holder

~~—thereof~~

~~—of the certificate~~ shall provide the

3 7 department such information on the development of the project
3 8 covered by the certificate as the department may request. The
3 9 council shall determine at the end of the certification period
3 10 whether sufficient progress is being made on the development
3 11 of the project

~~—and whether there has been compliance with any~~

~~—~~
3 12

~~—conditions on which issuance of the certificate was premised~~

~~—~~
3 13 The certificate of need may be extended by the council for
3 14 additional periods of time as are reasonably necessary to

3 15 expeditiously complete the project, but may be revoked by the
3 16 council at the end of the first or any subsequent
3 17 certification period for insufficient progress in developing
3 18 the project

~~or noncompliance with any conditions on which~~

3 19

~~issuance of the certificate was premised~~

3 20

EXPLANATION

3 21 This bill makes changes in the law relating to the
3 22 certificate of need program which regulates the construction,
3 23 development, and other establishment of health services and
3 24 facilities.

3 25 The bill removes kidney disease treatment centers,
3 26 otherwise referred to as dialysis services, from the
3 27 definition of an institutional health facility which would
3 28 otherwise be subject to review by the health facilities
3 29 council prior to establishment.

3 30 The bill increases the capital expenditure minimum during a
3 31 12-month period from \$800,000 to \$1,000,000 for the purposes
3 32 of review, redefines air transportation systems subject to
3 33 review as only those which are offered as a new service at a
3 34 particular location, and adds magnetic resonance imaging and
3 35 radiation therapy to the list of services subject to review
4 1 notwithstanding the amount of expenditure associated with the
4 2 service.

4 3 The bill also provides that review is inapplicable to the
4 4 construction, modification, or replacement of, nonpatient care
4 5 services including, but not limited to, parking facilities,
4 6 heating, ventilation and air condition systems, computers,
4 7 telephone systems, and medical office buildings, and is
4 8 inapplicable to the redistribution of beds within the acute
4 9 care category of bed usage, if the hospital reports the number
4 10 and type of beds to be redistributed to the department at
4 11 least 30 days prior to the redistribution and if a report of
4 12 the new distribution is made on the hospital's subsequent
4 13 annual report to the department.

4 14 The bill provides that the sponsor of a proposed new
4 15 institutional health service or changed institutional health
4 16 service is to submit a letter of intent not less than 30 days,
4 17 instead of the currently required 60 days, before applying for
4 18 a certificate of need and before substantial expenditures to
4 19 offer or develop the service are made.

4 20 The bill eliminates language which refers to compliance
4 21 with conditions on which the issuance of a certificate is
4 22 premised relating to the time period during which a
4 23 certificate of need is valid.

BACKGROUND STATEMENT

SUBMITTED BY THE AGENCY

4 26 This bill makes several changes relating to the certificate
4 27 of need program.

4 28 Section 1 exempts dialysis services from review. Most
4 29 dialysis patients are covered by Medicare and the Medicare
4 30 reimbursement mechanism provides an adequate control of
4 31 expenditures. Section 2 raises the threshold for a reviewable
4 32 capital expenditure from \$800,000 to \$1,000,000 specifies that
4 33 an air medical transport system is only reviewed if it is a
4 34 new service for a particular location and adds radiation
4 35 therapy and magnetic resonance imaging (MRIs) to review
5 1 regardless of cost. Radiation therapy (linear accelerators)
5 2 and MRIs provide regional medical services and the focus of
5 3 reviews are access and quality, not cost. Currently, the
5 4 health facilities council review nearly all linear accelerator
5 5 and MRI projects as they exceed the equipment cost threshold

5 6 of \$300,000.

5 7 Section 3 exempts from review, nonpatient care services
5 8 including but not limited to HVAC/boilers, computer systems,
5 9 telephone systems, medical office buildings, and parking
5 10 facilities and also establishes that the redistribution of
5 11 beds within the acute care category of bed usage would not
5 12 require a review as long as the hospital submitted the
5 13 appropriate information to the health facilities council. The
5 14 changing of acute care beds to a distinct long-term care unit
5 15 would still require a full review.

5 16 Section 4 shortens the period between the submission letter
5 17 of intent and application for a certificate of need, from 60
5 18 days to 30 days, in response to concerns expressed that the
5 19 review process is too long.

5 20 Section 5 eliminates statutory language regarding
5 21 compliance with conditions placed on the issuance of
5 22 certificates of need. The language is deleted to be
5 23 consistent with the prior elimination of language allowing
5 24 conditions to be placed on the issuance of certificate of
5 25 need.

5 26 LSB 3369DP 76

5 27 pf/cf/24.1