

Senate Study Bill 3084 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON HEALTH
AND HUMAN SERVICES BILL BY
CHAIRPERSON WARME)

A BILL FOR

- 1 An Act relating to the certificate of need process.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 135.61, subsection 1, paragraphs d and f,
2 Code 2026, are amended by striking the paragraphs.

3 Sec. 2. Section 135.61, subsection 12, paragraph e, Code
4 2026, is amended by striking the paragraph.

5 Sec. 3. Section 135.61, subsection 16, Code 2026, is amended
6 to read as follows:

7 16. "New institutional health service" or "changed
8 institutional health service" means any of the following:

9 a. The construction, development, or other establishment of
10 a new institutional health facility regardless of ownership if
11 completing the construction, development, or other establishment
12 requires more than the following amount:

13 (1) Beginning on or after January 1, 2027, and before
14 December 31, 2031, four million dollars.

15 (2) Beginning on or after January 1, 2032, and before
16 December 31, 2036, four million five hundred thousand dollars.

17 (3) Beginning on or after January 1, 2037, five million
18 dollars.

19 b. Relocation of an institutional health facility.

20 c. ~~Any A capital expenditure, or lease, or donation by or~~
21 ~~on behalf of an institutional health facility in excess of one~~
22 ~~million five hundred thousand dollars~~ the following amount within
23 a consecutive twelve-month period:

24 (1) Beginning on or after January 1, 2027, and before
25 December 31, 2031, four million dollars.

26 (2) Beginning on or after January 1, 2032, and before
27 December 31, 2036, four million five hundred thousand dollars.

28 (3) Beginning on or after January 1, 2037, five million
29 dollars.

30 d. A permanent change in the bed capacity, as determined
31 by the department, of an institutional health facility. For
32 purposes of this paragraph, a change is permanent if it is
33 intended to be effective for one year or more.

34 e. ~~Any expenditure in excess of five hundred thousand dollars~~
35 ~~by or on behalf of an institutional health facility for health~~

1 ~~services which are or will be offered in or through an~~
2 ~~institutional health facility at a specific time but which were~~
3 ~~not offered on a regular basis in or through that institutional~~
4 ~~health facility within the twelve-month period prior to that~~
5 ~~time.~~

6 ~~f. The deletion of one or more health services, previously~~
7 ~~offered on a regular basis by an institutional health facility or~~
8 ~~health maintenance organization or the relocation of one or more~~
9 ~~health services from one physical facility to another.~~

10 ~~g. Any acquisition by or on behalf of a health care~~
11 ~~provider or a group of health care providers of any piece of~~
12 ~~replacement equipment with a value in excess of one million five~~
13 ~~hundred thousand dollars, whether acquired by purchase, lease, or~~
14 ~~donation.~~

15 ~~h. Any acquisition by or on behalf of a health care provider~~
16 ~~or group of health care providers of any piece of equipment with~~
17 ~~a value in excess of one million five hundred thousand dollars,~~
18 ~~whether acquired by purchase, lease, or donation, which results~~
19 ~~in the offering or development of a health service not previously~~
20 ~~provided. A mobile service provided on a contract basis is not~~
21 ~~considered to have been previously provided by a health care~~
22 ~~provider or group of health care providers.~~

23 ~~i. Any acquisition by or on behalf of an institutional health~~
24 ~~facility or a health maintenance organization of any piece of~~
25 ~~replacement equipment with a value in excess of one million five~~
26 ~~hundred thousand dollars, whether acquired by purchase, lease, or~~
27 ~~donation.~~

28 ~~j. Any acquisition by or on behalf of an institutional~~
29 ~~health facility or health maintenance organization of any piece~~
30 ~~of equipment with a value in excess of one million five~~
31 ~~hundred thousand dollars, whether acquired by purchase, lease,~~
32 ~~or donation, which results in the offering or development of~~
33 ~~a health service not previously provided. A mobile service~~
34 ~~provided on a contract basis is not considered to have been~~
35 ~~previously provided by an institutional health facility.~~

1 ~~k. Any air transportation service for transportation of~~
2 ~~patients or medical personnel offered through an institutional~~
3 ~~health facility at a specific time but which was not offered on~~
4 ~~a regular basis in or through that institutional health facility~~
5 ~~within the twelve-month period prior to the specific time.~~

6 ~~l. e. Any A mobile health service with a value in excess of~~
7 ~~one four million five hundred thousand dollars.~~

8 ~~m. Any of the following:~~

- 9 ~~(1) Cardiac catheterization service.~~
10 ~~(2) Open heart surgical service.~~
11 ~~(3) Organ transplantation service.~~
12 ~~(4) Radiation therapy service applying ionizing radiation for~~
13 ~~the treatment of malignant disease using megavoltage external~~
14 ~~beam equipment.~~

15 Sec. 4. Section 135.62, subsection 1, Code 2026, is amended
16 to read as follows:

17 1. a. A new institutional health service or changed
18 institutional health service shall not be offered or developed in
19 this state without prior application to the department for, and
20 receipt of, a certificate of need, pursuant to this subchapter.

21 b. The application shall be made ~~upon~~ on forms furnished or
22 prescribed by the department and shall contain ~~such~~ information
23 as required by the department ~~may require under this subchapter~~
24 by rule adopted pursuant to chapter 17A.

25 c. (1) The application shall be accompanied by a fee
26 equivalent to three-tenths of one percent of the anticipated
27 cost of the project with a minimum fee of six hundred dollars
28 and a maximum fee of twenty-one thousand dollars. The fee
29 shall be remitted by the department to the treasurer of state,
30 ~~who shall place it for deposit~~ in the general fund of the
31 state. An applicant for a new institutional health service or
32 a changed institutional health service offered or developed by
33 an intermediate care facility for persons with an intellectual
34 disability or an intermediate care facility for persons with
35 mental illness, as each of those terms are defined in section

1 135C.1, shall not be required to pay the application fee.

2 (2) If an application is voluntarily withdrawn within thirty
3 calendar days after submission, seventy-five percent of the
4 application fee shall be refunded; ~~if the application is~~
5 ~~voluntarily withdrawn more than thirty but within sixty days~~
6 ~~after submission, fifty percent of the application fee shall~~
7 ~~be refunded; if the application is withdrawn voluntarily more~~
8 ~~than sixty days after submission, twenty-five percent of the~~
9 ~~application fee shall be refunded. Notwithstanding the required~~
10 ~~payment of an application fee under this subsection, an applicant~~
11 ~~for a new institutional health service or a changed institutional~~
12 ~~health service offered or developed by an intermediate care~~
13 ~~facility for persons with an intellectual disability or an~~
14 ~~intermediate care facility for persons with mental illness as~~
15 ~~defined pursuant to section 135C.1 is exempt from payment of the~~
16 ~~application fee.~~

17 Sec. 5. Section 135.62, subsection 2, paragraphs a and e,
18 Code 2026, are amended to read as follows:

19 a. Private offices and private clinics of an individual
20 physician, dentist, or other practitioner or group of health care
21 providers, except as provided by section 135.61, subsection 16,
22 paragraphs "g", "h", and "m" paragraph "f", and section 135.61,
23 subsections 2 and 18.

24 e. A health maintenance organization or combination of health
25 maintenance organizations or an institutional health facility
26 controlled directly or indirectly by a health maintenance
27 organization or combination of health maintenance organizations,
28 except when the health maintenance organization or combination of
29 health maintenance organizations ~~does any of the following:~~

30 (1) ~~Constructs~~ constructs, develops, renovates, relocates, or
31 otherwise establishes an institutional health facility.

32 (2) ~~Acquires major medical equipment as provided by section~~
33 ~~135.61, subsection 16, paragraphs "i" and "j".~~

34 Sec. 6. Section 135.62, subsection 2, paragraph h,
35 subparagraph (2), Code 2026, is amended to read as follows:

1 (2) If these conditions are not met, the institutional health
2 facility or health maintenance organization is subject to review
3 as a ~~"new institutional health service" or "changed institutional~~
4 ~~health service" under section 135.61, subsection 16, paragraph~~
5 ~~"f", and is subject to sanctions under section 135.72.~~

6 Sec. 7. Section 135.63, subsection 2, paragraph b, Code 2026,
7 is amended by striking the paragraph.

8 Sec. 8. Section 135.65, subsections 1, 2, and 4, Code 2026,
9 are amended to read as follows:

10 1. a. Within fifteen business days after receipt of the
11 date the department receives an application for a certificate of
12 need, the department shall examine the application for form and
13 completeness and accept or reject it. An application shall be
14 rejected only if it fails to provide all information required
15 by the department pursuant to section 135.62, subsection 1. The
16 department shall promptly return to the applicant any a rejected
17 application, to the applicant with an explanation of the reasons
18 for its rejection.

19 b. Within thirty calendar days of the date the department
20 sends a rejected application to an applicant, the applicant
21 may revise and resubmit the application once for review without
22 submitting another application fee under section 135.62.

23 2. Upon acceptance of an application for a certificate of
24 need, the department shall ~~promptly undertake to~~ notify all
25 affected persons in writing that formal review of the application
26 has been initiated. Notification to ~~these~~ affected persons
27 who are consumers ~~or third-party payers or other payers for~~
28 ~~health services~~ may be provided by electronic distribution of the
29 pertinent information ~~to the news media.~~

30 4. a. When a hearing is to be held pursuant to subsection
31 3, paragraph "b", the department shall give at least ten days'
32 notice of the time and place of the hearing. ~~At the hearing, any~~

33 b. An affected person, or an affected person's legal
34 representative, may submit written testimony in a manner
35 prescribed by the department from the date the department gives

1 notice of the hearing until end of business on the calendar day
2 immediately preceding the date of the hearing.

3 c. An affected person or that person's designated
4 representative ~~shall have the opportunity to~~ may present
5 testimony at the hearing.

6 Sec. 9. Section 135.66, subsection 1, Code 2026, is amended
7 to read as follows:

8 1. The department may ~~waive the letter of intent procedures~~
9 ~~prescribed by section 135.64 and substitute~~ conduct a summary
10 review procedure, ~~which shall be established by rules of~~ adopted
11 by the department, when it the department accepts an application
12 for a certificate of need for a project ~~which that~~ meets any of
13 the following criteria in paragraphs "a" through "e":

14 a. A project which is limited to repair or replacement of a
15 facility or equipment damaged or destroyed by a disaster, and
16 which will not expand the facility nor increase the services
17 provided beyond the level existing prior to the disaster.

18 b. A project necessary to enable the facility or service
19 to achieve or maintain compliance with federal, state, or other
20 appropriate licensing, certification, or safety requirements.

21 c. A project which will not change the existing bed capacity
22 of the applicant's facility or service, as determined by the
23 department, by more than ten percent or ten beds, whichever is
24 less, over a two-year period.

25 ~~d. A project the total cost of which will not exceed one~~
26 ~~hundred fifty thousand dollars.~~

27 ~~e.~~ d. Any other project for which the applicant proposes and
28 the department agrees to summary review.

29 Sec. 10. Section 135.68, Code 2026, is amended to read as
30 follows:

31 **135.68 Department to make final decision.**

32 1. The department shall complete its formal review of
33 the application within ninety days after acceptance of the
34 application, except as otherwise provided by section 135.71,
35 subsection 4. Upon completion of the formal review, the

1 department shall approve or deny the application. The department
2 shall issue written findings stating the basis for its decision
3 on the application and shall send copies of the decision and the
4 written findings supporting the decision to the applicant and to
5 any other person who so requests.

6 ~~2. Failure by the department to issue a written decision~~
7 ~~on an application for a certificate of need within the time~~
8 ~~required by this section shall constitute denial of and final~~
9 ~~administrative action on the application.~~

10 Sec. 11. Section 135.71, subsection 4, Code 2026, is amended
11 to read as follows:

12 4. Criteria for determining when it is not feasible to
13 complete formal review of an application for a certificate of
14 need within the time ~~limits~~ limit specified in section 135.68.
15 The rules adopted under this subsection shall include criteria
16 for determining whether an application proposes introduction of
17 technologically innovative equipment, and if so, procedures to be
18 followed in reviewing the application. However, a rule adopted
19 under this subsection shall not permit a deferral of more than
20 ~~sixty~~ thirty calendar days beyond the time when a decision is
21 required under section 135.68, unless both the applicant and the
22 department agree to a longer deferment.

23 Sec. 12. Section 135P.1, subsection 3, Code 2026, is amended
24 to read as follows:

25 3. "Health facility" means an ~~any~~ of the following:

26 a. ~~An institutional health facility as defined in section~~
27 ~~135.61, a.~~

28 b. ~~A birth center as defined in section 135.131, a.~~

29 c. ~~A hospice licensed under chapter 135J, a.~~

30 d. ~~A home health agency as defined in section 144D.1, an.~~

31 e. ~~An assisted living program certified under chapter 231C,~~
32 a.

33 f. ~~A clinic, a.~~

34 g. ~~A community health center, or the.~~

35 h. ~~The university of Iowa hospitals and clinics, and includes~~

1 any.

2 i. A corporation, professional corporation, partnership,
3 limited liability company, limited liability partnership, or
4 other entity comprised of ~~such~~ health facilities.

5 Sec. 13. Section 135P.1, Code 2026, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 3A. "Institutional health facility" means
8 any of the following without regard to whether the facility is
9 publicly or privately owned, organized for profit, or is part of
10 or sponsored by a health maintenance organization:

11 a. A hospital as defined in section 135B.1.

12 b. A health care facility as defined in section 135C.1.

13 c. An organized outpatient health facility as defined in
14 section 135.61.

15 d. An ambulatory surgical center as defined in section
16 135.61.

17 e. A community mental health center as defined in section
18 225A.1.

19 Sec. 14. REPEAL. Section 135.64, Code 2026, is repealed.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to the certificate of need (CON) process.

24 The bill removes from the definition of "affected person" an
25 institutional health facility (facility) or health maintenance
26 organization which, prior to the department health and human
27 services' (HHS) receipt of an application for a CON, has formally
28 indicated to HHS an intent to furnish institutional health
29 services as described in the application. The bill also removes
30 payers and third-party payers for health services from the
31 definition of "affected persons", and "a community mental health
32 facility" from the definition of "institutional health facility".

33 The bill limits the circumstances that require a health
34 care provider to submit a CON application to the following:
35 construction, development, or other establishment of a new

1 facility if completion requires more than a monetary amount
2 as specified in the bill; relocation of a facility; a capital
3 expenditure or lease by a facility in excess of a monetary amount
4 as specified in the bill; a permanent change in the bed capacity
5 of a facility; and a mobile health service with a value in excess
6 of \$4 million.

7 The bill eliminates the requirement that a CON applicant needs
8 to show that any existing facilities providing institutional
9 health services similar to those being applied for are being used
10 in an appropriate and efficient manner.

11 The bill no longer allows HHS to refund application fees
12 if the CON application is voluntarily withdrawn more than 30
13 calendar days after submission.

14 The bill allows a CON applicant whose application is rejected
15 to resubmit a revised application once without an additional
16 application fee.

17 The bill allows HHS to notify all affected persons of
18 pertinent information regarding a formal review of a CON
19 application through electronic distribution instead of through
20 the news media.

21 The bill allows an affected person, or the affected person's
22 legal representative, to submit written testimony for a hearing
23 on a CON application from the date HHS gives notice on the
24 hearing until end of business on the calendar day immediately
25 preceding the hearing.

26 Under current law, HHS's failure to issue a written decision
27 on a CON application within 90 days of accepting the application
28 constitutes denial of the application. The bill eliminates this
29 denial.

30 Under current law, HHS may defer approval or denial of a CON
31 application for up to 60 days. The bill allows HHS to defer for
32 a maximum of 30 calendar days unless both the applicant and HHS
33 agree to a longer deferment.

34 The bill makes conforming changes to Code sections 135.66
35 (summary review procedure) and 135P.1 (adverse health care

S.F. _____

1 incidents — definitions).

2 The bill repeals Code section 135.64 (letter of intent to

3 precede application — review and comment).

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