

Senate File 2459 - Introduced

SENATE FILE 2459
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO SSB 3084)

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:

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

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

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

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

19 (2) If the new institutional health facility involves
20 the use of a leased building, the market value of the leased
21 building shall be used when calculating the value of completing
22 construction, development, or other establishment under
23 subparagraph (1).

24 b. Relocation of an institutional health facility.

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

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

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

33 (3) Beginning on or after January 1, 2037, five million
34 dollars.

35 d. A permanent change in the bed capacity, as determined

1 by the department, of an institutional health facility. For
2 purposes of this paragraph, a change is permanent if it is
3 intended to be effective for one year or more.

4 ~~e. Any expenditure in excess of five hundred thousand~~
5 ~~dollars by or on behalf of an institutional health facility for~~
6 ~~health services which are or will be offered in or through an~~
7 ~~institutional health facility at a specific time but which were~~
8 ~~not offered on a regular basis in or through that institutional~~
9 ~~health facility within the twelve-month period prior to that~~
10 ~~time.~~

11 ~~f. The deletion of one or more health services, previously~~
12 ~~offered on a regular basis by an institutional health facility~~
13 ~~or health maintenance organization or the relocation of one or~~
14 ~~more health services from one physical facility to another.~~

15 ~~g. Any acquisition by or on behalf of a health care provider~~
16 ~~or a group of health care providers of any piece of replacement~~
17 ~~equipment with a value in excess of one million five hundred~~
18 ~~thousand dollars, whether acquired by purchase, lease, or~~
19 ~~donation.~~

20 ~~h. e. (1) Any acquisition by or on behalf of a health~~
21 ~~care provider or group of health care providers of any piece of~~
22 ~~equipment with a value in excess of one million five hundred~~
23 ~~thousand dollars, whether acquired by purchase, or lease, or~~
24 ~~donation, which results in the offering or development of a~~
25 ~~health service not previously provided that has a value in~~
26 ~~excess of the following amount:~~

27 ~~(a) Beginning on or after January 1, 2027, and before~~
28 ~~December 31, 2031, four million dollars.~~

29 ~~(b) Beginning on or after January 1, 2032, and before~~
30 ~~December 31, 2036, four million five hundred thousand dollars.~~

31 ~~(c) Beginning on or after January 1, 2037, five million~~
32 ~~dollars.~~

33 ~~(2) A mobile health service provided on a contract basis~~
34 ~~is not considered to have been previously provided by a health~~
35 ~~care provider or group of health care providers.~~

1 ~~*i.* Any acquisition by or on behalf of an institutional~~
2 ~~health facility or a health maintenance organization of any~~
3 ~~piece of replacement equipment with a value in excess of one~~
4 ~~million five hundred thousand dollars, whether acquired by~~
5 ~~purchase, lease, or donation.~~

6 ~~*j.*~~ *f.* (1) Any acquisition by or on behalf of an
7 institutional health facility or health maintenance
8 organization of any piece of equipment with a value in excess
9 of one million five hundred thousand dollars, whether acquired
10 by purchase, or lease, ~~or donation~~, which results in the
11 offering or development of a health service not previously
12 provided that has a value in excess of the following amount:

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

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

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

19 (2) A mobile health service provided on a contract basis
20 is not considered to have been previously provided by an
21 institutional health facility.

22 ~~*k.* Any air transportation service for transportation of~~
23 ~~patients or medical personnel offered through an institutional~~
24 ~~health facility at a specific time but which was not offered~~
25 ~~on a regular basis in or through that institutional health~~
26 ~~facility within the twelve-month period prior to the specific~~
27 ~~time.~~

28 ~~*l.*~~ *g.* Any A mobile health service with a value in excess of
29 one four million five hundred thousand dollars.

30 ~~*m.* Any of the following:~~

31 ~~(1) Cardiac catheterization service.~~

32 ~~(2) Open heart surgical service.~~

33 ~~(3) Organ transplantation service.~~

34 ~~(4) Radiation therapy service applying ionizing radiation~~
35 ~~for the treatment of malignant disease using megavoltage~~

1 ~~external beam equipment.~~

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

4 1. a. A new institutional health service or changed
5 institutional health service shall not be offered or developed
6 in this state without prior application to the department
7 for, and receipt of, a certificate of need, pursuant to this
8 subchapter.

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

13 c. (1) The application shall be accompanied by a fee
14 equivalent to three-tenths of one percent of the anticipated
15 cost of the project with a minimum fee of six hundred dollars
16 and a maximum fee of twenty-one thousand dollars. The fee
17 shall be remitted by the department to the treasurer of state,
18 ~~who shall place it~~ for deposit in the general fund of the
19 state. An applicant for a new institutional health service or
20 a changed institutional health service offered or developed by
21 an intermediate care facility for persons with an intellectual
22 disability or an intermediate care facility for persons with
23 mental illness, as each of those terms are defined in section
24 135C.1, shall not be required to pay the application fee.

25 (2) If an application is voluntarily withdrawn within
26 thirty calendar days after submission, seventy-five percent
27 of the application fee shall be refunded; ~~if the application~~
28 ~~is voluntarily withdrawn more than thirty but within sixty~~
29 ~~days after submission, fifty percent of the application fee~~
30 ~~shall be refunded; if the application is withdrawn voluntarily~~
31 ~~more than sixty days after submission, twenty-five percent of~~
32 ~~the application fee shall be refunded. Notwithstanding the~~
33 ~~required payment of an application fee under this subsection,~~
34 ~~an applicant for a new institutional health service or a~~
35 ~~changed institutional health service offered or developed by~~

1 ~~an intermediate care facility for persons with an intellectual~~
2 ~~disability or an intermediate care facility for persons with~~
3 ~~mental illness as defined pursuant to [section 135C.1](#) is exempt~~
4 ~~from payment of the application fee.~~

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

7 a. Private offices and private clinics of an individual
8 physician, dentist, or other practitioner or group of
9 health care providers, except as provided by section 135.61,
10 subsection 16, paragraphs ~~"g"~~, ~~"h"~~, and ~~"m"~~ paragraph "e", and
11 section 135.61, subsections 2 and 18.

12 e. A health maintenance organization or combination of
13 health maintenance organizations or an institutional health
14 facility controlled directly or indirectly by a health
15 maintenance organization or combination of health maintenance
16 organizations, except when the health maintenance organization
17 or combination of health maintenance organizations does any of
18 the following:

19 (1) Constructs, develops, renovates, relocates, or
20 otherwise establishes an institutional health facility.

21 (2) Acquires major medical equipment as provided by section
22 135.61, subsection 16, paragraphs ~~"i"~~ and ~~"j"~~ paragraph "f".

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

25 (2) If these conditions are not met, the institutional
26 health facility or health maintenance organization is subject
27 to ~~review as a "new institutional health service" or "changed~~
28 ~~institutional health service" under section 135.61, subsection~~
29 ~~16, paragraph "f", and is subject to sanctions under section~~
30 135.72.

31 Sec. 7. Section 135.62, subsection 2, Code 2026, is amended
32 by adding the following new paragraphs:

33 NEW PARAGRAPH. r. An organized outpatient health
34 facility that provides behavioral health services as defined
35 by the department by rule, including but not limited to

1 substitution-based treatment centers for opiate addiction.

2 NEW PARAGRAPH. *s.* Open heart surgical services.

3 NEW PARAGRAPH. *t.* Organ transplantation services.

4 NEW PARAGRAPH. *u.* Radiation therapy services.

5 Sec. 8. Section 135.63, subsection 2, paragraph b, Code
6 2026, is amended by striking the paragraph.

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

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

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

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

30 Sec. 10. Section 135.65, subsection 3, paragraph b, Code
31 2026, is amended to read as follows:

32 *b.* A period for the submission of written public hearing
33 comments from affected persons on the application, to be ~~held~~
34 scheduled prior to completion of the evaluation required by
35 paragraph "a".

1 Sec. 11. Section 135.65, subsection 4, Code 2026, is amended
2 by striking the subsection.

3 Sec. 12. Section 135.66, subsection 1, Code 2026, is amended
4 to read as follows:

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

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

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

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

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

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

27 Sec. 13. Section 135.70, subsection 2, Code 2026, is amended
28 to read as follows:

29 2. Upon expiration of a certificate of need, and prior to
30 extension of the certificate of need, any affected person shall
31 have the right to submit to the department information which
32 may be relevant to the question of granting an extension. ~~The~~
33 ~~department may call a public hearing for this purpose.~~

34 Sec. 14. Section 135.71, subsection 4, Code 2026, is amended
35 to read as follows:

1 4. Criteria for determining when it is not feasible to
2 complete formal review of an application for a certificate of
3 need within the time ~~limits~~ limit specified in [section 135.68](#).
4 The rules adopted under [this subsection](#) shall include criteria
5 for determining whether an application proposes introduction
6 of technologically innovative equipment, and if so, procedures
7 to be followed in reviewing the application. However, a rule
8 adopted under [this subsection](#) shall not permit a deferral of
9 more than ~~sixty~~ thirty calendar days beyond the time when a
10 decision is required under [section 135.68](#), unless both the
11 applicant and the department agree to a longer deferment.

12 Sec. 15. Section 135P.1, subsection 3, Code 2026, is amended
13 to read as follows:

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

15 a. An institutional health facility ~~as defined in section~~
16 ~~135.61, a.~~

17 b. A birth center as defined in [section 135.131](#), ~~a.~~

18 c. A hospice licensed under [chapter 135J](#), ~~a.~~

19 d. A home health agency as defined in [section 144D.1](#), ~~an.~~

20 e. An assisted living program certified under [chapter 231C](#),
21 ~~a.~~

22 f. A clinic, ~~a.~~

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

24 h. The university of Iowa hospitals and clinics, ~~and~~
25 ~~includes any.~~

26 i. A corporation, professional corporation, partnership,
27 limited liability company, limited liability partnership, or
28 other entity comprised of ~~such~~ health facilities.

29 Sec. 16. Section 135P.1, Code 2026, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 3A. "*Institutional health facility*" means
32 any of the following without regard to whether the facility is
33 publicly or privately owned, organized for profit, or is part
34 of or sponsored by a health maintenance organization:

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

1 For purposes of determining the cost of the construction,
2 development, or other establishment of a new facility that
3 involves the lease of a building, the bill includes the market
4 value of the leased building.

5 The bill exempts an organized outpatient health facility
6 that provides behavioral health services, open heart surgical
7 services, organ transplantation services, and radiation therapy
8 services from CON requirements.

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

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

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

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

23 Under current law, a formal review of each CON application
24 shall include a public hearing on the application where
25 affected persons, or their representatives, shall have the
26 opportunity to present testimony. The bill instead requires
27 a period for the submission of written comments from affected
28 persons on the application.

29 Under current law, HHS may call a public hearing to consider
30 whether to extend a CON. The bill eliminates HHS's ability to
31 call such a public hearing.

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

S.F. 2459

1 The bill makes conforming changes to Code sections 135.66
2 (summary review procedure) and 135P.1 (adverse health care
3 incidents — definitions).

4 The bill repeals Code section 135.64 (letter of intent to
5 precede application — review and comment).