

# CERTIFICATE OF NEED PROGRAM



Telephone: (517) 373-8080  
Facsimile: (517) 373-5874  
[www.house.state.mi.us/hfa](http://www.house.state.mi.us/hfa)

## FISCAL ANALYSIS

Mitchell Bean, Director  
124 N. Capitol Avenue  
4-N HOB Lansing, MI

---

---

### SENATE BILL 1436 AS PASSED SENATE

**Sponsor:** Sen. John J. H. Schwarz  
**House Committee:** Health Policy

### COMMITTEE ANALYSIS - 12/2/02

**Analyst(s):** Margaret Alston

---

---

### SUMMARY

Senate Bill 1436 (S-2), as passed by the Senate, would amend the Public Health Code by modifying several provisions, adding a provision, and repealing a section related to the Certificate of Need (CON) program, a program enacted to ensure that only needed, cost-effective, and quality health services and facilities are developed in the state.

The bill would increase the capital expenditure threshold from \$2.0 million to \$2.5 million at which a health facility must obtain a CON before improving, constructing, or replacing a clinical service area. The capital expenditure threshold for a nonclinical service area would be increased from \$3.0 million to \$5.0 million.

The bill would modify the definition of a covered clinical service in which fixed magnetic resonance imager services would be considered one, except in a county that has a population of more than 150,000 which does not have at least 2 fixed magnetic resonance imager units. Under the bill, the initiation, replacement, or expansion of a partial hospitalization psychiatric program services and mobile resonance imager services would no longer be considered covered clinical services.

The bill would also permit an applicant seeking a CON for the relocation or replacement of an existing health facility to file a single, consolidated CON application if the project does not result in increased beds or the initiation, expansion, or replacement of covered clinical services. A person relocating or replacing an existing health facility would be subject to the applicable CON review standards in effect on the date of the relocation or replacement of the facility.

The bill would change the composition of the CON Commission from 5 to 9 members which would include one representative from the following entities: the Michigan Health and Hospital Association or a successor organization; an entity subject to the insurance laws and regulations of this state which could include a sickness and accident insurance company or health maintenance organization; the Michigan State Medical Society, the Michigan Osteopathic Association or a successor organization; an approved School of Medicine or Osteopathic Medicine; a state association representing nursing homes; state organized labor unions; a company with 200 or more employees; a company with 50 or fewer employees; and a nonprofit health care corporation. The members are to be appointed by the Governor with the advice and consent of the Senate.

The bill would also add certain requirements for the Department of Community Health such as providing 2 full-time administrative employees and 2 full-time professional employees to allow the CON Commission to carry out its powers and duties. The Department would be required to make available a brief summary of the actions taken by the Commission.

Furthermore, the Department would be required, rather than permitted, to monitor compliance with all CONs issued. If a recipient of a CON is not in compliance with the terms of the CON, the Department would then be required (rather than permitted) to take further actions such as revoke or suspend the CON or impose a civil fine. The Department would also be required to prepare and publish monthly reports, rather than annual reports, of CON reviews conducted.

Under the bill, the CON Commission would be required to revise all CON review standards to include a requirement that each applicant participate in Title XIX of the Social Security Act (Medicaid) by January 1, 2004. The current requirements related to the appointment of Ad Hoc Advisory Committees by the Commission in the development and submission of proposed CON review standards would be eliminated. The CON Commission would instead be required to contract with

private organizations and health planners (an individual employed by a health facility or health system who has experience in quantitative and qualitative research and data analysis) in carrying out some of its duties and functions.

In the FY 2002-03 appropriations act for the Department of Community Health (Public Act 519 of 2002), 13.0 FTE positions, \$944,800 Gross, and \$222,900 GF/GP is authorized for the administration of the CON program. These authorized funds and staff appear to be sufficient to cover additional costs related to administering the CON program.

The fiscal impact of other proposed changes to the CON program such as increasing the capital expenditure thresholds for clinical service areas and nonclinical service areas, removing mobile magnetic resonance imager services and partial hospitalization psychiatric program services from the definition of a covered clinical service, and requiring CON applicants to participate in the Medicaid program is indeterminate. It is difficult to ascertain whether or not these changes will result in a more cost-effective way of providing quality health services and facilities.