

Legislative Analysis



MATCHING GRANT PROGRAM FOR PURCHASE OF ULTRASOUND EQUIPMENT

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House Bill 5637 as enrolled

Public Act 501 of 2004

Sponsor: Rep. Jacob Hoogendyk

House Committee: Health Policy

Senate Committee: Health Policy

Second Analysis (1-12-05)

BRIEF SUMMARY: The bill would require the Department of Community Health to establish and administer a matching grant program to provide grants for the purchase of ultrasound equipment.

FISCAL IMPACT: House Bill 5637, as enrolled, requires the Michigan Department of Treasury to manage a new fund. The bill does not require state appropriations for grants, but allows for the deposit of various sources of revenue into the fund for grants, including state revenue. The bill's fiscal impact on state government includes Department of Treasury management costs of maintaining the fund and Department of Community Health grant administration and reporting costs; however, the bill directs that revenues of the fund will finance these administration costs. Grant administration costs will be dependent upon the fund balance and consequent volume of grants.

THE APPARENT PROBLEM:

Ultrasound machines have been used for decades to help determine the gestational age of fetuses and to identify anomalies, such as birth defects. Many clinics and crisis pregnancy centers around the state provide free or reduced cost services to pregnant women. However, not all can afford to purchase an ultrasound machine or replace an outdated one. Some feel that the state could help by administering a matching grant program by which qualifying entities could apply for funds to purchase an ultrasound machine.

THE CONTENT OF THE BILL:

The bill would add a new section to the Public Health Code to require the Department of Community Health to establish and administer a grant program to provide grants for the purchase of ultrasound equipment.

The Ultrasound Equipment Fund. The fund would be created in the state treasury. The state treasurer would be responsible for receiving money or other assets into the fund (i.e., state revenues, federal money, gifts, donations, bequests, etc.), directing the investment of the fund, and crediting the interest and earning from the fund investments

to the fund. Money would remain in the fund at the close of a fiscal year and not lapse to the general fund.

Purpose of the fund. The fund would be used by the DCH to make matching grants to qualified entities for the purchase of ultrasound equipment and to cover the administrative costs of the DCH and the Department of Treasury in implementing and administering the grant program. An application on a department-prescribed form or format would have to be submitted, along with any information required by the department necessary to make a determination regarding grant approval. A cash match of at least 50 percent of the grant amount, or other repayment guarantee with a dedicated funding source, would be required before a grant could be awarded. Priority would be given to applicants that did not have an ultrasound machine or who had only one machine that was outdated based on industry standards.

An “entity” would mean a local agency, organization, or corporation or a subdivision, contractee, subcontractee, or grant recipient of a local agency, organization, or corporation. A “qualified entity” would be defined as an entity that had been reviewed by the department and determined to satisfy all of the conditions required under the bill and that was technically and logistically capable of providing the quality and quantity of services required within an appropriate cost range.

Grant eligibility. The following conditions would have to be met:

- The entity would have to provide family planning or reproductive health services to low-income women at no cost or at a reduced cost.
- The entity would have to agree to the following conditions: to have a trained medical professional or a qualified medical director on staff to perform the ultrasound; to have at least one ultrasound monitor that was fully accessible to the pregnant woman to view during the performance of the ultrasound; to inform each client that she had the right to view the ultrasound image; to inform the client that if the machine had the capability to make copies of the ultrasound image, she had the right to record the image for her own records if she provided the videocassette, film, or other medium on which images could be recorded or stored; to certify in writing that the client had been offered the opportunity to view the ultrasound image, obtain in writing the client’s acceptance or rejection of the offer to view the image, and retain a copy of each document in the client’s medical file; and to refrain from using the ultrasound equipment funded by this program to assist in the performance of an elective abortion.

Responsibility of the DCH. Besides prescribing the form or format for grant applications, the department could promulgate rules under the Administrative Procedures Act to implement the grant program. Final approval of grants would have to be made by the director of the department and could only be approved if the money were available in the fund. Further, the department would have to annually prepare a report summarizing the grants made under the bill, contractual commitments made

and achieved, along with a preliminary evaluation of the effectiveness of the bill's provisions. A copy would have to be provided to the chairs of the House and Senate Appropriations subcommittees for the Department of Community Health.

MCL 333.9141

ARGUMENTS:

For:

Under the bill, a qualifying entity could apply to receive a grant that could be used toward the purchase of an ultrasound machine. The entity would have to match the amount of the funds requested dollar for dollar and would have to agree to abide by the conditions outlined in the bill, such as not using the equipment to perform an abortion and having a trained medical professional or medical director on staff to perform the ultrasound. The bill would not require the state to appropriate money to the fund, only to administer a fund that would act as a repository for public or private grants, donations, and bequests.

Ultrasound technology has long been used to determine gestational age, the viability of the fetus, birth defects and other developmental abnormalities, as well as to determine multiple pregnancies. Proponents of the bill feel that enabling qualifying entities to acquire an ultrasound machine would enable those entities to better serve their low-income clients. If the technician identified an anomaly, for example, a dead fetus or fetus with a birth defect, the woman could be advised to seek medical care immediately from her doctor or an emergency room.

In addition, some feel that these early ultrasounds can also provide a psychological benefit to the woman; for instance, many women feel a bond with the fetus after viewing the ultrasound image that they did not experience before. A woman who “connects” with the fetus in this way is much more likely to follow healthy prenatal guidelines such as not smoking or drinking and getting appropriate prenatal medical care – measures known to decrease the risks for conditions such as low-birth weight, fetal alcohol syndrome, and certain physical or mental disabilities.

Against:

The definition of “qualified entity” contained in the bill would likely include crisis pregnancy centers. Unlike Planned Parenthood clinics and other medical clinics that provide a range of health and gynecological services, crisis pregnancy centers are primarily faith-based ministries that provide services to women experiencing an unplanned pregnancy. These services often include free pregnancy tests; counseling; information on adoption; information regarding public services; even free maternity and baby clothes, diapers, formula, and baby items such as cribs and strollers. In general, these clinics are not medical clinics; often the primary purpose for a pregnancy crisis center offering an ultrasound is to discourage women from choosing an abortion.

However, the Federal Drug Administration (FDA) and health care professional groups have recently come out against the use of ultrasound imaging for anything other than a medical purpose. The January-February 2004 issue of the FDA Consumer magazine contained an article on ultrasound “keepsake videos” (videos for pregnant consumers of fetuses made by retail operations using ultrasound imaging) that states the “FDA announced in 2002 that anyone administering ultrasound to consumers without a medical prescription is breaking the law.” Professional organizations such as the American Institute of Ultrasound in Medicine (AIUM), the American College of Obstetrics and Gynecology, and the American College of Radiology only endorse the use of ultrasound for clinical indications. According to an article in Advance, a newsmagazine for imaging and radiation therapy professionals, harmful effects due to ultrasound have been found in animals; although harm to fetuses has yet to be evidenced, “public health experts, clinicians and industry agree that casual exposure to ultrasound, especially during pregnancy, should be avoided.”

Critics say that inclusion of crisis pregnancy centers therefore raises several questions. Under Michigan law, only a licensed physician may interpret tests or give a medical diagnosis and under federal law, a prescription is needed. Even if an ultrasound were performed by a trained medical professional, as the bill requires, this person could not legally offer an opinion as to the health or gestational age of the fetus, and not all crisis pregnancy centers have physicians available to order an ultrasound or review the images. In addition, some women may feel a false sense of security that all is fine and neglect to get timely prenatal care, where others who do subsequently seek obstetrical care may be subjected to a second ultrasound, thus increasing the risk to the fetus of overexposure to ultrasound waves.

In short, critics say that to perform an ultrasound on a pregnant woman without a doctor’s prescription for anything other than an accepted medical indication would violate current law and accepted medical practice. Therefore, it would seem inadvisable to include any nonmedical entity in the bill.

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