Legislative Analysis

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COVERED CAPITAL EXPENDITURES

Senate Bill 669 (S-1) as passed by the Senate
Sponsor: Sen. Curtis S. VanderWall
House Committee: Health Policy
Senate Committee: Health Policy and Human Services
Complete to 7-15-20

SUMMARY:

Senate Bill 669 would amend the Public Health Code to remove the requirement for a certificate of need for covered capital expenditures.

Currently under the code, a person must obtain a construction permit from the Department of Licensing and Regulatory Affairs (LARA) when working on certain health facility projects with a capital expenditure of $1.0 million or more, and other projects as LARA determines necessary to protect the public health, safety, and welfare. If a project requires a construction permit for either of these reasons but does not require a ***certificate of need*** (CON), LARA must require the applicant to submit information LARA deems necessary to assure that the capital expenditure for the project is not a ***covered capital expenditure***.

> ***Certificate of need*** is defined in the code as a certificate issued under Part 222 (Certificates of Need) authorizing a new health facility, a change in bed capacity, the initiation, replacement, or expansion of a covered clinical service, or a covered capital expenditure that is issued in accordance with Part 222. (The bill would remove covered capital expenditures from this definition.)
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> ***Covered capital expenditure*** is defined as a capital expenditure of $2.5 million or more, as adjusted annually by the Department of Health and Human Services (DHHS),[1] by a person for a health facility for a single project, excluding the cost of nonfixed medical equipment, that includes or involves the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of a clinical service area. (The bill would remove this definition.)

The bill would remove the requirement that a CON be obtained for a project that is a covered capital expenditure.

Under current statute, a hospital does not need to obtain a CON, but must provide certain information to LARA, before relocating beds from a hospital to a freestanding surgical outpatient facility under certain specific conditions. Additionally, such a hospital cannot transfer more than 35% of its licensed beds to another hospital or freestanding surgical outpatient facility more than one time under these provisions if the hospital (or another

[1] The adjusted threshold amount for 2020 is $3,375,000. See https://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_5106-372419--,00.html

hospital under common control with the hospital) is located in a city with a population of 750,000 or more.[2] The bill would remove the provision that now limits those transfers for a hospital located in a city of that size.

The bill would also remove a requirement that, within six months of the appointment and confirmation of six additional commission members, the CON commission develop standards for use of certain hospital beds. Those members were added by 2002 PA 619.[3]

Finally, the code currently requires DHHS to annually adjust the $2.5 million threshold for covered capital expenditures to reflect changes in the consumer price index (CPI). The bill would remove this requirement.

MCL 333.20145 et seq.

FISCAL IMPACT:

Senate Bill 669 would be unlikely to have an appreciable fiscal impact on LARA, but would have fiscal implications for DHHS. The elimination of a requirement for a CON for a covered capital expenditure project would eliminate the provision of services for that CON and the related costs, and eliminate the revenue to the CON program charged for that service, which may be from $8,000 to $15,000. Currently the program is funded at $2.8 million and is solely supported by revenue from CON fees. The FY 2018 CON Annual Activity Report shows that the total number of approved covered capital expenditure project CONs ranged from 32 to 65 from 2014-2018. The bill may also have fiscal implications for health care costs in Michigan, which are indeterminate.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

[2] Note: No Michigan city currently has a population of 750,000 or more. This provision presumably applied only to Detroit, which has an estimated population of 670,031. See https://www.census.gov/quickfacts/fact/table/detroitcitymichigan,MI/PST045219

[3] House Fiscal Agency analysis of 2002 PA 619/SB 1436: http://www.legislature.mi.gov/documents/2001-2002/billanalysis/House/pdf/2002-HFA-1436-x5.pdf