TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1085 - SB 1291

April 8, 2019

SUMMARY OF BILL: Eliminates the requirements of a certificate of need (CON) for healthcare facilities and terminates the Health Services and Development Agency (HSDA). Requires any moneys remaining in the HSDA Fund and the State Health Planning Reserve Account (SHPRA) revert to the General Fund on the effective date of this Act, after which the HSDA Fund and SHPRA will cease to exist.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Exceeds $2,564,000/FY19-20/General Fund
Exceeds $1,376,200/FY20-21 and Subsequent Years/ General Fund

Decrease State Revenue – Exceeds $950,000/HSDA Fund

Increase State Expenditures –
Net Impact - $550,000/FY19-20/HSDA Fund
Exceeds $5,758,000/FY19-20/General Fund
Exceeds $6,746,600/FY20-21/General Fund
Exceeds $6,708,300/FY21-22 and Subsequent Years/General Fund

Decrease State Expenditures –
$950,000/FY20-21 and Subsequent Years/HSDA Fund

Increase Federal Expenditures – Exceeds $9,053,300/FY19-20 and Subsequent Years

Other Fiscal Impact –The Health Services Development Agency (HSDA) revenues and expenditures vary greatly from year to year. The HSDA fund will experience a recurring decrease in revenue from fees charged and a recurring decrease in expenditures from the HSDA fund for any operational expenses.

Assumptions:

- The proposed legislation will terminate the CON program and the HSDA.
- Based on information provided by the Division of TennCare, there are currently 804 privately-owned and operated intermediate care facilities with beds for individuals with intellectual disabilities (ICF/IID) which operate at or near 100 percent capacity.
- There are approximately 8,000 individuals on the waiting list for services for TennCare's Employment and Community First CHOICES program. Some of these individuals will have access to ICF/IID beds. It is, therefore, assumed there will be an increase in beds with the removal of the CON requirement.
- Assuming a 10 percent rate of growth in private ICF/IID beds in the absence of a CON process, an additional 80 (804 x 10.0%) beds at the current average per diem for such beds of $470.21, would result in a recurring increase in expenditures of at least $13,730,132 (80 beds x $470.21 x 365 days).
- Medicaid expenditures receive matching funds at a rate of 65.375 percent federal funds to 34.625 percent state funds. Of this amount, $4,754,058 ($13,730,132 x 34.625%) will be in state funds and $8,976,074 ($13,730,132 x 65.375%) will be in federal funds.
- Tennessee has a 5.5 percent assessment on ICF/IID providers. The recurring increase in state revenue is estimated to exceed $755,157 ($13,730,132 x 5.5%) in FY19-20 and subsequent years.
- It is assumed if ICF/IID beds increase by 80, then ICF/IID facilities will increase by 20 facilities.
- The Department of Intellectual and Developmental Disabilities (DIDD) will experience a recurring increase in state revenue for licensure of the new facilities estimated to exceed $14,000 ($175 license fee x 80 beds) in FY19-20 and subsequent years.
- The DIDD will require one Fire Safety Specialist position to handle licensing responsibilities. The recurring increase in expenditures for the positions is estimated to be $49,500 for salary, benefits and other, in FY19-20 and subsequent years.
- The Department of Health (DOH) pays the DIDD through a contract to conduct certification surveys; any increase in surveys for DIDD will be billed to DOH.
- The DIDD will require two additional IDD Program Specialist 3 positions for the surveying of the new facilities. The recurring increase in expenditures is estimated to be $103,000 [($48,500 salary and benefits + $3,000 travel) x 2 positions]. These positions will receive a federal match of 75 percent federal funds to 25 percent state funds. The recurring increase in state expenditures is estimated to be $25,750 ($103,000 x 25.0%) and the recurring increase in federal expenditures is estimated to be $77,250 ($103,000 x 75.0%).
- Removing the requirement to obtain a CON for a home care organization or services provided by a home care organization will result in an increase in these organizations and services. When the CON requirement for home health agencies was previously eliminated for almost a two-year period, the number of home health agencies increased from approximately 145 to over 420.

- Currently, there are approximately 160 home health agencies. It is assumed this number will increase significantly over the next several years when the CON requirement is removed.
- The DOHs licensure fee for home health agencies and hospices is $1,404 annually. Freestanding hospital emergency departments that are part of an existing hospital do not pay an additional licensure fee but are considered part of the parent facility.
- The DOH will experience a recurring increase in fee collections from new home health agencies and hospices estimated to exceed $294,840 in FY19-20 and exceed $589,680 in FY20-21 and subsequent years.
- The DOH cannot accommodate the proposed legislation within existing resources. The DOH will require 10 additional staff positions in FY19-20: four Public Health Nurse Consultant 1 staff, three Fire Safety Specialist 1 survey staff divided across the three grand divisions to inspect and conduct complaint investigations in the additional facilities, one Facility Construction Specialist 3 position to manage the plans review of such facilities, one Administrative Services Assistant 2 position to help with plans review and to manage additional licensure applications, and one Public Health Nurse Consultant 1 position to handle the additional complaints and facility incident reports.
- The one-time increase in state expenditures is estimated to be $112,400 ($39,100 computer cost + $27,000 office furniture + $46,300 vehicles) in FY19-20.
- The recurring increase in state expenditures is estimated to be $816,291 ($553,716 salaries + $157,575 benefits + $79,000 administrative cost + $14,000 communications + $6,000 supplies + $6,000 gas and maintenance) beginning in FY19-20.
- The DOH will require 11 additional staff positions in FY20-21: five Public Health Nurse Consultant 1 staff, three Fire Safety Specialist 1 survey staff divided across the three grand divisions to inspect and conduct complaint investigations in the additional facilities, one Facility Construction Specialist 3 position to manage the plans review of such facilities, one Administrative Services Assistant 2 position to help with plans review and to manage additional licensure applications, and one Public Health Nurse Consultant 1 position to handle the additional complaints and facility incident reports.
- The one-time increase in state expenditures is estimated to be $115,100 ($39,100 computer cost + $29,700 office furniture + $46,300 vehicles) in FY20-21.
- The recurring increase in state expenditures is estimated to be $910,888 ($620,724 salaries + $175,264 benefits + $86,900 administrative cost + $15,400 communications + $6,600 supplies + $6,000 gas and maintenance) beginning in FY20-21.
- The Department of Mental Health and Substance Abuse Services (DMHSAS) licenses mental health hospitals and nonresidential substitution-based treatment centers for opiate addiction. It is assumed the removal of the requirement of a CON will increase the number of beds by at least 30 and facilities by at least 15 sites. The licensure fees are $175 for beds and $810 for facilities.
- The recurring increase in state revenue is estimated to exceed $17,400 [(30 beds x $175) + (15 sites x $810)] in FY20-21 and subsequent years.
- The DMHSAS can accommodate the proposed legislation within existing resources in FY19-20. However, in FY20-21, the DMHSAS will require an additional surveyor position and one additional position in FY21-22 and subsequent years.
- The increase in state expenditures is estimated to be $75,900 for salary, benefits, and other in FY20-21; and $151,800 in FY21-22 and subsequent years.

- The total increase in state revenue is estimated to exceed $1,063,997 ($755,157 + $14,000 + $294,840) in FY19-20; exceed $1,376,237 ($755,157 + $14,000 + $589,680 + $17,400) in FY20-21 and subsequent years.
- The total increase in state expenditures is estimated to exceed $5,757,999 ($4,754,058 + $49,500 + $25,750 + $112,400 + $816,291) in FY19-20; exceed $6,746,587 ($4,754,058 + $49,500 + $25,750 + $816,291 + $115,100 + $910,888 + $75,900) in FY20-21; and exceed $6,708,287 ($4,754,058 + $49,500 + $25,750 + $816,291 + $910,888 + $151,800) in FY21-22 and subsequent years.
- The total increase in federal expenditures is estimated to exceed $9,053,324 ($8,976,074 + $77,250) in FY19-20 and subsequent years.
- Pursuant to Tennessee Code Annotated § 68-11-1623(b), the HSDA is required to be self-sufficient. As of February 22, 2019, the HSDA's account balance is estimated to be approximately $400,000 with an additional reserve fund balance of approximately $1,100,000.
- The money collected in the SHRPA is used to offset the expense of preparing the State Health Plan; however the funds are not sufficient to cover the total cost of the plan. The current balance of the SHRPA fund is $0.
- With the depletion of both funds, the one-time increase in state revenue to the General Fund, and an equivalent one-time increase in state expenditures from the HSDA Fund, is estimated to be $1,500,000 ($1,100,000 + $400,000). The total increase in state revenue to the General Fund in FY19-20 is estimated to exceed $2,563,997 ($1,063,997 + $1,500,000).
- The HSDA revenue and expenditures vary greatly from year to year. The HSDA Fund will experience a recurring decrease in revenue from fees charged and a recurring decrease in expenditures from the HSDA Fund for any operational expenses. In FY16-17, revenues were $931,863 and expenditures were $967,035. It is assumed that the proposed legislation will result in a recurring decrease in revenue to the HSDA Fund of at least $950,000 and an equivalent recurring decrease in expenditures from the same fund.
- The net increase in expenditures from the HSDA Fund in FY19-20 will be $550,000 ($1,500,000 one-time increase - $950,000 decrease). The recurring decrease in expenditures from the HSDA Fund in FY20-21 and subsequent years will be $950,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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