

## **Department of Planning and Budget**

### **2018 Fiscal Impact Statement**

**1. Bill Number:** HB 1102

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Stolle

**3. Committee:** Health, Welfare and Institutions

**4. Title:** Certificate of public need.

**5. Summary:** Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill (i) removes specialized centers or clinics or that portion of a physician's office developed for the provision of lithotripsy, magnetic source imaging (MSI), or nuclear medicine imaging from the list of reviewable medical care facilities; (ii) provides that establishment of a medical care facility to replace an existing medical care facility with the same primary service area does not constitute a project; (iii) removes introduction into an existing medical care facility of any new lithotripsy, magnetic source imaging, or obstetrical service that the facility has never provided or has not provided in the previous 12 months and addition by an existing medical care facility of any medical equipment for the provision of lithotripsy and magnetic source imaging (MSI) from the definition of project; (iv) creates a new process for registration of projects exempted from the definition of project by the bill; (v) establishes an expedited 45-day review process for applicants for projects determined to be uncontested or to present limited health planning impacts; (vi) renames the State Medical Facilities Plan as the State Health Services Plan and establishes a State Health Services Plan Advisory Council to provide recommendations related to the content of the State Health Services Plan; (vii) clarifies the content of the application for a certificate; and (viii) reduces the timeline for a person to be made party to the case for good cause from 80 calendar days to four days following completion of the review and submission of recommendations related to an application.

The bill also (a) directs the Department to develop recommendations to reduce the duration of the average review cycle for applications for certificates of public need to not more than 120 days and to report on its recommendations to the Governor and the General Assembly no later than December 1, 2018; (b) directs the Secretary of Health and Human Resources to review charity care services delivered throughout the Commonwealth and recommend changes to the definition of charity and to the types of charity care requirements imposed on various health care services and report to the Governor and the General Assembly by December 1, 2018; (c) directs the Secretary of Health and Human Resources to convene a group of stakeholders to study and make recommendations related to the appropriate authority of the State Health Commissioner to impose additional conditions on certificates; (d) directs the Secretary of Health and Human Resources to implement a system to ensure that data needed to evaluate whether an application for a certificate is consistent with the State Health Services Plan is timely and reliable, to make all public records pertaining to

applications for certificates and the review process available in real-time in a searchable, digital format online, to make an inventory of capacity authorized by certificates of public need, both operational and not yet operational, available in a digital format online, and to make charity care conditions, charity care compliance reporting status, and details on the exact amount of charity care provided or contributed and to whom it was provided or contributed available in a digital format online; (e) directs the Commissioner of Health to develop an analytical framework to guide the work of the State Health Services Plan Advisory Council; and (f) directs the Joint Commission on Health Care to develop specific recommendations for eliminating differences in the certificate of public need review process from one region to another and report on the recommendations to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2018.

- 6. Budget Amendment Necessary:** See item 8.
- 7. Fiscal Impact Estimates:** Preliminary, see item 8.
- 8. Fiscal Implications:**

**Virginia Department of Health:**

The bill removes specialized centers developed for the provision of lithotripsy, magnetic source imaging (MSI), or nuclear medicine imaging from the list of reviewable medical care facilities. The Department of Health (VDH) has received one Certificate of Public Need (COPN) application for lithotripsy each year over the past three years and only one COPN application for nuclear medicine imaging over the course of three years. The fees associated with the loss of these projects is estimated to be \$3,108 per year.

The bill also shifts the focus to an expedited application and review process of 45 days for non-contested projects and projects that present limited health planning impacts. In addition, the bill has an enactment clause that VDH shall reduce the duration for the average review cycle from 260 days down to 120 days after receiving the letter of intent.

Additionally the bill requires an analytical framework that incorporates review of the State Health Services Plan to support the State Health Services Plan Advisory Council in its duties. The analytical framework shall include an evaluation of whether the COPN program is meeting the needs of the indigent and uninsured, protecting the public health, promoting academic medical centers and teaching hospitals, ensuring the availability of essential health care services in the Commonwealth and is aligned with the State Health Improvement Plan. The analytical framework shall consider the approach utilized in past COPN Annual Reports; including a recurrent three-year schedule for analysis of all project categories with procedures for analysis of at least three project categories per year and include stakeholder involvement and public comment. While the specific role of VDH is not clearly delineated with respect to each of these studies, it is assumed the COPN program will be involved at some level in all.

Therefore current staff, even with an estimated reduction of two projects per year, would not be sufficient to meet the new timeframe proposed and additional duties in the bill and additional staff would be needed. A minimum of two Project Review Analysts would be needed with a total compensation of \$78,000 per position to handle the new workload and review time which was reduced by 46 percent on a yearly basis. The bill removes the fee limit for the Certificate of Public Need program and for the registration of projects, therefore fees will be set at a level sufficient to cover the cost of the legislation. An additional \$10,000 is estimated in the first year for startup costs, regulation promulgation, computers and equipment for new staff. VDH assumes they will pay for costs incurred by the new council and estimates \$10,000 per year for travel, lodging, meals, and other related expenses.

#### **Department of Medical Assistance Services:**

While it is assumed that Certificate of Public Need (COPN) legislation may have fiscal implications for the Department of Medical Assistance Services (DMAS), as one of the largest purchasers of health care services in Virginia, there is insufficient data to provide a definitive estimate of the cost impact of the proposed legislation. Under any scenario, it is unlikely that any COPN change would have a direct fiscal impact in the 2018-2020 biennium due to the time needed for implementation and the delayed recognition of costs in Medicaid payment rates. Any costs are not likely to occur until after 2022 and, even then, such costs would be difficult to estimate based on the unknowns associated with multiple COPN process and coverage changes and the rapidly evolving nature of the healthcare system.

#### **Secretary of Health and Human Resources:**

The proposal requires the Secretary of Health and Human Resources to establish a system to collect, analyze, study, and make available specific data related to COPN and charity care services. The Secretary of Health and Human Resources must determine the method of data collection and sharing. Since the bill would require public real-time access in a searchable form, it is assumed that such a system will need to meet VITA security and user requirements. Moreover, the requirement for an analytical framework would imply reporting capabilities beyond a simple database.

The Office of the Secretary of Health and Human Resources does not have adequate staff or the necessary information technology systems to implement the required provisions of this bill. It is assumed that the system described in this legislation would require the creation of a new database system in order to receive, store, maintain, analyze, and share COPN and charity care data among all identified entities. Since the system requirements are currently undefined, the cost of the system is indeterminate. The following examples are provided for reference purposes related to the potential cost of system development and maintenance:

- The Commonwealth's performance budgeting system, which houses all of the state's budget information and data, was developed at a cost of approximately \$15 million; the annual maintenance of the system, software, licenses, and other related costs is approximately one million dollars.
- The Department of Corrections is currently developing an electronic healthcare medical records system to automate and integrate inmate records. This project is budgeted at \$5.2 million. However, this is not a public-facing system.

Since the estimates above are just examples of current data systems and since the specifications and accessibility requirements are unknown at this time, the development costs of such a platform cannot be determined. In addition to the systems costs discussed above, it is assumed that the Secretary's Office may require at least one additional position to analyze data and conduct the required reporting. The total cost for such a position is approximately \$90,000.

**9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Health and Department of Medical Assistance Services.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.