

Legislative Analysis



COVERED CAPITAL EXPENDITURES/ PSYCHIATRIC BEDS

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Senate Bill 672 (proposed substitute H-3)
Sponsor: Sen. Curtis S. VanderWall
1st House Committee: Health Policy
2nd House Committee: Ways and Means
Senate Committee: Health Policy and Human Services
Complete to 12-15-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 672 would amend Part 222 (Certificates of Need) of the Public Health Code to raise the threshold amount for capital expenditures to be considered covered capital expenditures to \$10.0 million and modify two definitions regarding psychiatric beds.

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.

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 raise the threshold for a capital expenditure to be considered a covered capital expenditure to \$10.0 million or more, adjusted annually.

Under the code, a person cannot make a *change in bed capacity* of a health facility or initiate, replace, or expand a *covered clinical service* without first obtaining a certificate of need.

¹ 1 The adjusted threshold amount for 2020 is \$3,375,000. See [MDHHS - Capital Expenditure Threshold for 2020 \(michigan.gov\)](https://www.michigan.gov/mdhhs/0,4570,7-153_173_174_175_176_177_178_179_180_181_182_183_184_185_186_187_188_189_190_191_192_193_194_195_196_197_198_199_200_201_202_203_204_205_206_207_208_209_210_211_212_213_214_215_216_217_218_219_220_221_222_223_224_225_226_227_228_229_230_231_232_233_234_235_236_237_238_239_240_241_242_243_244_245_246_247_248_249_250_251_252_253_254_255_256_257_258_259_260_261_262_263_264_265_266_267_268_269_270_271_272_273_274_275_276_277_278_279_280_281_282_283_284_285_286_287_288_289_290_291_292_293_294_295_296_297_298_299_300_301_302_303_304_305_306_307_308_309_310_311_312_313_314_315_316_317_318_319_320_321_322_323_324_325_326_327_328_329_330_331_332_333_334_335_336_337_338_339_340_341_342_343_344_345_346_347_348_349_350_351_352_353_354_355_356_357_358_359_360_361_362_363_364_365_366_367_368_369_370_371_372_373_374_375_376_377_378_379_380_381_382_383_384_385_386_387_388_389_390_391_392_393_394_395_396_397_398_399_400_401_402_403_404_405_406_407_408_409_410_411_412_413_414_415_416_417_418_419_420_421_422_423_424_425_426_427_428_429_430_431_432_433_434_435_436_437_438_439_440_441_442_443_444_445_446_447_448_449_450_451_452_453_454_455_456_457_458_459_460_461_462_463_464_465_466_467_468_469_470_471_472_473_474_475_476_477_478_479_480_481_482_483_484_485_486_487_488_489_490_491_492_493_494_495_496_497_498_499_500,000)

Currently, the term *change in bed capacity* means one of the following:

- An increase in licensed hospital beds.
- An increase in licensed nursing home beds or hospital beds certified for long-term care.
- An increase in licensed psychiatric beds.

The bill would amend the third category so that it would include an increase in licensed psychiatric beds if the increase was at a location in a county that had a population of more than 40,000, according to the most recent federal decennial census.

Additionally, *covered clinical service* under the code currently includes services such as certain neonatal services, open heart surgery, and certain radiation and surgery services. The bill would amend one of the categories—initiation or expansion of a specialized psychiatric program for children and adolescent patients utilizing licensed psychiatric beds—so that it would apply in a county that had a population of more than 40,000, according to the most recent federal decennial census.

The bill would also remove initiation, replacement, or expansion of air ambulance services from the “covered clinical service” category, beginning June 1, 2021.

MCL 333.22203

Senate Bill 672 is tie-barred to Senate Bills 669 and 671, meaning it could not take effect unless those bills were also enacted.

FISCAL IMPACT:

Senate Bill 672 would have fiscal implications for the certificate of need (CON) program under DHHS. CON services and related costs would be reduced, as well as revenue to the CON program. Current fees for a CON for a covered capital expenditure may be from \$8,000 to \$15,000, and for a CON related to psychiatric beds may be from \$3,000 to \$15,000. The bill may also have fiscal implications for health care costs in Michigan, which are indeterminate. Currently the CON program is funded at \$2.8 million and is solely supported by revenue from CON fees. The FY 2019 CON Annual Activity Report shows the total number of approved CONs for covered capital expenditure projects ranged from 32 to 65 from 2015-2019, and the total number of approved CONs for changes in bed capacity projects (for all beds) ranged from 26 to 42 from 2015-2019.

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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.