

SENATE BILL REPORT

SSB 5236

As Amended by House, March 28, 2021

Title: An act relating to extending the exemption from certificate of need requirements for the expansion of psychiatric bed capacity.

Brief Description: Extending certificate of need exemptions.

Sponsors: Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care (originally sponsored by Senators Warnick, Dhingra, Nguyen and Wagoner).

Brief History:

Committee Activity: Health & Long Term Care: 1/20/21 [w/oRec-BH].

Behavioral Health Subcommittee to Health & Long Term Care: 1/29/21, 2/05/21 [DPS].

Floor Activity: Passed Senate: 2/16/21, 47-0.

Passed House: 3/28/21, 97-0.

Brief Summary of First Substitute Bill

- Extends the expiration date of certain certificate of need exemptions allowing expansion or construction of psychiatric beds that serve involuntary patients by two years until June 30, 2023.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5236 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Wagoner, Ranking Member; Frockt, Nobles and Warnick.

Staff: Kevin Black (786-7747)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Certificate of Need. A certificate of need is an approval from the Department of Health (DOH), which is required before a provider or potential provider may expand health services in a region. When it receives a certificate of need application, DOH reviews the potential impact of the proposed construction or expansion on a community's need for the service. The certificate of need requirement for construction of a new psychiatric hospital, or for increasing the number of psychiatric beds at an existing hospital, was suspended in 2014 to alleviate the need to board psychiatric patients in emergency departments. Following a number of extensions, the certificate of need requirement for psychiatric beds remains suspended until June 30, 2021. Different variations of this certificate of need requirement and suspension exist for acute care hospitals, psychiatric hospitals, psychiatric facilities, and grant-funded psychiatric expansion programs.

Long-Term Inpatient Care. Long-term inpatient care refers to voluntary or involuntary inpatient treatment for a mental disorder or substance use disorder extending for a period of 90 days or more. Involuntary treatment occurs when a person is detained by a designated crisis responder and subsequently court-ordered to receive involuntary treatment based on a behavioral health disorder. Patients committed for involuntary treatment start by receiving short-term care for 120 hours and then 14 days at community evaluation and treatment facilities or secure withdrawal management and stabilization facilities. If the patient continues to have needs that cannot be met in a less restrictive alternative, they become eligible for a further period of commitment for up to 90 days and then up to 180 days. For these longer periods, patients generally transfer to a state hospital or a facility certified to provide long-term inpatient care. Some facilities may be certified to provide short-term and long-term involuntary treatment in the same facility.

Summary of First Substitute Bill: The expiration dates of the following certificate of need exemptions are extended for two years from June 30, 2021, until June 30, 2023:

- to increase the capacity of hospitals to serve psychiatric patients on 90-day and 180-day involuntary commitment orders to alleviate the need to board patients in emergency departments;
- to add new psychiatric beds in a licensed hospital;
- to add up to 30 new beds in a licensed psychiatric hospital for 90-day and 180-day involuntary patients, or 30 new beds for 120-hour and 14-day involuntary patients, or both; and
- to construct, develop, or establish a psychiatric hospital of no more than 16 beds with a portion of the beds dedicated to adults on 90-day or 180-day involuntary commitment orders.

The exemption related to adding beds in a psychiatric hospital is amended to require the new beds be devoted solely for involuntary patients ordered to receive 90-day and 180-day civil commitment services, or for new voluntary or involuntary psychiatric beds for patients on a 120-hour detention or a 14-day civil commitment order, or both. These beds must remain the type of psychiatric beds indicated in the original application unless a certificate of need is granted to change their use.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: My only regret is not extending the date longer. It takes so long to create the beds we need and go through the process. There is such a great need for this bed capacity, I am sure it will be extended again. One of the challenges presented by the pandemic, and the economic and budget crises it spawned, is that it may endanger the progress the state has made in moving to adequately fund behavioral health care and implement integrated behavioral health. We believe we have to push forward to implement the vision the state has set to convert the state hospitals to forensic hospitals. There has to be civil capacity in the community, which at this point is not sufficient. We remain engaged in trying to help, and the extension of the exemption of the certificate of need is a critical tool that needs to be kept available.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Len McComb, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.

EFFECT OF HOUSE AMENDMENT(S):

- Adds an emergency clause establishing an effective date of July 1, 2021.
- Makes a technical correction.