

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:2H-5.2 (Statewide local health planning)

LAWS OF: 1987 CHAPTER: 118

Bill No: S2372

Sponsor(s): McManimon

Date Introduced: June 30, 1986

Committee: Assembly: Appropriations; Health and Human Resources
Senate: Institutions, Health and Welfare; Revenue, Finance and Appropriations Committee

Amended during passage: Yes Substituted for A3022 (not attached since identical to S2372)

Date of Passage: Assembly: March 12, 1987

Senate: December 15, 1986

Date of Approval: May 7, 1987

Following statements are attached if available:

Sponsor statement: Yes
Committee statement: Assembly Yes 3-9-87 and 1-8-87
Senate Yes 12-8-86 and 11-17-86

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

See newspapers clipping-- attached:

"Health agencies get a reprieve in Assembly vote," 3-10-87 Bergen Record

Blue Ribbon report, mentioned in clipping-- attached:

(OVER)

See also:

974.90 New Jersey. Legislature. Assembly. Health and Human Resources Committee.
H434 Public hearing to examine the operation and effectiveness of the
1986e State and local health planning system in New Jersey, held 12-4-86. Trenton,
1986.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 2372

STATE OF NEW JERSEY

INTRODUCED JUNE 30, 1986

By Senator McMANIMON

Referred to Committee on Institutions, Health and Welfare

AN ACT establishing a Statewide local health planning program
[and] **,** supplementing Title 26 of the Revised Stat-
utes**, and making an appropriation therefor**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department
3 of Health.

4 b. "Corporation" means an independent private, nonprofit cor-
5 poration which is not a health care facility, or a subsidiary thereof,
6 or an affiliated corporation of a health care facility.

7 c. "Health care facility" means a health care facility as defined
8 in section 2 of P. L. 1971, c. 136 (C. 26:2H-2).

9 d. "Health care service" means a health care service as defined
10 in section 2 of P. L. 1971, c. 136 (C. 26:2H-2).

11 e. "Health systems agency" means a health systems agency as
12 defined in section 2 of P. L. 1971, c. 136 (C. 26:2H-2).

13 f. "Local health planning" means planning by a corporation
14 *[of]* *pertaining to* health care *[facilites]* *facilities* and
15 *[a health care]* services *which are* located in or serving a
16 specific geographical area designated by the commissioner.

17 *g. "Provider of health care" means a provider of health care as
18 defined in section 2 of P. L. 1971, c. 136 (C. 26:2H-2).*

1 2. The commissioner shall establish a program to provide local
2 health planning on a Statewide basis in a minimum of three specific
3 geographical areas to be designated by the commissioner, each of
4 which *[should]* *shall, to the extent possible,* include sufficient

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted November 17, 1986.**

****—Assembly committee amendments adopted January 8, 1987.**

5 resources to provide a comprehensive range of health care facilities
6 and services. The commissioner shall consider the compatibility of
7 social, economic, transportation and geographic characteristics in
8 determining the areas to be designated.

1 3. a. The commissioner shall establish requirements for the
2 composition of the governing body of each corporation and shall
3 specify, under the terms of an agreement with the corporation
4 for the awarding of a grant pursuant to subsection c. of this sec-
5 tion, those functions which the corporation at a minimum shall
6 perform.

7 b. The commissioner shall approve a corporation within each
8 of the geographical areas designated by the commissioner, pur-
9 suant to section 2 of this act, to provide local health planning in
10 that geographical area.

11 c. The commissioner, on January 1, 1987, and annually there-
12 after, shall award to each corporation a grant of such monies as
13 shall be determined by the commissioner, except that the grant
14 shall be no less than ***[20]* *12*** cents per capita.

15 d. The membership of the governing body of each corporation
16 approved by the commissioner pursuant to subsection b. of this
17 section shall be composed of consumers and providers of health
18 care who reside or have their principal place of business within
19 the geographical area designated by the commissioner, except that
20 no less than 51% but no more than 60% of the members shall be
21 persons who are not providers of health care.

1 ****[4.** The Department of Health, to effectuate the provisions and
2 purposes of this act, may charge health care facilities which are li-
3 censed by the department pursuant to P. L. 1971, c. 136 ***(C.**
4 **25:2H-1)* *(C. 26:2H-1* et seq.)* [,]*** reasonable fees ***[which]* ***
5 *These fees** are eligible for reimbursement by third party payers,
6 the aggregate annual amount of which shall not exceed ***[25]* *12***
7 cents per capita during each fiscal year. The commissioner shall
8 develop an equitable method of determining the fees to be assessed
9 each health care facility. **A corporation may charge an additional*
10 *fee, in an amount established by the commissioner, for review of a*
11 *certificate of need application submitted to the corporation.*]***

1 ***[5.** If, during fiscal year 1987, there is a termination or reduction
2 of federal funds for health systems agencies, funds shall be pro-
3 vided, in an amount to be determined by the commissioner, to
4 operate the health systems agencies until the local health planning
5 program established pursuant to this supplementary act begins
6 operating.]*

1 **[6.]** **[*5.*]** **4.** a. Except as provided in subsection c. of
 2 this section, a corporation shall not, by reason of the performance
 3 of any duty, function or activity, required of, or authorized to be
 4 undertaken by the corporation pursuant to this act, be held civilly
 5 or criminally liable if the member of the governing body of the cor-
 6 poration or any employee of the corporation who acted on behalf of
 7 the corporation in the performance of that duty, function, or activity
 8 acted within the scope of his duty, function or activity as a member
 9 of the governing body, or as an employee of the corporation, exer-
 10 cised due care and acted without malice toward any person affected
 11 thereby.

12 b. Except as provided in subsection c. of this section, a member
 13 of the governing body of a corporation or an employee of the cor-
 14 poration shall not by reason of that person's performance on be-
 15 half of the corporation of any duty, function, or activity required
 16 of, or authorized to be undertaken by the corporation pursuant
 17 to this act, be held civilly or criminally liable if that person * [be-
 18 lieved he was acting] * *acted* within the scope of his duty, function,
 19 or activity as a member of the governing body, or as an employee of
 20 the corporation, and with respect to the performance of that duty,
 21 function or activity, without gross negligence or malice toward any
 22 person affected thereby.

23 c. The provisions of subsections a. and b. of this section do
 24 not apply with respect to a civil action for bodily injury to an
 25 individual, or to physical damage to property brought against a
 26 corporation or a member of the governing body of the corporation
 27 or employee of the corporation.

1 **[7.]** **[*6.*]** **5.** The commissioner, pursuant to the "Ad-
 2 ministrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et
 3 seq.), shall adopt such rules and regulations as are necessary to
 4 effectuate the purposes of this act.

1 **6. *There is appropriated \$250,000.00 from the General Fund to*
 2 *the Department of Health to effectuate the purposes of this act.***

1 **[8.]** **7.** This act shall take effect immediately **[*and shall
 2 *expire two years thereafter*]***.

HEALTH PLANNING AND COST CONTAINMENT

Establishes local health planning program and appropriates
 \$250,000.00.

8 acted within the scope of his duty, function or activity as a member
 9 of the governing body, or as an employee of the corporation, exer-
 10 cised due care and acted without malice toward any person affected
 11 thereby.

12 b. Except as provided in subsection c. of this section, a member
 13 of the governing body of a corporation or an employee of the cor-
 14 poration shall not by reason of that person's performance on be-
 15 half of the corporation of any duty, function, or activity required
 16 of, or authorized to be undertaken by the corporation pursuant
 17 to this act, be held civilly or criminally liable if that person believed
 18 he was acting within the scope of his duty, function, or activity as
 19 a member of the governing body, or as an employee of the corpora-
 20 tion, and with respect to the performance of that duty, function or
 21 activity, without gross negligence or malice toward any person
 22 affected thereby.

23 c. The provisions of subsections a. and b. of this section do
 24 not apply with respect to a civil action for bodily injury to an
 25 individual, or to physical damage to property brought against a
 26 corporation or a member of the governing body of the corporation
 27 or employee of the corporation.

1 7. The commissioner, pursuant to the "Administrative Pro-
 2 cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt
 3 such rules and regulations as are necessary to effectuate the pur-
 4 poses of this act.

1 8. This act shall take effect immediately.

STATEMENT

This bill establishes a Statewide local health planning program in the Department of Health to provide citizen participation in the development of health care facilities and services. The program would operate through a private nonprofit corporation approved by the Commissioner of Health in each of at least three specific geographical areas designated by the commissioner. The bill establishes a funding mechanism, through the equitable assessment of fees from health care facilities Statewide, to enable the Department of Health to provide grants to the approved corporations to implement the health planning program. Each corporation shall have a governing board composed of consumers and providers of health care who reside or have their principal place of residence within the designated geographical area.

The bill also provides that if federal funds for health systems

agencies (HSAs) are terminated or reduced during fiscal year 1987, funds shall be provided, in an amount to be determined by the Commissioner of Health, to operate the HSAs until the local health planning program established under this bill begins operating.

HEALTH PLANNING AND COST CONTAINMENT

Establishes local health planning program.

ASSEMBLY HEALTH AND HUMAN RESOURCES
COMMITTEE

STATEMENT TO

SENATE, No. 2372

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 1987

The Assembly Health and Human Resources Committee reports favorably Senate Bill No. 2372 OCR with committee amendments.

As amended by the committee, this bill establishes a program within the Department of Health to provide local health planning on a State-wide basis.

The amended bill directs the Commissioner of Health to designate at least three specific geographic areas in the State, each of which includes, to the extent possible, sufficient resources to provide a comprehensive range of health care facilities and services. The commissioner shall also approve a private, nonprofit corporation within each area to conduct local health planning.

The bill further directs the Commissioner of Health to establish requirements for the governing bodies of the local health planning corporations and provides that at least 51%, but not more than 60%, of the members of each governing body shall be persons who are not providers of health care.

The committee amendments delete section 4 of the bill which provided that the Department of Health may charge health care facilities 12 cents per capita to fund the health planning program and that the health planning corporations may charge an additional fee for reviewing certificate of need applications. The committee believes that the department should request an appropriation of monies from the General Fund to meet the costs of this program, rather than shifting these costs to health care payers (thereby increasing health insurance premiums for certain individuals and groups) who are already bearing the costs of providing uncompensated care in New Jersey's acute care hospitals through an additional charge on the bills that they pay. The committee believes that, in the absence of federal funding which has supported local health planning in the past, a continuation of this program is a State responsibility which should be borne by all New Jersey residents, rather than by health care payers alone.

The committee also amended the bill to provide a \$250,000.00 appropriation to the Department of Health to fund the local health planning program during the remainder of Fiscal Year 1987.

Finally, the committee amendments delete the sunset clause which provided that the bill would expire after two years.

As amended by the committee, this bill is identical to Assembly Bill No. 3022 Aca (Kern), which the committee also reported favorably on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2372

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[ASSEMBLY REPRINT]

STATE OF NEW JERSEY

DATED: MARCH 9, 1987

The Assembly Appropriations Committee favorably reports Senate Bill No. 2372 (OCR) (AR).

This bill establishes a program to provide local health planning on a Statewide basis in the Department of Health. At least three specific geographic areas are to be designated by the Commissioner of Health to provide a comprehensive range of health care facilities and services. The commissioner shall approve a private, nonprofit corporation within each area to conduct local health planning.

FISCAL IMPACT:

There is an appropriation from the General Fund to the Department of Health in the amount of \$250,000.00.

This bill is identical to Assembly Bill No. 3022 (OCR).

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2372

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1986

The Senate Revenue, Finance and Appropriations Committee reported this bill favorably.

This bill establishes a two year program within the Department of Health to provide local health planning on a Statewide basis.

The bill directs the Commissioner of Health to designate at least three specific geographic areas in the State, each of which includes, to the extent possible, sufficient resources to provide a comprehensive range of health care facilities and services. The commissioner shall also approve a private, nonprofit corporation within each area to conduct local health planning. The Department of Health is authorized to fund the local health planning program from fees charged to licensed health care facilities throughout the State, the aggregate amount of which fees shall not exceed 12 cents per capita during each fiscal year.

The bill directs the Commissioner of Health to establish requirements for the governing bodies of the local health planning corporations and provides that at least 51%, but not more than 60%, of the members of each governing body shall be persons who are not providers of health care. The local health planning corporations will be funded through grants awarded by the commissioner. These grants shall be in an amount which is not less than 12 cents per capita. To provide additional funding for their planning activities, the bill also permits the corporations to charge a fee, in an amount established by the commissioner, for review of certificate of need applications submitted to the corporation.

This bill continues a federally-authorized program, the funding for which expires January 1, 1987.

FISCAL IMPACT:

This bill makes no appropriation, but authorizes the Department of Health to impose fees on health care facilities and to distribute the proceeds as grants to local health planning corporations. If imposed at the maximum 12 cents per capita rate, these fees would generate approximately \$900,000.00. This bill also authorizes the corporations to impose unspecified fees for review of certificate of need applications.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

SENATE, No. 2372

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 17, 1986

The Senate Institutions, Health and Welfare Committee favorably reports Senate Bill No. 2372 with committee amendments.

As amended by committee, this bill establishes a two-year program within the Department of Health to provide local health planning on a Statewide basis.

The bill directs the Commissioner of Health to designate at least three specific geographic areas in the State, each of which includes to the extent possible, sufficient resources to provide a comprehensive range of health care facilities and services. The commissioner shall also approve a private, nonprofit corporation within each area to conduct local health planning. The Department of Health is authorized to fund the local health planning program from fees charged to licensed health care facilities throughout the State, the aggregate amount of which fees shall not exceed 12 cents per capita during each fiscal year.

The bill directs the Commissioner of Health to establish requirements for the governing bodies of the local health planning corporations and provides that at least 51%, but not more than 60%, of the members of each governing body shall be persons who are not providers of health care. The local health planning corporations will be funded through grants awarded by the commissioner. These grants shall be in an amount which is not less than 12 cents per capita. The corporations will also receive funding for their planning activities through fees charged for review of certificate of need applications.

The committee amended the bill to clarify that the geographical areas designated by the commissioner "shall, to the extent possible," instead of "should" as the bill originally provided, include sufficient resources to provide a comprehensive range of health care facilities and services. Other committee amendments reduce the minimum amount of the grant the commissioner shall award to the corporations from 20 cents per capita to 12 cents per capita and reduce the maximum aggregate amount the department may charge health care facilities to fund the health planning program from 25 cents per capita to 12 cents per capita.

The amendments, however, insert a provision which permits the corporations to charge a fee, in an amount established by the commissioner, for review of certificate of need applications submitted to the corporation. The amendments also delete section 5 of the bill which provided that if federal funds for health systems agencies (HSAs), the State's current local planning agencies, were terminated or reduced during FY 1987, the Department of Health would provide funds, in an amount determined by the commissioner, to operate the HSAs until the local health planning program established in this bill began operating.

The committee also added a sunset clause which provides that the bill shall expire in two years. Other amendments add a definition of the term "provider of health care" which is the same as that presently used in the "Health Care Facilities Planning Act," clarify the definition of "local health planning," and clarify the immunity from civil and criminal liability provisions for members of the governing body and employees of a corporation by providing the same standard for determining the immunity of these individuals as that for the corporation.

This bill is similar to Assembly Bill No. 3022 (Kern), which is currently pending before the General Assembly Health and Human Resources Committee.
