LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2790

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 31, 2020

SUMMARY

Synopsis: Establishes certain requirements concerning State's preparedness and response to infectious disease outbreaks, including coronavirus disease 2019 (COVID-19) pandemic.

Type of Impact: One-time and annual increases in State and local expenditures; potential periodic increase in State revenue.

Agencies Affected: Department of Health; Department of Military and Veterans Affairs; Department of Human Services; University Hospital; certain county governments.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Increase	Indeterminate
Potential State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate increase in annual costs incurred by the Department of Health (DOH) in establishing the Long-Term Care Emergency Operations Center (LTCEOC) and in fulfilling the LTCEOC's duties, as outlined in the bill, to the extent that the department cannot minimize such costs with existing resources and staff. The OLS notes that any costs associated with the LTCEOC will be limited to expenses realized during a public health emergency affecting or likely to affect one or more long-term care (LTC) facilities, the trigger for making the LTCEOC operational.

- The DOH may realize certain one-time cost increases under the bill due to, for example, instituting a regional medical coordination center model and providing grants to LTC facilities regarding electronic health records (EHR) systems. The bill, however, provides for certain provisions that may minimize or eliminate some of the department's expenses.

- The OLS estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur minimal periodic expenses in

complying with the reporting and infectious disease protocol requirements outlined in the bill, as such provisions largely codify existing directives issued by the DOH. Such facilities may also incur costs in upgrading the facility's EHR systems, to the extent that these facilities do not currently meet the standards outlined in the bill and are not awarded grants made available for such purposes by the DOH, as provided for in the bill.

- The University Hospital, as a Level 1 trauma center and an independent non-profit legal entity that is an instrumentality of the State located in Newark, may incur certain costs in making clinical and non-clinical content experts available for consultation and support within the regional medical coordination center model established by the DOH under the bill.

- A provision imposing penalties on LTC facilities that fail to report certain information, as required under this bill, may increase State revenues by an indeterminate amount. As the number of facilities that may be penalized is unpredictable, the OLS is unable to determine the value of any revenue increase.

BILL DESCRIPTION

This bill establishes the LTCEOC in the DOH, which will serve as the centralized command and resource center for LTC facility response efforts and communications during any declared public health emergencies affecting or likely to affect one or more LTC facilities. The LTCEOC is to enhance and integrate with existing emergency response systems.

The DOH will have primary responsibility for the operations of the LTCEOC, but the Department of Human Services (DHS) and other appropriate State agencies are to provide any staff support requested by the DOH. The DOH may additionally contract with a third party entity to provide staffing services as needed. At a minimum, the LTCEOC will be required to have on call at all times such appropriate staff and consultants as are needed to respond to an emerging or ongoing outbreak, epidemic, or pandemic.

The primary responsibilities of the LTCEOC will include, but shall not be limited to:

(1) establishing ongoing, direct communication with the owners and staff of LTC facilities and with associated entities during a public health emergency, which may include the use of existing communication mechanisms and feedback loops in the DOH's Office of Disaster Resilience or Health Systems branch, as appropriate;

(2) providing technical assistance to the LTC industry during the public health emergency, which may be facilitated through local health departments;

(3) ensuring supplies and equipment needed to respond to the public health emergency are acquired and distributed in an effective and efficient manner among LTC facilities;

(4) utilizing the National Healthcare Safety Network (NHSN) database managed by the federal Centers for Disease Control and Prevention to identify shortages in staff and necessary equipment, monitor facility capacity levels, and track positive cases and deaths resulting from infectious diseases; and

(5) ensuring all policies and guidance developed by the DOH in response to the public health emergency are effectively communicated to all LTC industry stakeholders.

Additionally, the bill requires the LTCEOC to: 1) in consultation with other State offices, determine whether it is necessary to establish regional hubs capable of accepting LTC patients who have, and are capable of transmitting, the infectious disease and who do not require hospitalization; and 2) actively monitor capacity levels at LTC facilities and regional hubs in the event of a surge in number of identified cases of the infectious disease.

The bill requires the DOH to: 1) institute, and to identify the appropriate sources of funding to implement, a regional medical coordination center model, which must include the Level 1 trauma center in a region, for disaster response to facilitate regional capacity coordination and communication in the event of a public health emergency involving a communicable disease outbreak, epidemic, or pandemic; 2) establish a mechanism for hospitals to identify LTC facilities that are currently accepting residents for admission or readmission to the facility; 3) make grants available to LTC facilities to provide assistance in implementing or upgrading to an EHR system, subject to the availability of funding; and 4) prepare and submit a report to the Governor and the Legislature concerning the implementation the bill and any recommendations for action.

The bill requires LTC facilities, during an infectious disease outbreak occurring at the LTC facility or an epidemic or pandemic affecting or likely to affect the long-term care facility, to: 1) separate residents who have tested positive for or who are suspected of having contracted the infectious disease from other residents and to comply with any related guidance or protocols; and 2) report certain information regarding the facility's response to the infectious disease to the NHSN database, at least twice per week, or otherwise be liable to a civil penalty of $2,000 for each report that is not submitted. Outside of an infectious disease outbreak, an LTC is required to 1) include in the facility's statutorily-required outbreak response plan a documented strategy for securing more staff in the event that an outbreak of an infectious disease affects staffing levels at the facility; and 2) implement or upgrade to an EHR system, as described in the bill. During each influenza season, LTC facilities and home health employers will be required to report to the NHSN database certain information regarding the receipt of the influenza vaccination by employees.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in an indeterminate increase in annual costs incurred by the DOH in establishing the LTCEOC and in fulfilling the LTCEOC's duties, as outlined in the bill. These cost will be minimized to the extent that the department can: 1) reallocate resources from existing entities, such as the DOH's Office of Disaster Resilience or Health Systems branch; 2) request and receive staff support from the DHS or other State agencies, as provided for in the bill; and 3) use existing communications mechanisms, as well as any overlap with current department duties, to fulfill the provisions of the bill. The OLS notes that any costs associated with the LTCEOC will be limited to expenses realized during a public health emergency affecting or likely to affect one or more LTC facilities, the trigger for making the LTCEOC operational.

The OLS finds that the DOH may realize certain one-time cost increases under the bill in: instituting a regional medical coordination center model; establishing a mechanism for hospitals to identify LTC facilities receiving admissions; providing grants to LTC facilities regarding EHR systems; and complying with the reporting requirements established under the bill. The bill provides for certain provisions that may minimize or eliminate some of the department's expenses under the bill. For example, the DOH is authorized to identify and use non-State funds to implement the regional medical coordination center model. In addition, grants for EHR systems are subject to available funding.

The OLS estimates that nursing homes operated by the DMAVA and certain county governments may incur minimal expenses in complying with the reporting and infectious disease protocol requirements outlined in the bill, as such provisions largely codify existing directives issued by the department. For example, Executive Directive No. 20-026 requires all LTC facilities to report, at a minimum twice per week, COVID-19 cases, facility staffing, and supply information to the NHSN Long-Term Care Facility COVID-19 Module and reinforces DOH guidance regarding the separation of COVID-19 positive and negative residents.[1]

Nursing homes operated by the DMAVA and certain county governments may also incur costs in upgrading the facility's EHR systems, to the extent that such facilities do not currently meet the standards outlined in the bill. The OLS notes that the bill directs the DOH to award grants, subject to availability, to LTC facilities to provide assistance in upgrading an EHR system, which may minimize the impact of this provision on the above facilities. Currently, the DMAVA operates three facilities, while there are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

The OLS estimates that the University Hospital, as a Level 1 trauma center and an independent non-profit legal entity that is an instrumentality of the State located in Newark, may incur certain costs in making clinical and non-clinical content experts available for consultation and support within the regional medical coordination center model. As the scope of the University Hospital's role in the regional model is to be determined upon the enactment of the bill, the OLS cannot predict the cost of this provision.

A provision imposing penalties on LTC facilities that fail to report certain information, as required under this bill, may increase State revenues by an indeterminate amount. As the number of facilities that may be penalized is unpredictable, the OLS is unable to determine the value of any revenue increase.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

[1] https://www.state.nj.us/health/legal/covid19/8-20_ExecutiveDirectiveNo20-026_LTCResumption_of_Svcs.pdf