



# House of Representatives

General Assembly

**File No. 343**

February Session, 2022

Substitute House Bill No. 5449

*House of Representatives, April 6, 2022*

The Committee on Insurance and Real Estate reported through REP. WOOD, K. of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CERTIFICATES OF NEED.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) No health care provider  
2 required to receive approval for a certificate of need to build a new  
3 facility or expand an existing facility pursuant to chapter 368z of the  
4 general statutes shall break ground on any new facility or expansion of  
5 an existing facility until the health care provider is in receipt of approval  
6 pursuant to said chapter.

7 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) The State of Connecticut  
8 Health and Educational Facilities Authority shall not issue a bond to a  
9 health care provider when such provider is required to obtain approval  
10 for a certificate of need to build a new facility or expand an existing  
11 facility pursuant to chapter 368z of the general statutes, unless the  
12 authority has reviewed a capital budget with recommendations  
13 provided by the Office of Health Strategy.

14 (b) The Office of Health Strategy, in making recommendations to the

15 State of Connecticut Health and Educational Facilities Authority  
16 pursuant to subsection (a) of this section, shall assess the reasonableness  
17 of the budget and the projected impact to the health care market and  
18 pricing in the area.

19 Sec. 3. Subsection (a) of section 19a-639a of the general statutes is  
20 repealed and the following is substituted in lieu thereof (*Effective October*  
21 *1, 2022*):

22 (a) An application for a certificate of need shall be filed with the unit  
23 in accordance with the provisions of this section and any regulations  
24 adopted by the Office of Health Strategy. The application shall address  
25 the guidelines and principles set forth in (1) subsection (a) of section 19a-  
26 639, and (2) regulations adopted by the department. The applicant shall  
27 include with the application a nonrefundable application fee [of five  
28 hundred dollars] based on the cost of the project. The amount of the fee  
29 shall be as follows: (A) One thousand five hundred dollars for a project  
30 that will cost not greater than fifty thousand dollars; (B) two thousand  
31 five hundred dollars for a project that will cost greater than fifty  
32 thousand dollars but not greater than one hundred thousand dollars;  
33 (C) five thousand dollars for a project that will cost greater than one  
34 hundred thousand dollars but not greater than five hundred thousand  
35 dollars; (D) ten thousand dollars for a project that will cost greater than  
36 five hundred thousand dollars but not greater than one million dollars;  
37 (E) fifteen thousand dollars for a project that will cost greater than one  
38 million dollars but not greater than five million dollars; (F) twenty  
39 thousand dollars for a project that will cost greater than five million  
40 dollars but not greater than ten million dollars; and (G) twenty-five  
41 thousand dollars for a project that will cost greater than ten million  
42 dollars.

43 Sec. 4. (*Effective from passage*) (a) (1) The Office of Health Strategy shall  
44 conduct a study concerning certificates of need, required pursuant to  
45 chapter 368z of the general statutes, in the state.

46 (2) Not later than January 15, 2023, the Office of Health Strategy shall  
47 submit a report, in accordance with the provisions of section 11-4a of the

48 general statutes, concerning the results of such study to the joint  
49 standing committee of the General Assembly having cognizance of  
50 matters relating to insurance.

51 (b) The report shall consider and make recommendations concerning  
52 the following matters:

53 (1) The institution of a price increase cap that is tied to the cost growth  
54 benchmark for consolidations;

55 (2) Guaranteed local representation of communities on hospital  
56 boards;

57 (3) Changes to the Office of Health Strategy's long-term, state-wide  
58 health plan to include an analysis of services and facilities and the  
59 impact of such services and facilities on equity and underserved  
60 populations;

61 (4) Setting standards for measuring quality as a result of a  
62 consolidation;

63 (5) Enacting higher penalties for noncompliance and increasing the  
64 staff needed for enforcement;

65 (6) The Attorney General's authority to stop activities as the result of  
66 a certificate of need application or complaint;

67 (7) The ability of representatives of the workforce and the community  
68 to intervene or appeal decisions;

69 (8) Giving the Office of Health Strategy the authority to require an  
70 ongoing investment to address community needs; and

71 (9) Capturing lost property taxes from hospitals that have converted  
72 to nonprofit entities.

This act shall take effect as follows and shall amend the following sections:

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Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2022</i>	New section
Sec. 3	<i>October 1, 2022</i>	19a-639a(a)
Sec. 4	<i>from passage</i>	New section

**INS**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
UConn Health Ctr.	GF - Cost	See Below	See Below
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	30,195	30,195
Office of Health Strategy	GF - Revenue Gain	250,000	250,000
Office of Health Strategy	GF - Cost	574,500	74,500

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

This bill addresses matters concerning the state's certificate of need (CON) program for health care institutions, which is administered by the Office of Health Strategy (OHS).

OHS will need to hire one fiscal analyst position, with a salary of \$74,500, to review the capital budget presented by a health care facility seeking financing from Connecticut Health and Educational Facilities Authority (CHEFA). OHS does not currently have staff with the specialized expertise required to project the impact on the health care market and pricing.

The bill also changes the CON application fee from \$500 to a range of \$1,500 to \$25,000 depending on the proposed project's cost. Based on a

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

four-year average of CON proposals, the bill's fee schedule is anticipated to generate an additional \$250,000 in annual revenue. The current fee of \$500 generates approximately \$12,500 annually.

This increase in the application fee results in a cost to UConn Health Center each time the entity applies for a CON. The health center expects to apply for one CON in either FY 23 or FY 24. The cost will be equal to the difference between the current fee (\$500) and the new fees based on project costs (\$1,000 to \$25,000).

Lastly, the bill requires OHS to study the state's CON program and submit a report to the Insurance and Real Estate Committee by January 15, 2023. OHS will need to hire a one-time consultant as the scope of this study is outside staff's areas of expertise. The cost for a consultant to complete this study in the limited eight-month timeframe is estimated to be \$500,000.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5449*****AN ACT CONCERNING CERTIFICATES OF NEED.*****SUMMARY**

This bill addresses matters concerning the state's certificate of need (CON) program for health care institutions, which is administered by the Office of Health Strategy's (OHS) Health Systems Planning Unit. Under the CON law, health care facilities (e.g., hospitals, freestanding emergency departments, and outpatient surgical facilities) must generally receive state approval when (1) establishing new facilities or services, (2) changing ownership, (3) acquiring certain equipment, or (4) terminating certain services.

Primarily, the bill does the following:

1. prohibits a health care provider from breaking ground on a new or expanded facility unless OHS has approved a CON;
2. increases the CON application fee from \$500 to a range of \$1,500 to \$25,000 depending on the proposed project's cost;
3. prohibits the Connecticut Health and Educational Facilities Authority (CHEFA) from issuing a bond to a health care provider who needs an approved CON for a new or expanded facility unless CHEFA has reviewed a capital budget with recommendations from OHS;
4. requires OHS, when making recommendations to CHEFA, to assess the capital budget's reasonableness and the projected impact to the area's health care market and pricing; and
5. requires OHS to study the state's CON program and submit a report to the Insurance and Real Estate Committee by January 15,

2023, with recommendations on specified matters.

EFFECTIVE DATE: Upon passage, except the application fee and CHEFA-related provisions are effective October 1, 2022.

**APPLICATION FEE**

The bill increases the CON nonrefundable application fee from \$500 to a range of \$1,500 to \$25,000 depending on the proposed project’s cost, as shown in Table 1 below.

**Table 1: CON Application Fees under the Bill**

<b>Application Fee</b>	<b>Project Cost</b>
\$1,500	Up to \$50,000
\$2,500	>\$50,000 and up to \$100,000
\$5,000	>\$100,000 and up to \$500,000
\$10,000	>\$500,000 and up to \$1 million
\$15,000	>\$1 million and up to \$5 million
\$20,000	>\$5 million and up to \$10 million
\$25,000	>\$10 million

**OHS CON STUDY**

Under the bill, OHS must study the state’s CON program and submit a report to the Insurance and Real Estate Committee by January 15, 2023. The report must consider and make recommendations on the following:

1. instituting a price increase cap tied to the cost growth benchmark for consolidations,
2. guaranteeing local community representation on hospital boards,
3. changing OHS’ long-term statewide health plan to include an analysis of services and facilities and their impact on equity and underserved populations,
4. setting standards for measuring quality as a result of a

consolidation,

5. enacting higher penalties for noncompliance and increasing enforcement staff;
6. the attorney general’s authority to stop activities as a result of a CON application or complaint,
7. the ability of workforce and community representatives to intervene or appeal decisions,
8. giving OHS authority to require an ongoing investment to address community needs, and
9. capturing lost property taxes from hospitals that have converted to nonprofit entities.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/22/2022)