

at this point it has never upheld the Health Department denial of a decision on certificate of need. They have always reversed Health Department denials of certificate of need applications, and it has cost the state at least \$2 million and at this point looks like potentially more millions of dollars in denials in health care expenditures that the Health Department did not find justified but which the appeal board overturned. It has been one of the weaknesses in our present law, the Certificate of Need law, if it does have some weaknesses this would be one of the strongest that needs to be strengthened for the process to work more efficiently and effectively. The appeal board is made up I believe at this time of three general citizens and two providers, and what we have found in the cases of the HSAs in some instances and other citizen boards is that frequently even though the citizens may have a slight majority on a board they seem to be dominated by the providers that serve on that board or the special interest representatives on whatever board we are talking about. We have seen this time and again throughout state government and federal government. The appeal board is no different than that and the fact is that the examples we have had over the past couple years indicate that is the case. Every time the Health Department gets a CON application they will...if they do take the step of denying it, and on those few occasions where they have appealed the appeal board has always said, no, the Health Department is wrong, we overturned the Health Department, you are given the certificate of need. Now the Health Department doesn't have authority at this time to appeal those appeal board decisions but the health providers who let's say by some stroke of fancy they should turn down a provider's application, the provider could then go to the court, but the Health Department every time they get turned down cannot go to the court, and that is one of the key elements in this bill that we are going to be talking about in the next amendment as well. What they have done is set up a system that has all the benefits going to those applying for certificate of need and they have made it very, very difficult for those who try to deny applications for certificate of need. With the Cullan amendments what you have is you have the provider wanting to have this new hospital or a new hospital addition or a new piece of equipment, or whatever. They would go to the Health Department and they would then have an adversarial relationship before this review committee that would be set up. Now if the review committee said, well, we uphold the Health Department, then the provider could have a second choice and go up to the appeal board and say, look, this review committee turned us down but we appeal to you and want you to turn down the Health Department's denial. Okay, the