

# MAINE STATE LEGISLATURE

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FLS

Min

L.D. 1395

Date: 6/1/19 Minority

(Filing No. H-497)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 974, L.D. 1395, Bill, "An Act To Amend the Maine Certificate of Need Act of 2002"

Amend the bill by striking out all of section 3.

Amend the bill in section 4 in subsection 16 in the 3rd line (page 1, line 31 in L.D.) by striking out the following: "\$1,200,000" and inserting the following: '\$1,200,000 \$1,600,000'

Amend the bill in section 5 in paragraph C in the 2nd line (page 2, line 12 in L.D.) by striking out the following: "\$1,200,000" and inserting the following: '\$1,200,000 \$1,600,000'

Amend the bill by striking out all of sections 6 to 8 and inserting the following:

'Sec. 6. 22 MRSA §329, sub-§2-A, ¶B, as enacted by PL 2007, c. 440, §3, is amended to read:

B. The following acquisitions of major medical equipment do not require a certificate of need:

(1) Major medical equipment being replaced by the owner, as long as the replacement cost is less than \$2,000,000; and

(2) The use of major medical equipment on a temporary basis in the case of a natural disaster, major accident or major medical equipment failure.

Sec. 7. 22 MRSA §329, sub-§3, as amended by PL 2007, c. 681, §3, is further amended to read:

3. Capital expenditures. Except as provided in subsection 6, the obligation by or on behalf of a health care facility of any capital expenditure of \$2,400,000 \$3,100,000 or more. Capital expenditures in the case of a natural disaster, major accident or equipment failure or for replacement equipment that is not major medical equipment as defined in section 328, subsection 16 or for parking lots and garages, information and communications systems and or physician office space do not require a certificate of

COMMITTEE AMENDMENT

R. & S.

1 need. Beginning September 30, 2004 and annually thereafter through 2007, the threshold  
2 amount for review must be updated by the commissioner to reflect the change in the  
3 Consumer Price Index medical index. Beginning January 1, 2009 and annually  
4 thereafter, the threshold amount for review must be updated by the commissioner to  
5 reflect the change in the Consumer Price Index medical index, with an effective date of  
6 January 1st each year.'

7 Amend the bill by striking out all of sections 10 to 13.

8 Amend the bill in section 14 in subsection 6 by striking out all of the first paragraph  
9 (page 3, lines 24 to 28 in L.D.) and inserting the following:

10 '6. **Maintenance of the record.** The record created pursuant to subsection 5-A first  
11 opens on the day the department receives a letter of intent certificate of need application.  
12 From that day, all of the record is a public record, and any except that the letter of intent  
13 becomes a public record upon the receipt of the letter and is available for review from the  
14 date of receipt. Any person may examine that all or part of the public record and  
15 purchase copies of any or all of that record during the normal business hours of the  
16 department.'

17 Amend the bill by inserting after section 14 the following:

18 'Sec. 15. 22 MRSA §336, sub-§5 is enacted to read:

19 5. Major medical equipment. The commissioner shall issue a certificate of need  
20 for replacement of major medical equipment that is otherwise exempt from review  
21 pursuant to section 329, subsection 2-A, paragraph B, subparagraph (1) upon determining  
22 that a project meets the requirements of section 335, subsection 7.'

23 Amend the bill by striking out all of section 18 and inserting the following:

24 'Sec. 18. 22 MRSA §343, as enacted by PL 2001, c. 664, §2, is amended to read:

25 **§343. Public information**

26 The department shall prepare and publish at least annually a report on its activities  
27 conducted pursuant to this Act. The annual report must include information on all  
28 certificates of need granted and denied and on the assessment of penalties. With regard to  
29 all certificates granted on a conditional basis, the report must include a summary of  
30 information reported pursuant to section 332 and any accompanying statements by the  
31 commissioner or department staff submitted regarding the reports.

32 **Sec. 19. 22 MRSA §350**, as enacted by PL 2001, c. 664, §2, is repealed and the  
33 following enacted in its place:

34 **§350. Penalty**

35 1. Violation. An individual, partnership, association, organization, corporation or  
36 trust that violates any provision of this chapter or any rate, rule or regulation pursuant to  
37 this chapter is subject to a fine imposed in conformance with the Maine Administrative  
38 Procedure Act and payable to the State of not more than \$10,000. The department may  
39 hold these funds in a special revenue account that may be used only to support certificate  
40 of need reviews, such as for hiring expert analysts on a short-term consulting basis.

P. & S.

1 2. Administrative hearing and appeal. To contest the imposition of a fine under  
2 this section, the individual, partnership, association, organization, corporation or trust  
3 shall submit to the department a written request for an administrative hearing within 10  
4 days of notice of imposition of a fine pursuant to this section. Judicial appeal must be in  
5 accordance with Title 5, chapter 375, subchapter 7.'

6 Amend the bill by striking out all of section 20.

7 Amend the bill by striking out all of section 22.

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
9 section number to read consecutively.

10 **SUMMARY**

11 This amendment is the minority report of the committee. The amendment changes the  
12 bill by:

13 1. Retaining the current exemption from certificate of need for medical office  
14 buildings owned or subsidized by a hospital or a hospital's parent company;

15 2. Bringing the threshold amounts up to the current levels, which brings the  
16 thresholds for major medical equipment and new technology to \$1,600,000 and the  
17 threshold for capital expenditures to \$3,100,000;

18 3. Retaining the exemption from the certificate of need requirements for the  
19 replacement of major medical equipment by the owner and instead applying a threshold  
20 of \$2,000,000 for review;

21 4. Applying a simplified review process for major medical equipment that costs  
22 more than \$2,000,000;

23 5. Including replacement equipment that is not major medical equipment in the list of  
24 capital equipment that does not require a certificate of need;

25 6. Removing provisions in the bill related to energy-efficient projects for nursing  
26 facilities;

27 7. Lowering the proposed increase in the penalty for violations from \$50,000 to  
28 \$10,000; and

29 8. Removing the provision for a combined application for applicants seeking both a  
30 certificate of need and a certificate of public advantage.

**FISCAL NOTE REQUIRED**  
(See attached)



# 124th MAINE LEGISLATURE

LD 1395

LR 545(03)

An Act To Amend the Maine Certificate of Need Act of 2002

Fiscal Note for Bill as Amended by Committee Amendment "B"  
Committee: Health and Human Services  
Fiscal Note Required: Yes

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## Fiscal Note

Minor revenue increase - Other Special Revenue Funds

### Fiscal Detail and Notes

The Department of Health and Human Services may experience a minor increase in Other Special Revenue Funds revenue from penalties.