

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 206

H.P. 165 House of Representatives, February 3, 1987
Reference to the Committee on Human Resources suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative ROLDE of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Amend the Certificate of Need
2 Process with Respect to Nursing Homes
3 to Increase the Threshold for Review
4 with Respect to Capital Expenditures
5 and to Provide an Inflation Adjustment
6 to the Maximum Expenditure Authorized.
7

8 Be it enacted by the People of the State of Maine as
9 follows:

10 Sec. 1. 22 MRSA §304-A, sub-§3, as enacted by PL
11 1981, c. 705, Pt. V, §16, is amended to read:

12 3. Capital expenditures. The obligation by or
13 on behalf of a health care facility of any capital
14 expenditure of \$350,000 or more, except that in the
15 case of a nursing home project the capital expendi-
16 ture minimum established by regulations of the United
17 States Department of Health and Human Services;

1 Sec. 2. 22 MRSA §317-A, sub-§2, as enacted by PL
2 1981, c. 705, Pt. V, §38, is amended to read:

3 2. Maximum expenditure. In issuing a certifi-
4 cate of need, the department shall specify the maxi-
5 mum capital expenditures which may be obligated under
6 this certificate. The department shall, by regula-
7 tions promulgated pursuant to section 312, prescribe
8 the method to be used to determine capital expendi-
9 ture maximums, establish procedures to monitor capi-
10 tal expenditures obligated under certificates and es-
11 tablish procedures to review projects for which the
12 capital expenditure maximum is exceeded or expected
13 to be exceeded.

14 The maximum capital expenditure specified by the de-
15 partment with respect to a nursing home project shall
16 be adjusted over the time from the date of issuance
17 through the date construction is concluded by an ap-
18 propriate construction cost index, as adopted in
19 rules promulgated by the department. Exceptions to
20 the standard may be obtained for good cause.

21 STATEMENT OF FACT

22 This bill makes 2 changes with respect to the
23 treatment of nursing home projects under the Maine
24 Certificate of Need Act. The bill deals only with
25 nursing homes as hospital projects raise additional
26 issues due to the relationship between the Maine Cer-
27 tificate of Need Act and the Maine Health Care Fi-
28 nance Commission laws.

29 First, the bill increases the capital expenditure
30 threshold for certificate of need review from
31 \$350,000 to the level set forth in federal regula-
32 tions. In 1979, Congress enacted a maximum permissi-
33 ble threshold of \$600,000, subject to the further re-
34 quirement that this threshold could be further in-
35 creased by regulations of the United States Depart-
36 ment of Health and Human Services, in accordance with
37 a United States Department of Commerce Composite Con-
38 struction Index. Federal legislation also stated that
39 individual states could set lower thresholds if they

1 wished. Recently, Congress removed these constraints,
2 leaving states free to establish their own certifi-
3 cate of need programs. This bill provides additional
4 leeway under the Maine program.

5 Second, the bill provides an inflation adjustment
6 to the maximum expenditure authorized for nursing
7 home projects. Under current regulations of the De-
8 partment of Human Services, subject to an exception
9 process, the maximum capital expenditure permitted is
10 the amount approved, plus the lesser of 5% or
11 \$200,000. This bill modifies this approach. This lim-
12 itation may be artificially low in the case of nurs-
13 ing home projects delayed by litigation and adminis-
14 trative process. This provides for a case escalation
15 factor based on an appropriate construction cost in-
16 dex and provides for further exceptions for good
17 cause.

18

1230012787