

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1132

S.P. 420

In Senate, March 18, 1991

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MILLS of Oxford

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Permit Timely Certificate of Need Approval of Hospital  
Projects Identified as Urgent.**

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(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain hospital certificate of need projects that address existing health needs or remedy health and safety violations are pending before the Department of Human Services and have been identified by the department as "urgent and compelling"; and

Whereas, any delay in modifying the department's authority to permit immediate approval of such projects could result in unnecessary harm to citizens; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §307, sub-§6-A, as amended by PL 1985, c. 418, §10, is further amended to read:

6-A. Review cycles. The department shall establish review cycles for the review of applications. There shall must be at least one review cycle for each type or category of project each calendar year, the dates for which shall must be published at least 3 months in advance. An application shall must be reviewed during the next scheduled review cycle following the date on which the application is either declared complete or submitted for review pursuant to section 306-A, subsection 4, paragraph B. Hospital projects which that must be considered within the constraints established by the Certificate of Need Development Account established pursuant to section 396-K may be grouped for competitive review purposes at least once each year; provided that, for minor projects, as defined by the department through rules adopted pursuant to section 312, the department shall allocate allocates a portion of the Certificate of Need Development Account for the approval of those projects and shall establish establishes at least 6 review cycles each year for the review of those projects and provided that for major hospital projects, such groupings permit approval on a priority basis of those major hospital projects that were identified by the department at the conclusion of the prior year's major cycle as urgent and compelling, but were not approved due to insufficient remaining credits in the Certificate of Need Development Account. Nursing home projects which that propose to add new nursing home beds to the inventory of nursing home beds within the State may be grouped for competitive review purposes consistent with appropriations made available for that purpose by

2 the Legislature. The department may hold an application for up to  
4 90 days following the commencement of the next scheduled review  
6 cycle if, on the basis of one or more letters of intent on file  
8 at the time the application is either declared complete or  
10 submitted for review, pursuant to section 306-A, subsection 4,  
12 paragraph B, the department expects to receive within the  
additional 90 days one or more other applications pertaining to  
similar types of services, facilities or equipment affecting the  
same health service area. Pertinent health service areas shall  
must be defined in regulations rules promulgated by the  
department pursuant to section 312, based on recommendations by  
the State Health Coordinating Council.

14 **Sec. 2. 22 MRSA §309, sub-§6,** as amended by PL 1989, c. 502,  
16 Pt. A, §65, is further amended to read:

18 **6. Hospital projects.** Notwithstanding subsections 1, 4 and  
20 5, the department may not issue a certificate of need for a  
22 project which that is subject to the provisions of section 396-D,  
24 subsection 5, and section 396-K, if the associated costs exceed  
26 the amount which that the commission has determined will have  
28 been credited to the Certificate of Need Development Account  
30 pursuant to section 396-K, after accounting for previously  
32 approved projects. A project shall may not be denied solely on  
34 the basis of exceeding the amount remaining in the Certificate of  
36 Need Development Account or Hospital Development Account in a  
38 particular payment year and shall must be held for further  
40 consideration by the department in the first appropriate review  
cycle beginning after the Certificate of Need Development Account  
or Hospital Development Account is credited with additional  
amounts. Projects-which Except as specifically set forth in this  
subsection and section 307, subsection 6-A, projects that are  
carried forward shall must compete equally with newly proposed  
projects. Those major hospital projects that were identified by  
the department at the conclusion of the prior year's major cycle  
as urgent and compelling may be approved by the department on a  
priority basis immediately following the recrediting of the  
Certificate of Need Development Account. For the purposes of  
this subsection, a project may be held for a final decision  
beyond the time frames set forth in section 307, subsection 3.

42 **Emergency clause.** In view of the emergency cited in the  
44 preamble, this Act takes effect when approved.

#### 46 STATEMENT OF FACT

48 This bill modifies provisions of the laws governing  
50 certificates of need that affect the manner in which certain  
52 major hospital projects are reviewed and approved. Under  
existing law, all so-called major projects must be grouped for a  
one-time annual review within the constraints of the Certificate

of Need Development Account. Projects that were identified by  
2 the Department of Human Services as "urgent and compelling" for  
4 which insufficient funds remain in the account must be deferred  
6 for an additional year and again face competitive review. This  
8 bill permits those projects that have already been identified as  
urgent and compelling to be approved immediately upon the  
recrediting of funds to the Certificate of Need Development  
Account.