

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1524

H.P. 1051

House of Representatives, April 16, 1991

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MANNING of Portland.

Cosponsored by Senator CONLEY of Cumberland and Senator GILL of Cumberland.

STATE OF MAINE

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

**An Act to Extend the Certificate of Need Program to All Major Medical
Equipment.**

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

2
4 Sec. 1. 22 MRSA §304-A, sub-§2, as amended by PL 1987, c. 363, §§1 and 2, is repealed and the following enacted in its place:

6 2. Acquisitions of certain major medical equipment.
7 Acquisitions of major medical equipment with a cost of \$1,000,000
8 or more. There is a waiver for the use of major medical
9 equipment on a temporary basis as provided in section 308,
10 subsection 4;

12 Sec. 2. 22 MRSA §304-A, sub-§2-A is enacted to read:

14 2-A. Establishment of independent medical centers.
15 Establishment of independent medical centers, acquiring major
16 medical equipment with a cost in the aggregate of \$1,000,000 or
17 more, including, but not limited to, independent ambulatory
18 surgical centers, independent catheterization centers and
19 independent radiologic service centers;

20 Sec. 3. 22 MRSA §396-K, sub-§3, as amended by PL 1989, c. 588,
22 Pt. A, §§34 to 39, is further amended to read:

24 3. Certificate of Need Development Account. For the 3rd
25 and subsequent payment year cycles, the commission shall
26 establish a Hospital Certificate of Need Development Account to
27 support the development of hospital facilities and services and
28 nonhospital facilities using major medical equipment that receive
29 certificates of need pursuant to section 304-A. This account
30 shall must be administered as follows.

32 A. The commission shall annually establish, by rule, the
33 amount to be credited to the Hospital Certificate of Need
34 Development Account. In establishing the amount of the
35 credit, the commission shall, at a minimum, consider:

36 (1) The State Health Plan;

38 (2) The ability of the citizens of the State to
39 underwrite the additional costs;

42 (3) The limitations imposed on payments for new
43 facilities and services by the Federal Government
44 pursuant to the United States Social Security Act,
45 Title Titles XVIII and XIX;

46 (4) The special needs of small hospitals;

48 (5) The historic needs and experience of hospitals and
50 other facilities subject to this account over the past
51 5 years;

- 2 (6) The amount in the account for the previous years
4 and the level of utilization by--hospitals in those
6 years;
8 (7) Obsolescence of physical plants;
10 (8) Technological developments; and
12 (9) Management services or other improvements in the
14 quality of care.

16 The commission shall report, no later than January 15th of
18 each year, to the joint standing committee of the
20 Legislature having jurisdiction over human resources
22 regarding the rationale the commission used in establishing
24 the amount credited to the Hospital Certificate of Need
26 Development Account in the previous year.

28 The amount to be credited in a particular payment year cycle
30 will be deemed credited to the Hospital Certificate of Need
32 Development Account as of the first day of that payment year
34 cycle.

36 B.
38 B-1. On the basis of additional information received after
40 an annual credit is established pursuant to paragraph A,
42 including information provided by the department concerning
44 the State Health Plan or projects then under review, the
46 commission may by rule increase or decrease the amount of
48 the annual credit during the course of the payment year
50 cycle to which it applies. The commission may not act under
this paragraph to decrease the credit below the amount that
would, in combination with any amounts carried over from
prior years, equal the total of any debits associated with
projects approved on or before the date that the commission
notifies the department of a proposed rule that would
decrease the credit. For any payment year cycle in which
the annual credit is apportioned to "statewide" and
"individual hospital" components, the increase or decrease
authorized by this paragraph shall ~~apply~~ applies solely to
the "statewide" component of the credit.

C. The commission shall approve an adjustment to a
hospital's financial requirements under section 396-D,
subsection 5, paragraph A, for a major or minor project if:

- (1) The project was approved by the department under
the Maine Certificate of Need Act; and

2 (2) The associated incremental annual capital and
4 operating costs do not exceed the amount remaining in
6 the Hospital Certificate of Need Development Account as
8 of the date of approval of the project by the
department, after accounting for previously approved
projects.

10 D.

12 E.

14 F. Debits and carry-overs shall must be determined as
follows.

16 (1) Except as provided in subparagraph (2), the
18 commission shall debit against the Hospital Certificate
20 of Need Development Account the full amount of the
22 incremental annual capital and operating costs
24 associated with each project for which an adjustment is
26 approved under paragraph C and with each project for
28 which certificate-of-need approval has been granted
30 pursuant to section 304-A, subsection 2. Incremental
32 annual capital and operating costs shall must be
34 determined in the same manner as adjustments to
financial requirements are determined under section
396-D, subsection 5, for the 3rd ~~fiscal~~ year of
implementation of the ~~project~~ projects subject to such
an adjustment. For acquisitions of equipment by
persons other than hospitals, incremental annual
capital and operating costs must be determined in a
manner consistent with the manner in which project
costs are determined for hospitals.

36 (2) In the case of a project which that is approved
38 under paragraph C and which that involves extraordinary
40 incremental annual capital and operating costs, the
42 commission may, in accordance with duly promulgated
rules, defer the debiting of a portion of the annual
costs associated with the project until a subsequent
payment year cycle or cycles.

44 (4) Amounts credited to the Hospital Certificate of
46 Need Development Account for which there are no debits
shall must be carried forward to subsequent payment
year cycles as a credit.

48 STATEMENT OF FACT

50 This bill renames the Hospital Development Account the
52 Certificate of Need Development Account and extends the

requirement of a certificate of need and a debit against the
account to the purchase of major medical equipment costing over
\$1,000,000 by nonhospital as well as hospital facilities.

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