

MAINE STATE LEGISLATURE

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Date: **3/31/06**
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L.D. 1814
(Filing No. H-**934**)

3 **Health and Human Services**

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5 **STATE OF MAINE**
6 **HOUSE OF REPRESENTATIVES**
7 **122ND LEGISLATURE**
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT **A** to H.P. 1254, L.D. 1814, Bill, "An Act To
10 Strengthen and Improve Review Procedures in the Certificate of Need Program"

11 Amend the bill by striking out the title and substituting the following:

12 **'Resolve, To Establish the Work Group To Review and Recommend**
13 **Improvements for the Certificate of Need Program'**

14 Further amend the bill by striking out everything after the title and inserting in its
15 place the following:

16 **'Sec. 1. Work group established. Resolved:** That the Work Group to Review
17 and Recommend Improvements for the Certificate of Need Program, referred to in this
18 resolve as "the work group," is established; and be it further

19 **Sec. 2. Work group membership. Resolved:** That the work group consists of
20 12 members appointed as follows.

21 1. The President of the Senate and Speaker of the House shall appoint 6 members to
22 the work group as follows:

23 A. The President of the Senate shall appoint one member of the Senate who serves
24 on the Joint Standing Committee on Health and Human Services and 2
25 representatives from businesses, unions, advocacy organizations or public health
26 groups; and

27 B. The Speaker of the House shall appoint one member of the House of
28 Representatives who serves on the Joint Standing Committee on Health and Human
29 Services and 2 representatives from businesses, unions, advocacy organizations or
30 public health groups.

31 The Senate and House appointees must represent the 2 major political parties. Businesses,
32 unions, advocacy organizations and public health groups must each be represented when
33 the appointments of the President of the Senate and the Speaker of the House are
34 combined.

COMMITTEE AMENDMENT

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1 2. The Governor shall appoint 4 medical representatives: 2 representatives of
2 hospitals, nominated by the Maine Hospital Association; one representative of a statewide
3 association of physicians, nominated jointly by the Maine Medical Association and the
4 Maine Osteopathic Association; and one representative of the ambulatory surgical
5 centers.

6 3. The Director of the Governor's Office of Health Policy and Finance, or the
7 director's designee, and the Director of Licensing and Regulatory Services within the
8 Department of Health and Human Services shall serve as nonvoting ex officio members;
9 and be it further

10 **Sec. 3. Chairs. Resolved:** That the Senate member and the House of
11 Representatives member of the work group shall serve as cochairs of the work group; and
12 be it further

13 **Sec. 4. Appointments; convening of work group. Resolved:** That all
14 appointments must be made no later than 30 days following the effective date of this
15 resolve. The appointing authorities shall notify the Executive Director of the Legislative
16 Council once all appointments have been completed. Within 15 days after the
17 appointment of all members, the chairs shall call and convene the first meeting of the
18 work group; and be it further

19 **Sec. 5. Duties. Resolved:** That the work group may hold up to 4 meetings to
20 prioritize and examine some or all of the following issues. Based on findings from the
21 examination of the prioritized issues, the work group shall identify improvements and
22 make recommendations for changes in law or rule. The work group may examine the
23 following issues:

24 1. Recent changes made by law or rule to the certificate of need program and the need
25 for any modifications to the law or rule;

26 2. The current dollar amount threshold used in determining whether a project requires
27 review and, if inadequate, a potential process for identifying projects that fall below the
28 threshold;

29 3. The current statutory authority of and methods used by the Department of Health
30 and Human Services to determine whether review is needed. This should include the
31 definition of "reviewable project" and clarification of the term "new service";

32 4. The current statutory authority of and methods used by the Department of Health
33 and Human Services to define community need for new services or facilities;

34 5. The relationship between the State Health Plan, the certificate of need process and
35 the capital investment fund;

36 6. The roles of the Maine Quality Forum; the Department of Health and Human
37 Services, Maine Center for Disease Control and Prevention; and the Department of
38 Professional and Financial Regulation, Bureau of Insurance in the certificate of need
39 review process;

40 7. The criteria used by the Department of Health and Human Services for evaluating
41 a certificate of need application along with procedures for public hearings and the use of
42 review panels;

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1 8. Historical review of revenues and expenditures in the certificate of need unit to
2 identify and determine the amount of resources that are adequate to have a highly
3 functioning unit;

4 9. Historical review of the certificate of need application process including number of
5 submissions, approvals, disapprovals and withdrawn applications and associated
6 timelines to determine any improvements needed;

7 10. Review of the most recent studies on the impact that the competitive market
8 versus regulation has on health care costs and access; and

9 11. Additional topics determined by unanimous agreement of the work group
10 members; and be it further

11 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
12 necessary staffing services to the work group; and be it further

13 **Sec. 7. Compensation. Resolved:** That legislative members of the work group
14 are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes,
15 Title 3, section 2, and reimbursement for travel and other necessary expenses related to
16 their attendance at authorized meetings of the work group. Public members not otherwise
17 compensated by their employers or other entities that they represent are entitled to receive
18 reimbursement of necessary expenses and, upon demonstration of financial hardship, a
19 per diem equal to the legislative per diem for their attendance at authorized meetings of
20 the work group; and be it further

21 **Sec. 8. Department background report on certificate of need. Resolved:**
22 That, no later than August 10, 2006, the Department of Health and Human Services shall
23 provide a written report to the work group that provides information on revenues,
24 expenditures, staffing levels, staffing needs and review cycles, including submissions,
25 approvals, disapprovals and withdrawals of certificate of need applications for the last 5
26 years of the certificate of need program; and be it further

27 **Sec. 9. Report. Resolved:** That, no later than November 1, 2006, the work group
28 shall submit a report that includes its findings and recommendations, including suggested
29 legislation, for presentation to the First Regular Session of the 123rd Legislature. The
30 work group is authorized to introduce legislation related to its report to the First Regular
31 Session of the 123rd Legislature at the time of submission of its report; and be it further

32 **Sec. 10. Extension. Resolved:** That, if the work group requires a limited
33 extension of time to complete its study and make its report, it may apply to the
34 Legislative Council, which may grant an extension; and be it further

35 **Sec. 11. Work group budget. Resolved:** That the chairs of the work group,
36 with assistance from the work group staff, shall administer the work group's budget.
37 Within 10 days after its first meeting, the work group shall present a work plan and
38 proposed budget to the Legislative Council for its approval. The work group may not
39 incur expenses that would result in the work group's exceeding its approved budget.
40 Upon request from the work group, the Executive Director of the Legislative Council
41 shall promptly provide the work group chairs and staff with a status report on the work
42 group budget, expenditures incurred and paid and available funds.'

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SUMMARY

This amendment replaces a concept draft and changes the legislation from an Act to a Resolve. It also changes the title. The amendment creates the 12-member Work Group to Review and Recommend Improvements for the Certificate of Need Program, which includes 6 members appointed by the President of the Senate and Speaker of the House, 4 members appointed by the Governor, a nonvoting ex officio member from the Governor's Office of Health Policy and Finance and a nonvoting ex officio member from the Department of Health and Human Services. The work group may hold up to 4 meetings to prioritize and examine some or all of 11 issues that are listed in the amendment and then, based on findings from the examination of the prioritized issues, identify improvements and make recommendations for changes in law or rule. It requires the Department of Health and Human Services to provide a certificate of need background report to the work group by August 10, 2006. The amendment also requires the work group to submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the First Regular Session of the 123rd Legislature by November 1, 2006 and authorizes the work group to introduce legislation related to its report.

FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 1814

LR 2772(02)

An Act To Strengthen and Improve Review Procedures in the Certificate of Need Program

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Current Costs - Legislative Study

Legislative Study

The projected costs of the Work Group to Review and Recommend Improvements for the Certificate of Need Program are \$3,240 in fiscal year 2006-07. The Legislature's budget includes \$20,000 in fiscal year 2006-07 for legislative studies. Whether that amount is sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature.

The additional costs associated with providing staffing assistance to the work group during the interim between legislative sessions can be absorbed by the Legislature utilizing existing budgeted resources. If an extension of the reporting deadline is granted and the work group requires staffing assistance during the legislative session, the Legislature may require an additional General Fund appropriation to contract for staff services.

Any additional costs to the Department of Health and Human Services and the Department of Professional and Financial Regulation in assisting the work group can be absorbed by the Department utilizing existing budgeted resources.