

MAINE STATE LEGISLATURE

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Date: 6/4/19

HEALTH AND HUMAN SERVICES

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

COMMITTEE AMENDMENT "A" to H.P. 803, L.D. 1164, Bill, "An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 22 MRSA §329, sub-§6, as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

6. Nursing facilities. The obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of \$510,000 or more and, beginning January 1, 2010, the obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of \$1,000,000 or more.

A certificate of need is not required for the following:

A. A nursing facility converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, MaineCare and other public funds may not be obligated for payment of services provided in the converted beds unless approved by the department pursuant to the provisions of sections 333-A and 334-A;

B. Capital expenditures in the case of a natural disaster, major accident or equipment failure;

C. Replacement equipment, other than major medical equipment as defined in section 328, subsection 16;

D. Information systems, communication systems, parking lots and garages; and

E. Certain energy-efficient improvements, as described in section 334-A, subsection 4.

COMMITTEE AMENDMENT

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1 **Sec. 2. 22 MRSA §334-A, sub-§3, ¶A**, as enacted by PL 2007, c. 440, §13, is
2 amended to read:

3 A. Allow gross square footage per licensed bed of not less than 500 square feet
4 unless the applicant specifies a smaller allowance for the project; and

5 **Sec. 3. 22 MRSA §334-A, sub-§3, ¶B**, as enacted by PL 2007, c. 440, §13, is
6 amended to read:

7 B. Exclude the projected incremental cost associated with replacement of
8 equipment; and

9 **Sec. 4. 22 MRSA §334-A, sub-§3, ¶C** is enacted to read:

10 C. Exclude the incremental cost of energy-efficient improvements as defined in the
11 rules governing MaineCare reimbursement for nursing facilities.

12 **Sec. 5. 22 MRSA §334-A, sub-§4** is enacted to read:

13 **4. Cost associated with energy-efficient improvements.** The cost associated with
14 energy-efficient improvements in nursing facilities, as set forth in rules governing special
15 reimbursement provisions for energy-efficient improvements adopted by the department,
16 must be excluded from the cost of a project in determining whether the project is subject
17 to review.

18 **Sec. 6. Cost associated with energy-efficient improvements.** For purposes
19 of the Maine Revised Statutes, Title 22, section 334-A, subsection 4, the rules governing
20 special reimbursement provisions for energy-efficient improvements are set forth in the
21 Department of Health and Human Services MaineCare Benefits Manual, Chapter III,
22 Section 67, subsection 44.2.4. The rules must be amended and take effect no later than
23 January 1, 2010. The rules must require that the department provide a response to
24 provider requests for prior approval of energy-efficient improvements within 30 days
25 following the receipt of a request supported by sufficient information. Rules adopted
26 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
27 subchapter 2-A.

28 **SUMMARY**

29 This amendment replaces the bill. Beginning January 1, 2010, it increases the
30 threshold amount for nursing facility projects to \$1,000,000. It exempts from the full
31 certificate of need approval certain nursing facility projects including capital expenditures
32 under limited circumstances, nonmedical replacement equipment, information systems,
33 communication systems, parking lots, garages and projects that implement certain
34 energy-efficient improvements. It requires the costs associated with energy-efficient
35 projects to be excluded from the total cost of a project in determining whether the project
36 is subject to review. It requires the department to amend the rules governing special
37 reimbursement provisions for energy-efficient improvements and to include requirements
38 that the Department of Health and Human Services respond to provider requests for prior
39 approval of energy-efficient improvements within 30 days following the receipt of a
40 request supported by sufficient information.

FISCAL NOTE REQUIRED
 (See attached)

COMMITTEE AMENDMENT



124th MAINE LEGISLATURE

LD 1164

LR 1511(02)

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment

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

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - General Fund

Fiscal Detail and Notes

The bill's provisions increasing the certificate of need threshold for nursing facility projects and increasing the nursing facility projects and capital expenditures that are exempt from certificate of need could increase MaineCare nursing facility costs because additional costs would not be subject to the certificate of need MaineCare cost neutrality requirements. The number and costs of the additional projects and expenditures cannot be determined at this time.

PL 2009, c. 213 (the 2010-2011 Biennial Budget) deappropriated \$300,000 in each of 2009-10 and 2010-11 in baseline funding that would have been available in the nursing facility MaineCare funding pool intended for the development of new beds or other improvements requiring certificate of need.