

MAINE STATE LEGISLATURE

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Maj

L.D. 1395

(Filing No. H-496)

Date: 6/1/19

Majority

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. 974, L.D. 1395, Bill, "An Act To Amend the Maine Certificate of Need Act of 2002"

Amend the bill by striking out all of section 3.

Amend the bill in section 4 in subsection 1.6 in the 3rd line (page 1, line 31 in L.D.) by striking out the following: "\$1,200,000" and inserting the following: '\$1,200,000 \$1,600,000'

Amend the bill in section 5 in paragraph C in the 2nd line (page 2, line 12 in L.D.) by striking out the following: "\$1,200,000" and inserting the following: '\$1,200,000 \$1,600,000'

Amend the bill by striking out all of section 6.

Amend the bill in section 8 in subsection 3 in the 2nd line (page 2, line 33 in L.D.) by striking out the following: "\$2,000,000" and inserting the following: '\$3,100,000'

Amend the bill in section 8 in subsection 3 in the 5th and 6th lines (page 2, lines 36 and 37 in L.D.) by striking out the following: "owned and operated by a physician or physician's group"

Amend the bill by striking out all of sections 10 to 13.

Amend the bill in section 14 in subsection 6 by striking out all of the first paragraph (page 3, lines 24 to 28 in L.D.) and inserting the following:

6. Maintenance of the record. The record created pursuant to subsection 5-A first opens on the day the department receives a ~~letter of intent~~ certificate of need application. From that day, all of the record is a public record, ~~and any except that the letter of intent becomes a public record upon the receipt of the letter and is available for review from the date of receipt.~~ Any person may examine that all or part of the public record and purchase copies of any or all of that record during the normal business hours of the department.

Amend the bill by inserting after section 14 the following:

COMMITTEE AMENDMENT

1 **Sec. 15. 22 MRSA §336, sub-§5** is enacted to read:

2 **5. Major medical equipment.** The commissioner shall issue a certificate of need
3 for replacement of major medical equipment upon determining that a project meets the
4 requirements of section 335, subsection 7.'

5 Amend the bill by striking out all of section 18 and inserting the following:

6 **Sec. 18. 22 MRSA §343**, as enacted by PL 2001, c. 664, §2, is amended to read:

7 **§343. Public information**

8 The department shall prepare and publish at least annually a report on its activities
9 conducted pursuant to this Act. The annual report must include information on all
10 certificates of need granted and denied and on the assessment of penalties. With regard to
11 all certificates granted on a conditional basis, the report must include a summary of
12 information reported pursuant to section 332 and any accompanying statements by the
13 commissioner or department staff submitted regarding the reports.

14 **Sec. 19. 22 MRSA §350**, as enacted by PL 2001, c. 664, §2, is repealed and the
15 following enacted in its place:

16 **§350. Penalty**

17 **1. Violation.** An individual, partnership, association, organization, corporation or
18 trust that violates any provision of this chapter or any rate, rule or regulation pursuant to
19 this chapter is subject to a fine imposed in conformance with the Maine Administrative
20 Procedure Act and payable to the State of not more than \$10,000. The department may
21 hold these funds in a special revenue account that may be used only to support certificate
22 of need reviews, such as for hiring expert analysts on a short-term consulting basis.

23 **2. Administrative hearing and appeal.** To contest the imposition of a fine under
24 this section, the individual, partnership, association, organization, corporation or trust
25 shall submit to the department a written request for an administrative hearing within 10
26 days of notice of imposition of a fine pursuant to this section. Judicial appeal must be in
27 accordance with Title 5, chapter 375, subchapter 7.'

28 Amend the bill by striking out all of section 20.

29 Amend the bill by striking out all of section 22.

30 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
31 section number to read consecutively.

32 **SUMMARY**

33 The amendment is the majority report of the committee. The amendment changes the
34 bill by:

35 1. Retaining the current exemption from certificate of need for medical office
36 buildings owned or subsidized by a hospital or a hospital's parent company;

- 1 2. Bringing the threshold amounts up to the current levels, which brings the
2 thresholds for major medical equipment and new technology to \$1,600,000 and the
3 threshold for capital expenditures to \$3,100,000;
- 4 3. Eliminating the exemption for the replacement of major medical equipment from
5 the certificate of need requirements and instead applying a simplified review and
6 approval process for certificate of need;
- 7 4. Removing provisions in the bill related to energy-efficient projects for nursing
8 facilities;
- 9 5. Lowering the proposed increase in the penalty for violations from \$50,000 to
10 \$10,000; and
- 11 6. Removing the provision for a combined application for applicants seeking both a
12 certificate of need and a certificate of public advantage.

FISCAL NOTE REQUIRED
(See attached)



124th MAINE LEGISLATURE

LD 1395

LR 545(02)

An Act To Amend the Maine Certificate of Need Act of 2002

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

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

The Department of Health and Human Services may experience a minor increase in Other Special Revenue Fund revenue from penalties.