

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE SECOND SPECIAL SESSION OF THE
ONE HUNDRED AND TWENTY-FIRST
LEGISLATURE
2003

CHAPTER 514

S.P. 82 - L.D. 159

**An Act To Refine the Criteria for
Issuing a Certificate of Need**

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

Whereas, health care projects with applications for certificates of need currently pending with the Department of Human Services that are appropriate for action by the department at this time require action promptly in order to provide needed health care service improvements for residents of this State; 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 §335, sub-§7, as amended by PL 2003, c. 469, Pt. C, §§11 and 12, is further amended to read:

7. Review; approval. Except as provided in section 336, the commissioner shall issue a certificate of need if the commissioner determines and makes specific written findings regarding that determination that:

A. The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards;

B. The economic feasibility of the proposed services is demonstrated in terms of the:

- (1) Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be

able to charge for the services to be provided by the project; and

- (2) Applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;

C. There is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

- (1) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

- (2) Whether the project will have a positive impact on the health status indicators of the population to be served;

- (3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

- (4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;

D. The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

- (1) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

- (2) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

- (3) The likelihood that more effective, more accessible or less costly alternative

technologies or methods of service delivery may become available; and

E. The project meets the criteria set forth in subsection 1.

In making a determination under this subsection, the commissioner shall use data available in the state health plan under Title 2, section 103, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

Sec. 2. Nursing facility projects. Notwithstanding the provisions of the Maine Revised Statutes, Title 22, section 334, the Department of Human Services may approve a nursing facility project if the applicant has been recommended for conditional approval from the department prior to February 15, 2004, complies with all other applicable state rules and federal regulations and demonstrates cost-neutrality using savings obtained from the purchase of beds from the Maine Health and Higher Education Facilities Authority and approved by the department.

Sec. 3. Report on nursing facility projects. By February 15, 2004, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding funding requirements under the Maine Revised Statutes, Title 22, section 334 for nursing facility projects that use banked beds from nursing facilities and residential care facilities. The joint standing committee of the Legislature having jurisdiction over health and human services matters is authorized to report out legislation regarding this issue to the First Regular Session of the 122nd Legislature.

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

Effective February 11, 2004.

CHAPTER 515

H.P. 1097 - L.D. 1504

An Act To Clarify the Work Center Purchases Committee Requirements for Work Centers and Competitive Bidding

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

Sec. 1. 5 MRSA §1826-A, as corrected by RR 2001, c. 1, §9, is amended to read:

§1826-A. Purpose and intent

The Legislature finds that the goal of integrating ~~disabled~~ persons with disabilities into all aspects of community life is enhanced by providing expanded markets for products and services of work centers. The Legislature further believes that work centers provide a valuable means of transitional employment for the State's disabled population and for some, such as the most severely disabled persons, they may offer the only opportunities available for long-term, gainful employment.

In order to assure continued opportunities for ~~disabled~~ persons with disabilities to obtain this employment through work centers, it is the intent of the Legislature to provide reliable and steady income and job opportunities to work centers. It is the purpose of this section and sections 1826-B to 1826-D to ensure that some portion of state purchases for commodities and services be available to work centers.

Sec. 2. 5 MRSA §1826-B, sub-§1, as enacted by PL 1985, c. 359, §3, is repealed and the following enacted in its place:

1. Persons with disabilities. "Persons with disabilities" means individuals who have physical or mental impairments that substantially limit one or more major life activities, have a record of those impairments or are perceived to have those impairments.

Sec. 3. 5 MRSA §1826-B, sub-§2, ¶C, as enacted by PL 1985, c. 359, §3, is amended to read:

C. Employs during the fiscal year in commodity production or service provision ~~disabled~~ persons with disabilities at a quota of not less than 66% of the total hours of direct labor on all production, whether or not government related; and

Sec. 4. 5 MRSA §1826-B, sub-§2, ¶D, as amended by PL 1999, c. 543, §1, is further amended to read:

D. Has, ~~or~~ is part of, or demonstrates a formal relationship for support with an ongoing placement program that includes at least preadmission evaluation and annual review to determine each worker's capability for normal competitive employment and maintenance of liaison with the appropriate community services for the place-