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**SUBSTITUTE HOUSE BILL 1688**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Cody, Clibborn, Moeller, Sommers, Kenney and Schual-Berke)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to creating a task force to review health care  
2 facilities and services supply issues; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Since the enactment of certificate of need legislation in 1979,  
6 the widespread adoption of new health care technologies has resulted in  
7 significant advancements in the diagnosis and treatment of disease, and  
8 has enabled substantial expansion of sites where complex care and  
9 surgery can be performed;

10 (2) New and existing technologies, as well as supply sensitive  
11 health services, drive substantial health care expenditures. Yet,  
12 evidence related to their effectiveness is not routinely or  
13 systematically considered in decision making regarding widespread  
14 adoption of these technologies and services. The principles of  
15 evidence-based medicine call for comprehensive review of data and  
16 studies related to a particular health care service or device, with  
17 emphasis given to high quality, objective studies. Findings regarding  
18 the effectiveness of these health services or devices should then be

1 applied to increase the likelihood that they will be used  
2 appropriately;

3 (3) The standards governing whether a certificate of need should be  
4 granted in RCW 70.38.115 focus largely on broad concepts of access to  
5 and availability of health services, with only limited consideration of  
6 cost-effectiveness. Moreover, the standards do not provide distinct  
7 guidance for decision making or comparing the merits of certificate of  
8 need applications. The standards governing whether bonds should be  
9 issued to finance development and acquisition of health care facilities  
10 and equipment in RCW 70.37.050 are explicitly linked to the certificate  
11 of need process; and

12 (4) The certificate of need statute should be reexamined and  
13 updated to reflect changes in health care delivery and financing since  
14 its enactment.

15 NEW SECTION. **Sec. 2.** (1) A task force is created to study and  
16 prepare recommendations to the governor and the legislature related to  
17 improving and updating the certificate of need program in chapter 70.38  
18 RCW. The report must be submitted to the governor and appropriate  
19 committees of the legislature by October 1, 2006. Members of the task  
20 force must be appointed by the governor. The task force members shall  
21 elect a member of the task force to serve as chair. Members of the  
22 task force include:

23 (a) Four representatives of the legislature, including one member  
24 appointed by each caucus of the house of representatives and the  
25 senate;

26 (b) Two representatives of private employer-sponsored health  
27 benefits purchasers;

28 (c) One representative of labor organizations that purchase health  
29 benefits through Taft-Hartley plans;

30 (d) One representative of health carriers;

31 (e) Two representatives of health care consumers;

32 (f) One health care economist;

33 (g) The secretary of the department of social and health services,  
34 or his or her designee;

35 (h) The administrator of the health care authority, or his or her  
36 designee; and

37 (i) The secretary of the department of health.

1 (2) The task force shall establish one or more technical advisory  
2 committees composed of affected health care providers and other  
3 individuals or entities who can serve as a source of technical  
4 expertise. The task force shall actively consult with, and solicit  
5 recommendations from, the technical advisory committee or committees  
6 regarding issues under consideration by the task force.

7 (3) In conducting the study and preparing recommendations, the task  
8 force shall be guided by the following principles:

9 (a) The supply of health services has a substantial impact on  
10 utilization of services, independent of the effectiveness, medical  
11 necessity, or appropriateness of a particular health service for a  
12 particular individual;

13 (b) Given that health care resources are not unlimited, the impact  
14 of any new health service or facility on overall health expenditures in  
15 the state must be considered; and

16 (c) Given ongoing advances in evidence-based medicine and our  
17 increasing ability to measure the quality and outcomes of health  
18 services, the likelihood that a requested new health facility, service,  
19 or equipment will improve health care quality and outcomes must be  
20 considered.

21 (4) The task force shall, at a minimum, examine and develop  
22 recommendations related to the following issues:

23 (a) The need for a new and periodically updated state health plan;

24 (b) A review of the purpose and goals of the current certificate of  
25 need program;

26 (c) The scope of facilities, services, and capital expenditures  
27 that should be subject to certificate of need review, including  
28 consideration of:

29 (i) Acquisitions of major medical equipment, meaning a single unit  
30 of medical equipment or a single system of components with related  
31 functions used to provide medical and other health services that cost  
32 one million two hundred thousand dollars or more, adjusted annually to  
33 reflect the change in the consumer price index, medical index;

34 (ii) Capital expenditures, meaning the obligation by or on behalf  
35 of a health care facility of any capital expenditure of two million  
36 dollars or more, adjusted annually to reflect the change in the  
37 consumer price index, medical index;

1 (iii) The offering or development of any new health care service,  
2 as defined in RCW 48.43.005, that meets any of the following:

3 (A) The obligation of any capital expenditures by or on behalf of  
4 a health care facility of one hundred ten thousand dollars or more that  
5 is associated with the addition of a health service that was not  
6 offered on a regular basis by or on behalf of the health care facility  
7 within the twelve-month period prior to the time the services would be  
8 offered;

9 (B) The addition of equipment or services, by transfer of  
10 ownership, acquisition by lease, donation, transfer, or acquisition of  
11 control, through management agreement or otherwise, that was not  
12 offered on a regular basis by or on behalf of the health care facility  
13 or the private office of a licensed health care provider regulated  
14 under Title 18 RCW or chapter 70.127 RCW within the twelve-month period  
15 prior to the time the services would be offered and that for the third  
16 fiscal year of operation, including a partial first year following  
17 acquisition of that equipment or service, is projected to entail  
18 incremental operating costs or annual gross revenue directly  
19 attributable to that health service in excess of five hundred thousand  
20 dollars;

21 (iv) The scope of health care facilities subject to certificate of  
22 need requirements, to include consideration of hospitals, including  
23 specialty hospitals, psychiatric hospitals, nursing facilities, kidney  
24 disease treatment centers including freestanding hemodialysis  
25 facilities, rehabilitation facilities, ambulatory surgical facilities,  
26 independent radiological service centers, independent cardiac  
27 catheterization centers, or cancer treatment centers. "Health care  
28 facility" includes the office of a private health care practitioner in  
29 which surgical procedures are performed;

30 (d) The criteria for review of certificate of need applications, as  
31 currently defined in RCW 70.38.115, with the goal of having criteria  
32 that are consistent, clear, technically sound, and reflect state law,  
33 including consideration of:

34 (i) Public need for the proposed services as demonstrated by  
35 certain factors, including, but not limited to:

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

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

3 (C) Whether there is a substantial risk that the project would  
4 result in inappropriate increases in service utilization or the cost of  
5 health services, based upon the principles of evidence-based medicine;

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

8 (E) Whether the project will provide demonstrable improvements in  
9 quality and outcome measures applicable to the services proposed in the  
10 project, including whether there is data to indicate that the proposed  
11 health services would constitute innovations in high quality health  
12 care delivery;

13 (ii) Impact of the proposed services on the orderly and economic  
14 development of health facilities and health resources for the state as  
15 demonstrated by:

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

20 (B) The impact of the project on the ability of existing community  
21 providers and facilities to continue to serve uninsured or underinsured  
22 residents of the community and meet demands for emergency care;

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

25 (D) The likelihood that more effective, more accessible, or less  
26 costly alternative technologies or methods of service delivery may  
27 become available;

28 (e) The timeliness and consistency of certificate of need reviews  
29 and decisions, the sufficiency of resources available to the department  
30 of health to conduct timely reviews, the means by which the department  
31 of health projects future need for services, the ability to reflect  
32 differences among communities and approaches to providing services, and  
33 clarification on the use of the concurrent review process; and

34 (f) Mechanisms to monitor the commitments made by facilities that  
35 have received a certificate of need, including those related to the  
36 provision of charity care and access to health services to medicaid and

1 medicare beneficiaries as well as underinsured and uninsured members of  
2 the community.

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