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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1688

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State of Washington

59th Legislature

2005 Regular Session

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

READ FIRST TIME 03/07/05.

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 health planning and development  
6 legislation in 1979, the widespread adoption of new health care  
7 technologies has resulted in significant advancements in the diagnosis  
8 and treatment of disease, and has enabled substantial expansion of  
9 sites where complex care and surgery can be performed;

10 (2) New and existing technologies, supply sensitive health  
11 services, and demographics have a substantial effect on health care  
12 expenditures. Yet, evidence related to their effectiveness is not  
13 routinely or systematically considered in decision making regarding  
14 widespread adoption of these technologies and services. The principles  
15 of 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 explicit  
7 guidance for decision making or evaluating competing certificate of  
8 need applications; and

9 (4) The certificate of need statute plays a vital role and should  
10 be reexamined and strengthened to reflect changes in health care  
11 delivery and financing since its enactment.

12 NEW SECTION. **Sec. 2.** (1) A task force is created to study and  
13 prepare recommendations to the governor and the legislature related to  
14 improving and updating the certificate of need program in chapter 70.38  
15 RCW. The report must be submitted to the governor and appropriate  
16 committees of the legislature by October 1, 2006.

17 (2) Members of the task force must be appointed by the governor.  
18 The task force members shall elect a member of the task force to serve  
19 as chair. Members of the task force include:

20 (a) Four representatives of the legislature, including one member  
21 appointed by each caucus of the house of representatives and the  
22 senate;

23 (b) Two representatives of private employer-sponsored health  
24 benefits purchasers;

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

27 (d) One representative of health carriers;

28 (e) Two representatives of health care consumers;

29 (f) One health care economist;

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

32 (h) The administrator of the health care authority, or his or her  
33 designee;

34 (i) The secretary of the department of health; and

35 (j) One health care provider representative, chosen by the members  
36 of the technical advisory committee established in subsection (3) of  
37 this section, from among the members of that committee.

1 (3) 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 (4) Subject to the availability of amounts appropriated for this  
8 specific purpose, staff support for the task force shall be provided by  
9 the health care authority. The health care authority shall contract  
10 for technical expertise necessary to complete the responsibilities of  
11 the task force. Legislative members of the task force shall be  
12 reimbursed for travel expenses in accordance with RCW 44.04.120.  
13 Nonlegislative members, except those representing an employer or  
14 organization, are entitled to be reimbursed for travel expenses in  
15 accordance with RCW 43.03.050.

16 NEW SECTION. **Sec. 3.** (1) In conducting the certificate of need  
17 study and preparing recommendations, the task force shall be guided by  
18 the following principles:

19 (a) The supply of a health service can have a substantial impact on  
20 utilization of the service, independent of the effectiveness, medical  
21 necessity, or appropriateness of the particular health service for a  
22 particular individual;

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

26 (c) Given our increasing ability to undertake technology assessment  
27 and measure the quality and outcomes of health services, the likelihood  
28 that a requested new health facility, service, or equipment will  
29 improve health care quality and outcomes must be considered; and

30 (d) It is generally presumed that the services and facilities  
31 currently subject to certificate of need should remain subject to those  
32 requirements.

33 (2) The task force shall, at a minimum, examine and develop  
34 recommendations related to the following issues:

35 (a) The need for a new and regularly updated set of service and  
36 facility specific policies that guide certificate of need decisions;

1 (b) A review of the purpose and goals of the current certificate of  
2 need program, including the relationship between the supply of health  
3 services and health care outcomes and expenditures in Washington state;

4 (c) The scope of facilities, services, and capital expenditures  
5 that should be subject to certificate of need review, including  
6 consideration of the following:

7 (i) Acquisitions of major medical equipment, meaning a single unit  
8 of medical equipment or a single system of components with related  
9 functions used to provide medical and other health services;

10 (ii) Major capital expenditures. Capital expenditures for  
11 information technology needed to support electronic health records  
12 should be encouraged;

13 (iii) The offering or development of any new health services, as  
14 defined in RCW 70.38.025, that meets any of the following:

15 (A) The obligation of substantial capital expenditures by or on  
16 behalf of a health care facility that is associated with the addition  
17 of a health service that was not offered on a regular basis by or on  
18 behalf of the health care facility within the twelve-month period prior  
19 to the time the services would be offered;

20 (B) The addition of equipment or services, by transfer of  
21 ownership, acquisition by lease, donation, transfer, or acquisition of  
22 control, through management agreement or otherwise, that was not  
23 offered on a regular basis by or on behalf of the health care facility  
24 or the private office of a licensed health care provider regulated  
25 under Title 18 RCW or chapter 70.127 RCW within the twelve-month period  
26 prior to the time the services would be offered and that for the third  
27 fiscal year of operation, including a partial first year following  
28 acquisition of that equipment or service, is projected to entail  
29 substantial incremental operating costs or annual gross revenue  
30 directly attributable to that health service;

31 (iv) The scope of health care facilities subject to certificate of  
32 need requirements, to include consideration of hospitals, including  
33 specialty hospitals, psychiatric hospitals, nursing facilities, kidney  
34 disease treatment centers including freestanding hemodialysis  
35 facilities, rehabilitation facilities, ambulatory surgical facilities,  
36 freestanding emergency rooms or urgent care facilities, home health  
37 agencies, hospice agencies and hospice care centers, freestanding  
38 radiological service centers, freestanding cardiac catheterization

1 centers, or cancer treatment centers. "Health care facility" includes  
2 the office of a private health care practitioner in which surgical  
3 procedures are performed;

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

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

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

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

15 (C) Whether there is a substantial risk that the project would  
16 result in inappropriate increases in service utilization or the cost of  
17 health services;

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

20 (E) Whether the project will provide demonstrable improvements in  
21 quality and outcome measures applicable to the services proposed in the  
22 project, including whether there is data to indicate that the proposed  
23 health services would constitute innovations in high quality health  
24 care delivery;

25 (ii) Impact of the proposed services on the orderly and economic  
26 development of health facilities and health resources for the state as  
27 demonstrated by:

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

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

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

37 (D) The likelihood that more effective, more accessible, or less

1 costly alternative technologies or methods of service delivery may  
2 become available;

3 (e) The timeliness and consistency of certificate of need reviews  
4 and decisions, the sufficiency and use of resources available to the  
5 department of health to conduct timely reviews, the means by which the  
6 department of health projects future need for services, the ability to  
7 reflect differences among communities and approaches to providing  
8 services, and clarification on the use of the concurrent review  
9 process; and

10 (f) Mechanisms to monitor ongoing compliance with the assumptions  
11 made by facilities that have received either a certificate of need or  
12 an exemption to a certificate of need, including those related to  
13 volume, the provision of charity care, and access to health services to  
14 medicaid and medicare beneficiaries as well as underinsured and  
15 uninsured members of the community.

16 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this  
17 act, referencing this act by bill or chapter number, is not provided by  
18 June 30, 2005, in the omnibus appropriations act, this act is null and  
19 void.

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