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HOUSE BILL 1688

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Cody, Clibborn, Moeller, Sommers, Kenney and Schual-Berke

Read first time 02/02/2005. Referred to Committee on Health Care.

1            AN ACT Relating to creating a task force to review health care  
2 facilities and services supply issues; adding a new section to chapter  
3 70.38 RCW; adding a new section to chapter 70.37 RCW; creating new  
4 sections; and providing expiration dates.

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

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

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

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

1 or devices are then applied to increase the likelihood that they will  
2 be used 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. The standards governing whether bonds should be  
7 issued to finance development and acquisition of health care facilities  
8 and equipment in RCW 70.37.050 are limited to broad concepts of need  
9 and feasibility; and

10 (4) The certificate of need statute and the health care facilities  
11 authority bonding program statute should be reexamined and updated to  
12 reflect changes in health care delivery and financing since their  
13 enactment.

14 NEW SECTION. **Sec. 2.** (1) A task force is created to study and  
15 prepare recommendations to the governor and the legislature related to  
16 improving and updating the certificate of need program in chapter 70.38  
17 RCW, and the health care facilities bonding program administered by the  
18 health care facilities authority in chapter 70.37 RCW. The report must  
19 be submitted to the governor and appropriate committees of the  
20 legislature by October 1, 2006. Members of the task force must be  
21 appointed by the governor, and the task force must be chaired by the  
22 secretary of the department of health. In addition to the secretary of  
23 the department of health, members of the task force include:

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

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

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

31 (d) One representative of health carriers;

32 (e) Two representatives of health care consumers;

33 (f) One health care economist; and

34 (g) Two representatives of state-purchased health care programs, as  
35 defined in RCW 41.05.011.

36 (2) In conducting the study and preparing recommendations, the  
37 secretary of health shall establish and the task force shall consult

1 with an advisory committee that includes representatives of at least  
2 the following entities: Hospitals; physicians; nursing homes; dialysis  
3 providers; ambulatory surgery centers; hospice and home health care  
4 providers; and medical device manufacturers.

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

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

11 (b) Principles of evidence-based medicine should be a substantial  
12 factor in reviewing requests related to acquisition of new technologies  
13 or other health services;

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

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

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

24 (a) The scope of facilities, services, and capital expenditures  
25 that should be subject to certificate of need review, including  
26 consideration of:

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

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

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

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

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

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

28 (b) The criteria for review of certificate of need applications, as  
29 currently defined in RCW 70.38.115, and requests for issuance of bonds  
30 by the health care facilities authority, as currently authorized in RCW  
31 70.37.050, including consideration of:

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

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

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

1 (C) Whether there is a substantial risk that the project would  
2 result in inappropriate increases in service utilization, based upon  
3 the principles of evidence-based medicine;

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

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

11 (ii) Consistency of the proposed services with the orderly and  
12 economic development of health facilities and health resources for the  
13 state as demonstrated by:

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

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

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

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

26 (c) Mechanisms to monitor the commitments made by facilities that  
27 have received a certificate of need, including those related to the  
28 provision of charity care and access to health services to medicaid and  
29 medicare beneficiaries as well as underinsured and uninsured members of  
30 the community.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.38 RCW  
32 to read as follows:

33 (1) The department may not issue a certificate of need for any  
34 application that was submitted on or after January 1, 2005. This  
35 moratorium on the issuance of certificates of need remains in effect  
36 until January 1, 2007.

37 (2) This section expires January 1, 2007.

1        NEW SECTION.   **Sec. 4.**   A new section is added to chapter 70.37 RCW  
2   to read as follows:

3        (1) The authority may not issue bonds for any request submitted on  
4   or after January 1, 2005.   This moratorium on the issuance of bonds  
5   remains in effect until January 1, 2007.

6        (2) This section expires January 1, 2007.

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