

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 436

Short Title: Fairness in CON Determinations/Inflation Adj. (Public)

Sponsors: Representatives Folwell, Lewis, Boles (Primary Sponsors); Gulley and Starnes.

Referred to: Health, if favorable, Judiciary II.

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT THE CAPITAL EXPENDITURE AMOUNT FOR NEW INSTITUTIONAL HEALTH SERVICES AND REPLACEMENT EQUIPMENT UNDER THE CERTIFICATE OF NEED LAW BE ADJUSTED ANNUALLY FOR INFLATION.

Whereas, the current statutory capital expenditure amount for providing new institutional health services or replacement equipment that triggers the requirement for a new certificate of need does not fairly reflect the impact of inflation on capital construction or improvement costs; and

Whereas, non-State imposed costs related to obtaining a new certificate of need do reflect inflationary factors and add to the costs of providing for needed institutional health services; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-176(16)b. reads as rewritten:

"(16) "New institutional health services" means any of the following:

...

b. The obligation by any person of a capital expenditure exceeding ~~two million dollars (\$2,000,000)~~ two million eight hundred seventy-eight thousand one hundred eighty-six dollars (\$2,878,186), adjusted annually for inflation, to develop or expand a health service or a health service facility, or which relates to the provision of a health service. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds ~~two million dollars (\$2,000,000)~~ two million eight hundred seventy-eight thousand one hundred eighty-six dollars (\$2,878,186), adjusted annually for inflation,

...."

SECTION 2. G.S. 131E-176(22a) reads as rewritten:

"(22a) "Replacement equipment" means equipment that costs less than ~~two million dollars (\$2,000,000)~~ two million eight hundred seventy-eight thousand one hundred eighty-six dollars (\$2,878,186), adjusted annually for inflation, and is purchased for the sole purpose of replacing comparable medical equipment currently in use which will be sold or otherwise disposed of when replaced. In determining whether the replacement equipment costs less than



1 ~~two million dollars (\$2,000,000)~~ two million eight hundred seventy-eight
2 thousand one hundred eighty-six dollars (\$2,878,186), adjusted annually for
3 inflation, the costs of equipment, studies, surveys, designs, plans, working
4 drawings, specifications, construction, installation, and other activities
5 essential to acquiring and making operational the replacement equipment
6 shall be included. The capital expenditure for the equipment shall be deemed
7 to be the fair market value of the equipment or the cost of the equipment,
8 whichever is greater."

9 **SECTION 3.** This act is effective upon becoming law and applies to proposals or
10 applications for replacement equipment pending in the Department of Health and Human
11 Services on and after that date. The replacement equipment cost enacted by this act shall be
12 adjusted for inflation on and after the effective date of this act and shall apply to proposals or
13 applications for replacement equipment pending in the Department of Health and Human
14 Services on and after the effective date of this act.