

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 462  
Health Care Committee Substitute Adopted 4/28/21  
Third Edition Engrossed 5/5/21

Short Title: CON/Threshold Amds. & Certificate Expirations.

(Public)

Sponsors:

Referred to:

April 5, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING CERTIFICATE OF NEED LAWS TO EXPAND ACCESS AND  
3 LOWER COSTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 131E-176 reads as rewritten:

6 "§ 131E-176. Definitions.

7 As used in this Article, unless the context clearly requires otherwise, the following terms  
8 have the meanings specified:

9 ...

10 (7a) "Diagnostic center" means a freestanding facility, program, or provider,  
11 including but not limited to, physicians' offices, clinical laboratories,  
12 radiology centers, and mobile diagnostic programs, in which the total cost of  
13 all the medical diagnostic equipment utilized by the facility which cost ten  
14 thousand dollars (\$10,000) or more exceeds ~~five hundred thousand dollars~~  
15 ~~(\$500,000).~~ one million five hundred thousand dollars (\$1,500,000). In  
16 determining whether the medical diagnostic equipment in a diagnostic center  
17 costs more than ~~five hundred thousand dollars (\$500,000),~~ one million five  
18 hundred thousand dollars (\$1,500,000), the costs of the equipment, studies,  
19 surveys, designs, plans, working drawings, specifications, construction,  
20 installation, and other activities essential to acquiring and making operational  
21 the equipment shall be included. The capital expenditure for the equipment  
22 shall be deemed to be the fair market value of the equipment or the cost of the  
23 equipment, whichever is greater. Beginning September 30, 2022, and on  
24 September 30 each year thereafter, the cost threshold amount in this  
25 subdivision shall be adjusted using the Medical Care Index component of the  
26 Consumer Price Index published by the U.S. Department of Labor for the  
27 12-month period preceding the previous September 1.

28 ...

29 (14o) "Major medical equipment" means a single unit or single system of  
30 components with related functions which is used to provide medical and other  
31 health services and which costs more than ~~seven hundred fifty thousand~~  
32 ~~dollars (\$750,000).~~ two million dollars (\$2,000,000). In determining whether  
33 the major medical equipment costs more than ~~seven hundred fifty thousand~~  
34 ~~dollars (\$750,000),~~ two million dollars (\$2,000,000), the costs of the  
35 equipment, studies, surveys, designs, plans, working drawings, specifications,



1 construction, installation, and other activities essential to acquiring and  
 2 making operational the major medical equipment shall be included. The  
 3 capital expenditure for the equipment shall be deemed to be the fair market  
 4 value of the equipment or the cost of the equipment, whichever is greater.  
 5 Major medical equipment does not include replacement equipment as defined  
 6 in this section. Beginning September 30, 2022, and on September 30 each year  
 7 thereafter, the cost threshold amount in this subdivision shall be adjusted using  
 8 the Medical Care Index component of the Consumer Price Index published by  
 9 the U.S. Department of Labor for the 12-month period preceding the previous  
 10 September 1.

11 ...  
 12 (16) "New institutional health services" means any of the following:

13 ...  
 14 b. Except as otherwise provided in G.S. 131E-184(e), the obligation by  
 15 any person of a capital expenditure exceeding ~~two~~four million dollars  
 16 ~~(\$2,000,000)-(\$4,000,000)~~ to develop or expand a health service or a  
 17 health service facility, or which relates to the provision of a health  
 18 service. The cost of any studies, surveys, designs, plans, working  
 19 drawings, specifications, and other activities, including staff effort and  
 20 consulting and other services, essential to the acquisition,  
 21 improvement, expansion, or replacement of any plant or equipment  
 22 with respect to which an expenditure is made shall be included in  
 23 determining if the expenditure exceeds ~~two~~four million dollars  
 24 ~~(\$2,000,000)-(\$4,000,000)~~. Beginning September 30, 2022, and on  
 25 September 30 each year thereafter, the amount in this sub-subdivision  
 26 shall be adjusted using the Medical Care Index component of the  
 27 Consumer Price Index published by the U.S. Department of Labor for  
 28 the 12-month period preceding the previous September 1.

29 ...."  
 30 **SECTION 2.** G.S. 131E-189 is amended by adding the following new subsections

31 to read:

32 "(d) Notwithstanding subsections (a), (b), or (c) of this section, a certificate of need issued  
 33 by the Department for the construction of a health service facility on or after October 1, 2021,  
 34 expires if the holder of the certificate of need fails to execute or commit to a contract for design  
 35 services for the project authorized by the certificate of need within the following time frames:

36 (1) For a project that costs over fifty million dollars (\$50,000,000), the holder of  
 37 the certificate of need shall execute or commit to a contract for design services  
 38 for the project authorized by the certificate of need within four years after the  
 39 date the Department's decision to approve the certificate of need for that  
 40 project becomes final.

41 (2) For a project that costs fifty million dollars (\$50,000,000) or less, the holder  
 42 of the certificate of need shall execute or commit to a contract for design  
 43 services for the project authorized by the certificate of need within two years  
 44 after the date the Department's decision to approve the certificate of need for  
 45 that project becomes final.

46 (e) Notwithstanding subsections (a), (b), or (c) of this section, a certificate of need issued  
 47 by the Department for the construction of a health service facility prior to October 1, 2021,  
 48 expires if the holder of the certificate of need fails to execute or commit to a contract for design  
 49 services for the project authorized by the certificate of need within the following time frames:

1           (1)    For a project that costs over fifty million dollars (\$50,000,000), the holder of  
2           the certificate of need shall execute or commit to a contract for design services  
3           for the project authorized by the certificate of need by October 1, 2025.

4           (2)    For a project that costs fifty million dollars (\$50,000,000) or less, the holder  
5           of the certificate of need shall execute or commit to a contract for design  
6           services for the project authorized by the certificate of need by October 1,  
7           2023.

8           (f)    Notwithstanding subsections (d) and (e) of this section, certificates of need that (i) are  
9           issued for the construction of a health service facility prior to October 1, 2021, and (ii) have a  
10          specific deadline to execute or commit to a contract for design services for the project authorized  
11          by the certificate of need will not expire unless the holder fails to execute or commit to a contract  
12          for design services by the deadline specified in the certificate of need.

13          (g)    In the event the holder of a certificate of need is unable to execute or commit to a  
14          contract for design services for the project due to developments beyond the control of the holder  
15          of the certificate of need or for other good cause, the time for performance shall be extended by  
16          a period equal to the period during which performance of the obligation has been delayed or  
17          failed to be performed."

18                **SECTION 3.** If any part of this act is declared unconstitutional or invalid by the  
19 courts, it does not affect the validity of this act as a whole or any part other than the part declared  
20 to be unconstitutional or invalid.

21                **SECTION 4.** Sections 1 and 2 become effective October 1, 2021. The remainder of  
22 this act is effective when it becomes law.