

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Health Services Planning Program Re-Establishment Act of 1996 to provide that staffing of the State Health Planning and Development Agency ("SHPDA") can continue beyond March 1, 2003, to authorize the funding of SHPDA through fees, to exempt public, charter, and private schools from the certificate of need procedures for services offered to students with special needs, to require that certificate of need determinations be made within 90 days, extendable under certain circumstances for an additional 30 days, to authorize SHPDA to charge fees for providing to the public documents relating to the application process, to increase the threshold for nonpatient care projects from \$5 million to \$8 million, to establish the State Health Planning and Development Fund as a nonlapsing, revolving fund, and to implement other streamlined certificate of need procedures; to amend Title XX of the Fiscal Year 2003 Budget Support Amendment Act of 2002 to provide that staffing of the SHPDA can continue beyond March 1, 2003; and to amend Title XX of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2002 to provide that staffing of the SHPDA can continue beyond March 1, 2003.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Services Planning and Development Temporary Amendment Act of 2003".

Sec. 2. The Health Services Planning Program Re-Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 44-401) is amended as follows:

(1) Paragraph (3)(A) is amended by striking the number "\$2,000,000" and inserting the number "\$2,500,000" in its place.

(2) Paragraph (10) is amended by striking the phrase "the private office facilities of a health professional," and inserting the phrase "the private office facilities of a health professional or group of health professionals, where the health professional or group of health professionals provides conventional offices services limited to medical consultation, general

Note,
§ 44-401

non-invasive examination, and minor treatment,” in its place.

(3) Paragraph (14)(A) is amended to read as follows:

"(14)(A) "Major medical equipment" means equipment which is used for the provision of medical or other health services, which is acquired by lease, purchase, donation or other comparable arrangement by or on behalf of a health care facility and which has a fair market value in excess of \$1,500,000 or by or on behalf of a physician or group of physicians and which has a fair market value in excess of \$750,000; except that the SHPDA may, by rule, adjust this threshold annually to reflect the change in the Consumer Price index issued by the Bureau of Labor Statistics, United States Department of Labor. "Major medical equipment" shall not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office or a hospital and it meets the requirements of § 1861(s)(10) and (11) under the Social Security Act, approved August 14, 1935 (49 Stat. 420; 42 U.S.C. 1395x(s)).".

(b) Section 3(a) (D.C. Official Code § 44-402(a)) is amended as follows:

Note,
§ 44-402

(1) Designate the existing language as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

“(2) Local revenues, not to exceed fees collected pursuant to section 21, shall be utilized to fund a maximum of 4 staff positions to administer SHPDA (Project Review Division - Certificate of Need Division Chief; 2 Public Health Analysts; and Secretary).”.

(c) Section 6 (D.C. Official Code § 44-405) is amended by adding a new subsection (g) to read as follows:

Note,
§ 44-405

“(g) The SHPDA is authorized to establish a fee schedule for certain data, analyses, and reports available through SHPDA.”.

(d) Section 8(b) (D.C. Official Code § 44-407(b)) is amended as follows:

Note,
§ 44-407

(1) Paragraphs (1), (3), and (4) are amended to read as follows:

“(1) The upgrading, maintenance, or correction of facility deficiencies that may be in violation of federal and District fire, building, and safety codes, or that will improve patient safety;

“(3) Nonpatient care projects requiring the obligation of a capital expenditure of less than \$8 million;

“(4) The acquisition of the same or similar medical equipment to replace, upgrade, or expand the capacity of the same equipment for which a certificate of need has been granted, if the replacement equipment is removed from service;”.

(2) Paragraph (6) is repealed.

(3) Paragraph (8) is amended by striking the word “and” at the end.

(4) Paragraph (9) is amended by striking the phrase “review.” and inserting the phrase “review;” in its place.

(5) New paragraphs (10) and (11) are added to read as follows:

“(10) The acquisition of major medical equipment or institution of new institutional health services determined by the Department to be necessary for a declared public health purpose or deemed necessary to provide health care services under contract to or grant from a District of Columbia agency; and

“(11) District of Columbia public, charter, and private schools for any health care service offered or developed for students with special needs in compliance with the Individuals with Disabilities Education Act, the Rehabilitation Act of 1973, or the Early and Periodic Screening, Diagnosis, and Treatment standards, or any other federal or District of Columbia legal requirements.”.

(e) Section 10 (D.C. Official Code § 44-409) is amended as follows:

Note,
§ 44-409

(1) Subsection (c) is amended as follows:

(A) Insert the phrase "for expedited administrative review," after the phrase "renewal applications,".

(B) Strike the last sentence.

(2) Subsection (d)(2) is amended to read as follows:

“(2) The SHPDA shall issue its determination on an application for a certificate of need within 90 days after the date that the review process begins. If the SHPDA cannot issue its determination within that period, the review period may be extended for one additional period of 30 days.”.

(3) Subsection (f) is amended by adding a new sentence at the end to read as follows:

“The SHPDA is authorized to charge reasonable fees for the costs of providing to the public documents covered under this subsection.”.

(f) Section 11(a) (D.C. Official Code § 44-410 (a)) is amended by inserting the phrase “major medical equipment,” after the phrase "health service,".

Note,
§ 44-410

(g) Section 21 (D.C. Official Code § 44-420) is amended by inserting 3 new sentences at the end to read as follows:

Note,
§ 44-420

“The annual user fee for private hospitals shall be \$4 per inpatient admission, based on the previous year’s admission data, to be paid to the SHPDA on a quarterly basis, in lieu of a certificate of need application fee. User fees may also be established for other classes of facilities by regulation. SHPDA may adjust a user fee periodically to reflect the change in the Consumer Price index issued by the Bureau of Labor Statistics, United States Department of Labor.”.

(h) A new section 22b is added to read as follows:

“Sec. 22b. Establishment of State Health Planning and Development Fund.

Note,
§ 44-421

“(a) There is established as a nonlapsing, revolving fund in the Department of Health the State Health Planning and Development Fund ("SHPDA Fund"), to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Official Code, to which all fees, civil fines, and interest relating to the State Health Planning and

Development Agency shall be deposited and credited.

“(b) Revenues deposited into the SHPDA Fund shall not revert to the General Fund at the end of any fiscal year or at any other time but shall be continually available to the Department of Health for the uses and purposes set forth in subsection (c) of this section, subject to authorization by Congress in an appropriations act.

“(c) Subject to the applicable laws relating to the appropriation of District funds, monies received by and deposited in the State Health Planning and Development Fund shall be for the sole use of the State Health Planning and Development Agency and from it shall be paid all salaries and all other expenses necessary in carrying out the duties of the SHPDA. The Mayor shall be responsible for the deposit and expenditure of these monies.

“(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the State Health Planning and Development Fund. The Mayor's budget request shall be based on an estimated projection of the expenditures necessary to perform the administrative and regulatory functions of the State Health Planning and Development Agency.”.

Sec. 3. Title XX of the Fiscal Year 2003 Budget Support Amendment Act of 2002, signed by the Mayor on December 4, 2002 (D.C. Act 14-543; 49 DCR 11664), is amended as follows:

(a) Section 2002(b)(1)(B) is amended to read as follows:

“(B) A new paragraph (2) is amended to read as follows:

““(2) Local revenues, not to exceed fees collected pursuant to section 21, shall be utilized to fund a maximum of 4 staff positions to administer SHPDA (Project Review Division - Certificate of Need Division Chief; 2 Public Health Analysts; and Secretary).”.”.

Sec. 4. Title XX of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003, signed by the Mayor on February 24, 2003 (D.C. Act 15-27), is amended as follows:

(a) Section 2002(b)(1)(B) is amended to read as follows:

“(B) A new paragraph (2) is amended to read as follows:

““(2) Local revenues, not to exceed fees collected pursuant to section 21, shall be utilized to fund a maximum of 4 staff positions to administer SHPDA (Project Review Division - Certificate of Need Division Chief; 2 Public Health Analysts; and Secretary).”.”.

Sec. 5. Applicability.

This act shall apply as of March 1, 2003.

Sec. 6. Fiscal impact statement.

The Council adopts the attached fiscal impact statement of the Chief Financial Officer as

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the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire 225 days after its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia