

Passed the House May 10, 1971.

Passed the Senate May 10, 1971.

Approved by the Governor May 21, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 198

[Engrossed Substitute House Bill No. 553]

COMPREHENSIVE HEALTH PLANNING--

CERTIFICATES OF NEED FOR HOSPITAL AND NURSING HOME CONSTRUCTION

AN ACT Relating to state government, providing for comprehensive health planning, and certificates of need for hospital and nursing home construction; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Section 1. There is added to Title 70 RCW a new chapter to read as set forth in sections 2 through 23 of this act.

NEW SECTION. Sec. 2. It is declared to be the public policy of this state:

(1) That comprehensive planning for promoting, maintaining and assuring a high level of health for all citizens of the state, and for the provision of health services, health manpower, health facilities and other resources, as well as health planning related to environmental matters is essential to the health, safety and welfare of the people of the state. Such planning is necessary on both a state-wide and regional basis, and must maintain responsiveness to changing health and social needs and conditions. The marshaling of all health resources to assure comprehensive health services of high quality available to every person must be the goal of such planning, which must likewise assure optimum efficiency, effectiveness, equity, coordination and economy in development and implementation to reach that goal.

(2) That the timely construction and expansion of hospital and nursing home facilities and the institution of additional hospital and nursing home services should be accomplished in a manner which is orderly, coherent, timely, economical and consistent with the effective development of necessary and adequate means of providing high quality health care for persons to be served by such facilities without duplication or fragmentation of such facilities.

NEW SECTION. Sec. 3. The following words or phrases, as used in this chapter, shall have the following meanings unless the context otherwise requires:

(1) "Board" means the Washington state board of health.

(2) "Construction" means the erection, building, or

substantial acquisition, alteration, reconstruction, improvement, extension or modification of a hospital or nursing home, including equipment, the inspection and supervision thereof and other actions necessary thereto, which cost in excess of one hundred thousand dollars.

(3) "Consumer" means any person whose occupation is other than the administration of health activities or the providing of health services, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(4) "Council" means the state comprehensive health planning advisory council.

(5) "Defined population" means the population that is or may reasonably be expected to be served by an existing or proposed hospital or nursing home. "Defined population" shall also include persons who prefer to receive the services of a particular recognized school or theory of medical care. "Defined population" shall not be limited to a geographical area.

(6) "Department" means the Washington state department of social and health services.

(7) "Hospital" means any institution, place, building or agency, public or private, incorporated or not incorporated:

(a) Which provides or is capable of providing facilities for inpatient care of one or more persons, and inpatient health services, including physician services, through an organized medical staff and continuous nursing services for the prevention, diagnosis or treatment of patients, both surgical and nonsurgical; or

(b) Which qualifies or is required to qualify for a license under chapter 70.41 or 71.12 RCW.

(8) "Nursing home" means any home, place, institution or facility not a hospital:

(a) Which provides or is capable of providing convalescent, chronic or nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board; or

(b) Which qualifies or is required to qualify for a license under chapter 18.51 RCW.

(9) "Regional planning agency" means the area-wide comprehensive health planning agency responsible for comprehensive health planning within a defined area.

(10) "Secretary" means the secretary of the Washington state department of social and health services or his designee.

(11) "State planning agency" means the state comprehensive health planning agency as defined by Public Law 89-749 and designated by the governor pursuant to section 4 of this act.

NEW SECTION. Sec. 4. In order to carry out the purposes of

this chapter, the governor shall designate a single state agency to develop and administer a state comprehensive health planning program. The designated state planning agency shall be responsible for implementing the related provisions of this chapter as hereinafter described, the provisions of Public Law 89-749 and subsequent federal legislation.

The state planning agency responsibilities under this chapter shall include but not be limited to the following:

(1) Develop long-range comprehensive health plans, including services, manpower, facilities and other resources, as well as recommendations for priorities.

(2) Develop guidelines as recommendations for government health planning, and health program evaluation.

(3) Provide continuing assistance to the state council and to regional planning agencies in their organization for and development of comprehensive health plans.

(4) Approve or reject applicants for recognition as a regional planning agency.

(5) Certify regional planning agencies, as appropriate, as capable to conduct evaluations and make recommendations as to applications for certificates of need.

(6) Develop proposals and recommendations regarding needs for training health manpower.

(7) Coordinate the comprehensive health planning activities with other health planning activities throughout the state.

NEW SECTION: Sec. 5. A state comprehensive health planning advisory council shall be appointed by the governor to advise the state planning agency on comprehensive health planning. The council shall consist of not more than thirty-nine public members plus representatives of appropriate departments of state government, such representatives to serve ex officio. One-third of the initial public members shall serve for terms of one year, one-third for terms of two years, and one-third for terms of three years. Subsequent appointments shall be for a three year term. A majority of the public members shall be consumers as defined herein. Included in the balance of the membership of the council shall be at least one physician, one dentist, one hospital administrator, one nursing home administrator, one osteopathic physician, one optometrist, one chiropodist, one registered nurse and one chiropractor. The chairman of the council shall be appointed by the governor, and shall serve as chairman at his pleasure, but for no longer than three years. A vice chairman shall be elected by the council. The council shall meet on call of the chairman or on request of the state planning agency, or the department, or a majority of public members, but not less than twice a year. The council may create standing and special committees

as necessary and may appoint persons who are not members of the council to serve as advisory or consultant members of any committee in order to carry out the purposes of the council.

NEW SECTION. Sec. 6. Except for state employees who shall receive their usual per diem pursuant to RCW 43.03.050, members of the council and advisory or consultant members of any committee shall receive twenty-five dollars per diem spent in performing their duties and in addition all members shall be entitled to reimbursement for actual travel expenses incurred in the performance of their duties pursuant to RCW 43.03.060.

NEW SECTION. Sec. 7. The council shall have the following duties and functions:

(1) Consult with and advise the state planning agency in the conduct of its comprehensive health planning program. The council shall review and comment on project grant applications for public funds that relate to health under section 314, U.S. Public Health Services Act and other state and federal acts that shall from time to time require action by the council.

(2) Provide consultation to the secretary at his request.

(3) Perform such other functions or duties as may be requested.

NEW SECTION. Sec. 8. There shall be established, in regions established by the governor, regional planning agencies to carry out the purposes of this chapter. The state planning agency shall be responsible, with the advice of the state council, for developing guidelines to assist in the establishment and recognition of regional planning agencies, and for providing planning assistance to such agencies. Any municipal corporation or nonprofit corporation organized under chapter 24.03 RCW, and meeting the state planning agency's guidelines and the criteria set forth in section 9 of this act for regional planning agencies may be eligible for approval by the state planning agency as the regional planning agency for a defined area.

NEW SECTION. Sec. 9. To be eligible for approval as a regional planning agency, an applicant agency shall meet the following criteria:

(1) Be able to conduct comprehensive health planning for a defined area which is large enough to provide a basis for development of the health facilities, services, manpower and other resources necessary to assure comprehensive health services.

(2) Provide for representation, through an advisory council or its board of directors, of the major public, private and voluntary agencies concerned with physical, mental and environmental health services, facilities, and manpower and other resources. The applicant may obtain additional representation through subcommittees,

technical advisory committees, and other such means.

(3) Provide that a majority of the membership of the advisory council and/or board of directors shall be consumers of health services reflecting geographic, socio-economic, ethnic and age groups in the area. The members who are health care providers shall also represent broad geographic, professional and ethnic elements of the area.

(4) Provide comment by a cross-section of county, and city governments, and public, private and voluntary health agencies in the area as the agency to be responsible for the comprehensive area-wide health planning program, or for organizing such a comprehensive health planning program.

NEW SECTION. Sec. 10. An approved regional planning agency shall be recognized by the county, city, and other governmental units and public, private and voluntary health agencies in the area as being responsible for the comprehensive area-wide health planning program.

NEW SECTION. Sec. 11. An approved regional planning agency shall:

(1) Identify health problems, needs, and resources; recommend goals and objectives; and promote the development and effective utilization of the health resources of the area.

(2) Plan and assure coordination and optimum utilization of current and future health manpower, services, facilities and resources for health care and prevention of disease and injury within the area and with state-wide programs.

(3) Prepare and maintain a long-range plan for all health facilities, services, manpower and other resources within the geographic area served by the agency.

(4) Within sixty days of receipt or a specified further period not to exceed an additional thirty days, approved by the secretary, evaluate all applications for certificates of need within the agency's area and make recommendations to the department.

(5) Establish methods of plan revision and amendment to allow responsiveness to changing needs and conditions.

(6) Individually and in cooperation with other regional planning agencies and the state planning agency, make recommendations and otherwise further the state comprehensive health planning program.

(7) Provide other assistance or certification as required by state or federal legislation or upon request by any state agency.

NEW SECTION. Sec. 12. Construction shall not be instituted or commenced after the effective date of this chapter except upon application for and receipt of a certificate of need as provided herein: PROVIDED, That in any case in which, prior to the effective

date of this chapter, there has been proposed the construction of a new facility or the expansion of an existing facility and preliminary plans have been submitted to the planning and construction unit of the division of health of the department of social and health services, the secretary may waive all or any portion of the review process, but said facility shall proceed with its plans in an orderly and expeditious manner and commence construction no later than July 1, 1972.

NEW SECTION. Sec. 13. Certificates of need shall be issued or denied, suspended, revoked or reinstated by the secretary in accordance with the provisions and intent of this chapter and rules, regulations and policies adopted by the board. Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for an administrative hearing in accordance with chapter 34.04 RCW.

NEW SECTION. Sec. 14. Application for a certificate of need shall be made to the department, and shall include the following information:

- (1) The general geographic area to be served.
- (2) The population to be served, and the characterization of the population, as well as projections of population growth by an official federal or state agency.
- (3) A description of the service or services to be provided.
- (4) The anticipated demand for the hospital or nursing home service or services to be provided.
- (5) Utilization of existing programs within the area to be served offering the same or similar health care services.
- (6) The benefit to the community or the population to be served which will result from the proposed project as well as the anticipated impact on other facilities offering the same or similar services in the area.
- (7) A statement showing the existing working relationship among the hospitals or nursing homes within the defined population or area to be served.
- (8) A description of how the hospital or nursing home fits into the comprehensive health program of the region.
- (9) Evaluation and recommendation as to need by the regional planning agency or if no capable regional planning agency has been certified for such purpose, or if no area-wide comprehensive health plan exists, the department may utilize such other resources as it deems necessary and appropriate pursuant to section 18 of this act.
- (10) Such other information as may reasonably be required by the department.

NEW SECTION. Sec. 15. A certificate of need shall be issued only where the proposed construction is reasonably necessary to

provide health care to the defined population served or to be served as economically as practicable, consistent with high quality standards and in such a manner as to encourage orderly, coherent, timely and economic development of adequate and effective health services in the area, region and state. In making such determinations, the secretary shall take into consideration:

(1) Recommendations of the regional planning agency and, if provided, recommendations of the state planning agency.

(2) The comprehensive health plans and development for the area, region and state, and the relationship of the proposal to such plans and development.

(3) The need for health care services in the area and/or the requirements of the defined population.

(4) The availability and adequacy of health care services in the facilities which are currently serving the defined population and which conform to federal and state standards.

(5) The need for special equipment and services in the area which are not reasonably and economically accessible to the defined population.

(6) The need for research and educational facilities.

(7) The probable economies and improvement in services that may be derived from the operation of joint central services or from joint, cooperative, or shared health resources which are accessible to the defined population.

(8) The availability of sufficient manpower in the professional disciplines required for the facility.

(9) The plans for and development of comprehensive health services and facilities for the defined population to be served. Such services may be either direct or indirect through formal affiliation with other health programs in the area, and shall include preventive, diagnostic, treatment and rehabilitation services.

(10) Whether or not the applicant has obtained all relevant approvals, licenses or consents required by law for its incorporation or establishment.

(11) Relevant information from interested persons and agencies.

(12) The needs of members, subscribers and/or enrollees of institutions and health care plans which operate or support particular hospitals for the purpose of rendering health care to such members, subscribers and/or enrollees.

In the case of an application by a hospital or nursing home established or operated by a religious body or denomination, the needs of the members of such religious body or denomination for care and treatment in accordance with their religious or ethical convictions may be considered to be public need.

NEW SECTION. Sec. 16. In the administration of this chapter, consideration shall be given to the efficiency of the utilization of an existing hospital or nursing home which is or will be serving the defined population to be served by a proposed new hospital or nursing home or expansion of an existing hospital or nursing home so as to avoid unnecessary duplication of facilities, and to encourage maximum efficiency in the use of the hospitals or nursing homes which then serve or will be serving the defined population.

NEW SECTION. Sec. 17. A certificate of need shall be valid for such period of time, not to exceed two years, as may reasonably be required to complete preparation of detailed construction plans, secure necessary funds and building permits and undertake construction of the hospital or nursing home in question: PROVIDED, That, with the advice of the regional planning agency or, when appropriate, the other resources utilized by the department, the secretary may renew the certificate for such further periods as may be reasonable where the applicant has shown that substantial and continuing progress towards commencement of construction has been demonstrated.

NEW SECTION. Sec. 18. The secretary shall have authority to:

(1) Prepare proposed policies, rules and regulations to be considered for adoption by the board in order to effectuate the provisions and purposes of this chapter, including but not limited to the establishment of requirements for a uniform state-wide system of reporting financial and other operating data.

(2) Enter into contracts with any political subdivision, local health department, school of higher education, or nonprofit agency, and such entities are authorized to enter into contracts with the secretary to carry out the purposes of this chapter.

(3) Enter into contracts with consultants or utilize other evaluative or informational resources wherever necessary and feasible in order to effectuate the purposes of this chapter.

(4) Request hospitals or nursing homes to furnish the department such reports and information as he may require in order to carry out the provisions of this chapter.

(5) Cooperate and coordinate with other state departments having jurisdiction over matters affecting the maintenance, care and social well-being of persons using facilities providing hospital or nursing home services.

NEW SECTION. Sec. 19. The issuance of a certificate of need for a specific project in a hospital's or nursing home's long-range plan shall not constitute a guarantee that all future proposals contained in that long-range plan will receive a certificate of need; however, the existence of previously certified projects that reduce the overall cost of future projects shall be taken into account by



the regional planning agency and the secretary in reviewing subsequent proposals.

NEW SECTION. Sec. 20. The secretary may bring an action to enjoin a violation or the threatened violation of any of the provisions of this chapter or any rules or regulations adopted by the board or the department pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.

NEW SECTION. Sec. 21. No member, officer or employee of a regional planning agency or its advisory council shall be subject to civil action in any court as the result of any act done or failure to act, or of any statement or opinion made, while discharging his duties as such member, officer or employee: PROVIDED, That he acted in good faith with reasonable care and upon proper cause.

NEW SECTION. Sec. 22. No hospital constructed after the effective date of this chapter shall be eligible to apply for or receive funds under the provisions of chapter 70.40 RCW, the Hospital and Medical Facilities Survey and Construction Act, unless said hospital has applied for and been granted a certificate of need as provided in this chapter.

NEW SECTION. Sec. 23. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House May 10, 1971.

Passed the Senate May 9, 1971.

Approved by the Governor May 21, 1971.

Filed in Office of Secretary of State May 21, 1971.

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#### CHAPTER 199

[Engrossed House Bill No. 543]

MASS PUBLIC TRANSIT SYSTEMS--

COLLECTION AND DISTRIBUTION OF SPECIAL MOTOR VEHICLE EXCISE TAX

AN ACT Relating to public transportation; amending section 11, chapter 255, Laws of 1969 ex. sess. and RCW 35.58.276; and amending section 82.44.150, chapter 15, Laws of 1961, as amended by section 15, chapter 255, Laws of 1969 ex. sess. and RCW 82.44.150.

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

Section 1. Section 11, chapter 255, Laws of 1969 ex. sess.