

H. 3250 - CON
Sens. Cleary, Lourie and Nicholson Amendment

- 1) **SECTION 1 - page 1**
Allows DHEC to have access to Revenue and Fiscal Affairs' data for purposes of issuing a CON -- technical name change

- 2) **SECTION 2 - page 1**
Amends the definition of "nonionizing radiation" in the radiation control act to include MRI devices -- updates the terminology

- 3) **SECTION 3 - page 2**
Takes MRIs out of CON - and requires them to be registered

- 4) **SECTION 4 - page 3**
Amends the DHEC appeals process: subsection (E) - the DHEC board is taken out of the appeal process, the staff decision on a CON must be appealed straight to the Administrative Law Court. Subsection (G) - only an "affected person" can appeal a staff decision.

- 5) **SECTION 5 - top of page 4**
Definitions section
 - (1) - "affected person" - clarifies that if you do not operate a facility in the area or provide a similar service then you are not an "affected person"

 - (5) - "competing applications" - new requirement that a notice of filing must be on the department's website

 - (20) - "freestanding or mobile technology" - medical equipment - amended to say that total cost is determined in Section 44-7-160(b) which is in excess of \$1 million - and standards/criteria are in the State Health Plan

 - (21) - "like equipment with similar capabilities" - amended to clarify that the equipment may have more capability due to technology improvementsNew definition - "similar services" - standards set in State Health Plan

6) SECTION 6 - page 5

Currently the first \$750,000 of CON fees collected goes to the General Fund. This change will allow DHEC to retain all of the fees

7) SECTION 7 - bottom of page 5

Capital Projects (brick and mortar) - currently the limit is set in regulation and it is \$2 million -- this second codifies the limit and sets it at \$5 million - and has an annual adjustment to reflect CPI for medical care services

(6) Equipment - current limit is set in regulation and the limit is \$600,000. This subsection sets the cap at \$1 million and has an annual adjustment to reflect CPI for medical care services.

- the changes for capital projects and equipment effect CON applications submitted after effective date of the act.

8) SECTION 8 - bottom of page 6

- subsection (4) Allows expansion of beds without a CON in acute care hospitals, nursing homes, rehab facilities and psychiatric hospitals

-- deleted House language that allowed expansion of capital and equipment “within a one-mile radius for the same site where such services are located”

-- added conditions for when bed expansion is not exempt - not to exceed 75% of capacity and may be exceed 20 beds or 10% of the total number of similar beds

- subsection (5) - expansion of open heart centers or diagnostic/comprehensive cardiac cath labs are exempt if CON has been awarded at same site where services are currently located.

9) SECTION 9 - beginning at the bottom of page 7

Health Planning Committee -- deletes this 14 member committee.

- deleted House language saying the General Assembly by a joint resolution can make DHEC submit the plan.

10) SECTION 10 - page 9

Relates to application process:

1) application must be submitted on-line

11) SECTION 11 - page 10

Time clock on applications

- Amended to say the time clock to begins when application is deemed complete by DHEC
- Kept current language to say ALC must rule within 18 months - ALC said they did not have enough judges to rule within 12 months as was in the House version.

12) SECTION 12 - page 13

Loser pays - currently loser pays begins at the Appeals Court. House version changed so that loser pays applies at the ALC level - this kept it like current law

- Deleted House language related to “offer of settlement” - no one knew what that meant!

13) SECTION 13 - page 14

Extension of CON - technical change saying the “department” not the “board” may grant an extension of up to 9 months.

14) SECTION 14 - bottom of page 14

This deals with the issuance of bonds by local hospital boards

15) SECTION 15 - page 15

Severability clause

16) SECTION 16 - page 15

Effective date - upon approval of the Governor

Major Items not included in amendment

- **Equipment - inserts a \$1 million cap and ties it to CPI for medical care services -- current law \$600,000 -- House version was unlimited**
- **Sunset provision -- deleted the provision that CON would sunset on January 1, 2018**
- **Loser pays - House says loser pays at ALC level - amendment keeps at Appeals Court (current law)**