

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 436 (First Edition)

SHORT TITLE: Fairness in CON Determinations/Inflation Adj.

SPONSOR(S): Representatives Lewis, Folwell, and Boles

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>
<b>REVENUES</b>	(\$29,882)	(\$30,423)	(\$30,985)	(\$31,521)	(\$32,076)
<b>EXPENDITURES</b>					
<b>POSITIONS (cumulative):</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
<b>EFFECTIVE DATE:</b> Effective upon becoming law.					

**BILL SUMMARY:**

March 5, 2009

H 436. FAIRNESS IN CON DETERMINATIONS/INFLATION ADJ. Filed 3/5/09.

Amends GS 131E-176(16)b. and 131E-176(22a) to increase the capital expenditure thresholds to \$2,878,186 (was \$2,000,000) and to adjust it annually for inflation. Applies to proposals or applications for replacement equipment pending in the Department of Health and Human Services on and after the date the act becomes law. Requires the cost to be adjusted for inflation on and after the act's effective date.

Source: Bill Digest H.B. 436 (03/05/0200)

**ASSUMPTIONS AND METHODOLOGY:** The North Carolina Certificate of Need (CON) law prohibits health care providers from acquiring, replacing, or adding to their facilities and equipment, except in specified circumstances, without the prior approval of the Department of Health and Human Services. The law restricts unnecessary increases in health care costs and limits

unnecessary health services and facilities based on geographic, demographic and economic considerations.

A CON is required before upgrading and expanding existing health service facilities or replacing equipment only if the capital expenditure exceeds \$2 million. House Bill 436 would increase the specified minimum for a CON by \$878,186 to \$2,878,186 and have that amount annually adjusted for inflation.

If the specified minimum was raised to \$2,878,186, the fiscal impact would be the loss of revenues generated by application fees for projects between \$2,000,000 and \$2,878,186. For each \$1 million project, there is a base fee of \$5,000. In addition to the base fee, there is a fee of 3/10 of 1% for any amount over \$1 million. Fees for projects between \$2 million (the current minimum) and \$2,878,186 range from \$8,000 [ $\$5,000 \text{ base fee} + (0.3 \cdot .01 \cdot 1,000,000 = \$3,000)$ ] to \$10,635 [ $\$5,000 \text{ base fee} + (0.3 \cdot .01 \cdot 1,878,816 = \$5,636)$ ].

A review by the Division of Health Service Regulation (DHSR) shows that \$29,339 was generated by application fees for projects that were submitted based on the costs exceeding the \$2 million threshold over the past 12 months. Historically, the number of projects is as follows:

2/15/08-2/15/09 (13 months): 3 projects - total fees \$29,339  
 2/15/07-1/15/08 (12 months): 4 projects - total fees \$32,314  
 2/15/06-1/15/07 (12 months): 1 project - total fees \$ 7,781  
 2/15/05-1/15/06 (12 months): 3 projects - total fees \$25,731

Fees increased in 2007, so using the most recent year as the base year for lost revenues and adjusting for inflation it is estimated that increasing the specified minimum for a capital expenditure requiring a CON would result in a loss of \$154,888 in general fund revenues over the next five years.

	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Inflation factor (General CPI)	1.85%	1.81%	1.85%	1.73%	1.76%	
Fees from reduced applications	\$ 29,882	\$ 30,423	\$ 30,985	\$ 31,521	\$ 32,076	\$ 154,888

**SOURCES OF DATA:** DHHS, Division of Health Service Regulation

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** March 13, 2009



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