
SENATE BILL 5445

State of Washington

57th Legislature

2001 Regular Session

By Senators Costa, Deccio, Thibaudeau, Parlette and Kohl-Welles

Read first time 01/23/2001. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the medicaid related payment of property costs
2 in licensed nursing facilities; amending RCW 74.46.020, 74.46.370,
3 74.46.421, 74.46.433, and 74.46.435; adding new sections to chapter
4 74.46 RCW; repealing RCW 74.46.908; and declaring an emergency.

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

6 **Sec. 1.** RCW 74.46.020 and 1999 c 353 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Accrual method of accounting" means a method of accounting in
11 which revenues are reported in the period when they are earned,
12 regardless of when they are collected, and expenses are reported in the
13 period in which they are incurred, regardless of when they are paid.

14 (2) "Appraisal" means the process of estimating the fair market
15 value or reconstructing the historical cost of an asset acquired in a
16 past period as performed by a professionally designated real estate
17 appraiser with no pecuniary interest in the property to be appraised.
18 It includes a systematic, analytic determination and the recording and

1 analyzing of property facts, rights, investments, and values based on
2 a personal inspection and inventory of the property.

3 (3) "Arm's-length transaction" means a transaction resulting from
4 good-faith bargaining between a buyer and seller who are not related
5 organizations and have adverse positions in the market place. Sales or
6 exchanges of nursing home facilities among two or more parties in which
7 all parties subsequently continue to own one or more of the facilities
8 involved in the transactions shall not be considered as arm's-length
9 transactions for purposes of this chapter. Sale of a nursing home
10 facility which is subsequently leased back to the seller within five
11 years of the date of sale shall not be considered as an arm's-length
12 transaction for purposes of this chapter.

13 (4) "Assets" means economic resources of the contractor, recognized
14 and measured in conformity with generally accepted accounting
15 principles.

16 (5) "Audit" or "department audit" means an examination of the
17 records of a nursing facility participating in the medicaid payment
18 system, including but not limited to: The contractor's financial and
19 statistical records, cost reports and all supporting documentation and
20 schedules, receivables, and resident trust funds, to be performed as
21 deemed necessary by the department and according to department rule.

22 (6) "Bad debts" means amounts considered to be uncollectible from
23 accounts and notes receivable.

24 (7) "Beneficial owner" means:

25 (a) Any person who, directly or indirectly, through any contract,
26 arrangement, understanding, relationship, or otherwise has or shares:

27 (i) Voting power which includes the power to vote, or to direct the
28 voting of such ownership interest; and/or

29 (ii) Investment power which includes the power to dispose, or to
30 direct the disposition of such ownership interest;

31 (b) Any person who, directly or indirectly, creates or uses a
32 trust, proxy, power of attorney, pooling arrangement, or any other
33 contract, arrangement, or device with the purpose or effect of
34 divesting himself or herself of beneficial ownership of an ownership
35 interest or preventing the vesting of such beneficial ownership as part
36 of a plan or scheme to evade the reporting requirements of this
37 chapter;

1 (c) Any person who, subject to (b) of this subsection, has the
2 right to acquire beneficial ownership of such ownership interest within
3 sixty days, including but not limited to any right to acquire:

4 (i) Through the exercise of any option, warrant, or right;

5 (ii) Through the conversion of an ownership interest;

6 (iii) Pursuant to the power to revoke a trust, discretionary
7 account, or similar arrangement; or

8 (iv) Pursuant to the automatic termination of a trust,
9 discretionary account, or similar arrangement;

10 except that, any person who acquires an ownership interest or power
11 specified in (c)(i), (ii), or (iii) of this subsection with the purpose
12 or effect of changing or influencing the control of the contractor, or
13 in connection with or as a participant in any transaction having such
14 purpose or effect, immediately upon such acquisition shall be deemed to
15 be the beneficial owner of the ownership interest which may be acquired
16 through the exercise or conversion of such ownership interest or power;

17 (d) Any person who in the ordinary course of business is a pledgee
18 of ownership interest under a written pledge agreement shall not be
19 deemed to be the beneficial owner of such pledged ownership interest
20 until the pledgee has taken all formal steps necessary which are
21 required to declare a default and determines that the power to vote or
22 to direct the vote or to dispose or to direct the disposition of such
23 pledged ownership interest will be exercised; except that:

24 (i) The pledgee agreement is bona fide and was not entered into
25 with the purpose nor with the effect of changing or influencing the
26 control of the contractor, nor in connection with any transaction
27 having such purpose or effect, including persons meeting the conditions
28 set forth in (b) of this subsection; and

29 (ii) The pledgee agreement, prior to default, does not grant to the
30 pledgee:

31 (A) The power to vote or to direct the vote of the pledged
32 ownership interest; or

33 (B) The power to dispose or direct the disposition of the pledged
34 ownership interest, other than the grant of such power(s) pursuant to
35 a pledge agreement under which credit is extended and in which the
36 pledgee is a broker or dealer.

37 (8) "Capital portion of the rate" means the sum of the property and
38 financing allowance rate allocations, as established in part E of this
39 chapter.

1 (9) "Capitalization" means the recording of an expenditure as an
2 asset.

3 (10) "Case mix" means a measure of the intensity of care and
4 services needed by the residents of a nursing facility or a group of
5 residents in the facility.

6 (11) "Case mix index" means a number representing the average case
7 mix of a nursing facility.

8 (12) "Case mix weight" means a numeric score that identifies the
9 relative resources used by a particular group of a nursing facility's
10 residents.

11 (13) "Certificate of capital authorization" means a certification
12 from the department for an allocation from the biennial capital
13 financing authorization for all new or replacement building
14 construction, or for major renovation projects, receiving a certificate
15 of need or a certificate of need exemption under chapter 70.38 RCW
16 after July 1, 2001.

17 (14) "Contractor" means a person or entity licensed under chapter
18 18.51 RCW to operate a medicare and medicaid certified nursing
19 facility, responsible for operational decisions, and contracting with
20 the department to provide services to medicaid recipients residing in
21 the facility.

22 (~~(14)~~) (15) "Default case" means no initial assessment has been
23 completed for a resident and transmitted to the department by the
24 cut-off date, or an assessment is otherwise past due for the resident,
25 under state and federal requirements.

26 (~~(15)~~) (16) "Department" means the department of social and
27 health services (DSHS) and its employees.

28 (~~(16)~~) (17) "Depreciation" means the systematic distribution of
29 the cost or other basis of tangible assets, less salvage, over the
30 estimated useful life of the assets.

31 (~~(17)~~) (18) "Direct care" means nursing care and related care
32 provided to nursing facility residents. Therapy care shall not be
33 considered part of direct care.

34 (~~(18)~~) (19) "Direct care supplies" means medical, pharmaceutical,
35 and other supplies required for the direct care of a nursing facility's
36 residents.

37 (~~(19)~~) (20) "Entity" means an individual, partnership,
38 corporation, limited liability company, or any other association of
39 individuals capable of entering enforceable contracts.

1 ~~((20))~~ (21) "Equity" means the net book value of all tangible and
2 intangible assets less the recorded value of all liabilities, as
3 recognized and measured in conformity with generally accepted
4 accounting principles.

5 ~~((21))~~ (22) "Facility" or "nursing facility" means a nursing home
6 licensed in accordance with chapter 18.51 RCW, excepting nursing homes
7 certified as institutions for mental diseases, or that portion of a
8 multiservice facility licensed as a nursing home, or that portion of a
9 hospital licensed in accordance with chapter 70.41 RCW which operates
10 as a nursing home.

11 ~~((22))~~ (23) "Fair market value" means the replacement cost of an
12 asset less observed physical depreciation on the date for which the
13 market value is being determined.

14 ~~((23))~~ (24) "Financial statements" means statements prepared and
15 presented in conformity with generally accepted accounting principles
16 including, but not limited to, balance sheet, statement of operations,
17 statement of changes in financial position, and related notes.

18 ~~((24))~~ (25) "Generally accepted accounting principles" means
19 accounting principles approved by the financial accounting standards
20 board (FASB).

21 ~~((25))~~ (26) "Goodwill" means the excess of the price paid for a
22 nursing facility business over the fair market value of all net
23 identifiable tangible and intangible assets acquired, as measured in
24 accordance with generally accepted accounting principles.

25 ~~((26))~~ (27) "Grouper" means a computer software product that
26 groups individual nursing facility residents into case mix
27 classification groups based on specific resident assessment data and
28 computer logic.

29 ~~((27))~~ (28) "Historical cost" means the actual cost incurred in
30 acquiring and preparing an asset for use, including feasibility
31 studies, architect's fees, and engineering studies.

32 ~~((28))~~ (29) "Imprest fund" means a fund which is regularly
33 replenished in exactly the amount expended from it.

34 ~~((29))~~ (30) "Joint facility costs" means any costs which
35 represent resources which benefit more than one facility, or one
36 facility and any other entity.

37 ~~((30))~~ (31) "Lease agreement" means a contract between two
38 parties for the possession and use of real or personal property or
39 assets for a specified period of time in exchange for specified

1 periodic payments. Elimination (due to any cause other than death or
2 divorce) or addition of any party to the contract, expiration, or
3 modification of any lease term in effect on January 1, 1980, or
4 termination of the lease by either party by any means shall constitute
5 a termination of the lease agreement. An extension or renewal of a
6 lease agreement, whether or not pursuant to a renewal provision in the
7 lease agreement, shall be considered a new lease agreement. A strictly
8 formal change in the lease agreement which modifies the method,
9 frequency, or manner in which the lease payments are made, but does not
10 increase the total lease payment obligation of the lessee, shall not be
11 considered modification of a lease term.

12 ~~((+31+))~~ (32) "Medical care program" or "medicaid program" means
13 medical assistance, including nursing care, provided under RCW
14 74.09.500 or authorized state medical care services.

15 ~~((+32+))~~ (33) "Medical care recipient," "medicaid recipient," or
16 "recipient" means an individual determined eligible by the department
17 for the services provided under chapter 74.09 RCW.

18 ~~((+33+))~~ (34) "Minimum data set" means the overall data component
19 of the resident assessment instrument, indicating the strengths, needs,
20 and preferences of an individual nursing facility resident.

21 ~~((+34+))~~ (35) "Net book value" means the historical cost of an
22 asset less accumulated depreciation.

23 ~~((+35+))~~ (36) "Net invested funds" means the net book value of
24 tangible fixed assets employed by a contractor to provide services
25 under the medical care program, including land, buildings, and
26 equipment as recognized and measured in conformity with generally
27 accepted accounting principles, plus an allowance for working capital
28 which shall be five percent of the product of the per-patient-day rate
29 multiplied by the prior calendar year adjusted total patient days of
30 each contractor.

31 ~~((+36+))~~ (37) "Noncapital portion of the rate" means the sum of the
32 direct care, therapy care, operations, support services, and variable
33 return rate allocations, as established in part E of this chapter.

34 ~~((+37+))~~ (38) "Operating lease" means a lease under which rental or
35 lease expenses are included in current expenses in accordance with
36 generally accepted accounting principles.

37 ~~((+38+))~~ (39) "Owner" means a sole proprietor, general or limited
38 partners, members of a limited liability company, and beneficial

1 interest holders of five percent or more of a corporation's outstanding
2 stock.

3 ~~((+39+))~~ (40) "Ownership interest" means all interests beneficially
4 owned by a person, calculated in the aggregate, regardless of the form
5 which such beneficial ownership takes.

6 ~~((+40+))~~ (41) "Patient day" or "resident day" means a calendar day
7 of care provided to a nursing facility resident, regardless of payment
8 source, which will include the day of admission and exclude the day of
9 discharge; except that, when admission and discharge occur on the same
10 day, one day of care shall be deemed to exist. A "medicaid day" or
11 "recipient day" means a calendar day of care provided to a medicaid
12 recipient determined eligible by the department for services provided
13 under chapter 74.09 RCW, subject to the same conditions regarding
14 admission and discharge applicable to a patient day or resident day of
15 care.

16 ~~((+41+))~~ (42) "Professionally designated real estate appraiser"
17 means an individual who is regularly engaged in the business of
18 providing real estate valuation services for a fee, and who is deemed
19 qualified by a nationally recognized real estate appraisal educational
20 organization on the basis of extensive practical appraisal experience,
21 including the writing of real estate valuation reports as well as the
22 passing of written examinations on valuation practice and theory, and
23 who by virtue of membership in such organization is required to
24 subscribe and adhere to certain standards of professional practice as
25 such organization prescribes.

26 ~~((+42+))~~ (43) "Qualified therapist" means:

27 (a) A mental health professional as defined by chapter 71.05 RCW;

28 (b) A mental retardation professional who is a therapist approved
29 by the department who has had specialized training or one year's
30 experience in treating or working with the mentally retarded or
31 developmentally disabled;

32 (c) A speech pathologist who is eligible for a certificate of
33 clinical competence in speech pathology or who has the equivalent
34 education and clinical experience;

35 (d) A physical therapist as defined by chapter 18.74 RCW;

36 (e) An occupational therapist who is a graduate of a program in
37 occupational therapy, or who has the equivalent of such education or
38 training; and

1 (f) A respiratory care practitioner certified under chapter 18.89
2 RCW.

3 (~~(43)~~) (44) "Rate" or "rate allocation" means the medicaid per-
4 patient-day payment amount for medicaid patients calculated in
5 accordance with the allocation methodology set forth in part E of this
6 chapter.

7 (~~(44)~~) (45) "Real property," whether leased or owned by the
8 contractor, means the building, allowable land, land improvements, and
9 building improvements associated with a nursing facility.

10 (~~(45)~~) (46) "Rebased rate" or "cost-rebased rate" means a
11 facility-specific component rate assigned to a nursing facility for a
12 particular rate period established on desk-reviewed, adjusted costs
13 reported for that facility covering at least six months of a prior
14 calendar year designated as a year to be used for cost-rebasing payment
15 rate allocations under the provisions of this chapter.

16 (~~(46)~~) (47) "Records" means those data supporting all financial
17 statements and cost reports including, but not limited to, all general
18 and subsidiary ledgers, books of original entry, and transaction
19 documentation, however such data are maintained.

20 (~~(47)~~) (48) "Related organization" means an entity which is under
21 common ownership and/or control with, or has control of, or is
22 controlled by, the contractor.

23 (a) "Common ownership" exists when an entity is the beneficial
24 owner of five percent or more ownership interest in the contractor and
25 any other entity.

26 (b) "Control" exists where an entity has the power, directly or
27 indirectly, significantly to influence or direct the actions or
28 policies of an organization or institution, whether or not it is
29 legally enforceable and however it is exercisable or exercised.

30 (~~(48)~~) (49) "Related care" means only those services that are
31 directly related to providing direct care to nursing facility
32 residents. These services include, but are not limited to, nursing
33 direction and supervision, medical direction, medical records, pharmacy
34 services, activities, and social services.

35 (~~(49)~~) (50) "Resident assessment instrument," including federally
36 approved modifications for use in this state, means a federally
37 mandated, comprehensive nursing facility resident care planning and
38 assessment tool, consisting of the minimum data set and resident
39 assessment protocols.

1 (~~(50)~~) (51) "Resident assessment protocols" means those
2 components of the resident assessment instrument that use the minimum
3 data set to trigger or flag a resident's potential problems and risk
4 areas.

5 (~~(51)~~) (52) "Resource utilization groups" means a case mix
6 classification system that identifies relative resources needed to care
7 for an individual nursing facility resident.

8 (~~(52)~~) (53) "Restricted fund" means those funds the principal
9 and/or income of which is limited by agreement with or direction of the
10 donor to a specific purpose.

11 (~~(53)~~) (54) "Secretary" means the secretary of the department of
12 social and health services.

13 (~~(54)~~) (55) "Support services" means food, food preparation,
14 dietary, housekeeping, and laundry services provided to nursing
15 facility residents.

16 (~~(55)~~) (56) "Therapy care" means those services required by a
17 nursing facility resident's comprehensive assessment and plan of care,
18 that are provided by qualified therapists, or support personnel under
19 their supervision, including related costs as designated by the
20 department.

21 (~~(56)~~) (57) "Title XIX" or "medicaid" means the 1965 amendments
22 to the social security act, P.L. 89-07, as amended and the medicaid
23 program administered by the department.

24 **Sec. 2.** RCW 74.46.370 and 1999 c 353 s 14 are each amended to read
25 as follows:

26 (1) Except for new buildings, major remodels, and major repair
27 projects, as defined in subsection (2) of this section, the contractor
28 shall use lives which reflect the estimated actual useful life of the
29 asset and which shall be no shorter than guideline lives as established
30 by the department. Lives shall be measured from the date on which the
31 assets were first used in the medical care program or from the date of
32 the most recent arm's-length acquisition of the asset, whichever is
33 more recent. In cases where RCW 74.46.360(6)(a) does apply, the
34 shortest life that may be used for buildings is the remaining useful
35 life under the prior contract. In all cases, lives shall be extended
36 to reflect periods, if any, when assets were not used in or as a
37 facility.

1 (2) Effective July 1, 1997, for asset acquisitions and new
2 facilities, major remodels, and major repair projects that begin
3 operations on or after July 1, 1997, the department shall use the most
4 current edition of Estimated Useful Lives of Depreciable Hospital
5 Assets, or as it may be renamed, published by the American Hospital
6 Publishing, Inc., an American hospital association company, for
7 determining the useful life of new buildings, major remodels, and major
8 repair projects, however, the shortest life that may be used for new
9 buildings receiving certificate of need approval or certificate of need
10 exemptions under chapter 70.38 RCW on or after July 1, (~~1999~~) 2001,
11 is (~~forty~~) thirty years. New buildings, major remodels, and major
12 repair projects include those projects that meet or exceed the
13 expenditure minimum established by the department of health pursuant to
14 chapter 70.38 RCW.

15 (3) Building improvements, other than major remodels and major
16 repairs, shall be depreciated over the remaining useful life of the
17 building, as modified by the improvement.

18 (4) Improvements to leased property which are the responsibility of
19 the contractor under the terms of the lease shall be depreciated over
20 the useful life of the improvement.

21 (5) A contractor may change the estimate of an asset's useful life
22 to a longer life for purposes of depreciation.

23 (6) For new or replacement building construction or for major
24 renovations, either of which receives certificate of need approval or
25 certificate of need exemption under chapter 70.38 RCW on or after July
26 1, 1999, the number of years used to depreciate fixed equipment shall
27 be the same number of years as the life of the building to which it is
28 affixed.

29 **Sec. 3.** RCW 74.46.421 and 1999 c 353 s 3 are each amended to read
30 as follows:

31 (1) The purpose of part E of this chapter is to determine nursing
32 facility medicaid payment rates that, in the aggregate for all
33 participating nursing facilities, are in accordance with the biennial
34 appropriations act.

35 (2)(a) The department shall use the nursing facility medicaid
36 payment rate methodologies described in this chapter to determine
37 initial component rate allocations for each medicaid nursing facility.

1 (b) The initial component rate allocations shall be subject to
2 adjustment as provided in this section in order to assure that the
3 statewide average payment rate to nursing facilities is less than or
4 equal to the statewide average payment rate specified in the biennial
5 appropriations act.

6 (3) Nothing in this chapter shall be construed as creating a legal
7 right or entitlement to any payment that (a) has not been adjusted
8 under this section or (b) would cause the statewide average payment
9 rate to exceed the statewide average payment rate specified in the
10 biennial appropriations act.

11 ~~(4)((a) The state wide average payment rate for the capital~~
12 ~~portion of the rate for any state fiscal year under the nursing~~
13 ~~facility medicaid payment system, weighted by patient days, shall not~~
14 ~~exceed the annual state wide weighted average nursing facility payment~~
15 ~~rate for the capital portion of the rate identified for that fiscal~~
16 ~~year in the biennial appropriations act.~~

17 ~~(b) If the department determines that the weighted average nursing~~
18 ~~facility payment rate for the capital portion of the rate calculated in~~
19 ~~accordance with this chapter is likely to exceed the weighted average~~
20 ~~nursing facility payment rate for the capital portion of the rate~~
21 ~~identified in the biennial appropriations act, then the department~~
22 ~~shall adjust all nursing facility property and financing allowance~~
23 ~~payment rates proportional to the amount by which the weighted average~~
24 ~~rate allocations would otherwise exceed the budgeted capital portion of~~
25 ~~the rate amount. Any such adjustments shall only be made~~
26 ~~prospectively, not retrospectively, and shall be applied~~
27 ~~proportionately to each component rate allocation for each facility.~~

28 ~~(5)))(a) The statewide average payment rate for the noncapital~~
29 ~~portion of the rate for any state fiscal year under the nursing~~
30 ~~facility payment system, weighted by patient days, shall not exceed the~~
31 ~~annual statewide weighted average nursing facility payment rate for the~~
32 ~~noncapital portion of the rate identified for that fiscal year in the~~
33 ~~biennial appropriations act.~~

34 (b) If the department determines that the weighted average nursing
35 facility payment rate for the noncapital portion of the rate calculated
36 in accordance with this chapter is likely to exceed the weighted
37 average nursing facility payment rate for the noncapital portion of the
38 rate identified in the biennial appropriations act, then the department
39 shall adjust all nursing facility direct care, therapy care, support

1 services, operations, and variable return payment rates proportional to
2 the amount by which the weighted average rate allocations would
3 otherwise exceed the budgeted noncapital portion of the rate amount.
4 Any such adjustments shall only be made prospectively, not
5 retrospectively, and shall be applied proportionately to each direct
6 care, therapy care, support services, operations, and variable return
7 rate allocation for each facility.

8 **Sec. 4.** RCW 74.46.433 and 1999 c 353 s 9 are each amended to read
9 as follows:

10 (1) The department shall establish for each medicaid nursing
11 facility a variable return component rate allocation. In determining
12 the variable return allowance:

13 (a) The variable return array and percentage (~~assigned at the~~
14 ~~October 1, 1998, rate setting shall remain in effect until June 30,~~
15 ~~2001~~) shall be assigned whenever rebasing occurs consistent with RCW
16 74.46.435(2).

17 (b) The department shall then compute the variable return allowance
18 by multiplying the appropriate percentage amounts, which shall not be
19 less than one percent and not greater than four percent, by the sum of
20 the facility's direct care, therapy care, support services, and
21 operations rate components. The percentage amounts will be based on
22 groupings of facilities according to the rankings prescribed in (a) of
23 this subsection, as applicable. Those groups of facilities with lower
24 per diem costs shall receive higher percentage amounts than those with
25 higher per diem costs.

26 (2) The variable return rate allocation calculated in accordance
27 with this section shall be adjusted to the extent necessary to comply
28 with RCW 74.46.421.

29 **Sec. 5.** RCW 74.46.435 and 1999 c 353 s 10 are each amended to read
30 as follows:

31 (1) The property component rate allocation for each facility shall
32 be determined by dividing the sum of the reported allowable prior
33 period actual depreciation, subject to RCW 74.46.310 through 74.46.380,
34 adjusted for any capitalized additions or replacements approved by the
35 department, and the retained savings from such cost center, by the
36 greater of a facility's total resident days for the facility in the
37 prior period or resident days as calculated on eighty-five percent

1 facility occupancy. If a capitalized addition or retirement of an
2 asset will result in a different licensed bed capacity during the
3 ensuing period, the prior period total resident days used in computing
4 the property component rate shall be adjusted to anticipated resident
5 day level.

6 (2) A nursing facility's property component rate allocation shall
7 be rebased annually, effective July 1st (~~or October 1st as~~
8 ~~applicable~~), in accordance with this section and this chapter.

9 (3) When a certificate of need for a new facility is requested, the
10 department, in reaching its decision, shall take into consideration
11 per-bed land and building construction costs for the facility which
12 shall not exceed a maximum to be established by the secretary.

13 (4) For the purpose of calculating a nursing facility's property
14 component rate, if a contractor elects to bank licensed beds or to
15 convert banked beds to active service, under chapter 70.38 RCW, the
16 department shall use the facility's anticipated resident occupancy
17 level subsequent to the decrease or increase in licensed bed capacity.
18 However, in no case shall the department use less than eighty-five
19 percent occupancy of the facility's licensed bed capacity after banking
20 or conversion.

21 (5) The property component rate allocations calculated in
22 accordance with this section shall be adjusted to the extent necessary
23 to comply with RCW 74.46.421.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.46 RCW
25 to read as follows:

26 The total capital authorization available for any biennial period
27 shall be determined by multiplying the actual cost of per-bed
28 replacement by the bed replacement percentage multiplier. The bed
29 replacement percentage multiplier shall be the number of licensed
30 nursing facility beds as of June 30th of the previous year multiplied
31 by five percent. The actual cost of bed replacement shall be
32 determined by the following calculation: Multiplying the projected
33 per-bed cost data derived from the current edition of a national
34 valuation guide commonly used in the building industry by the quotient
35 resulting from dividing the actual per-bed costs of replacement over a
36 previous five-year period, as determined by the department using cost
37 reports, by the respective per-bed cost data over that five-year period
38 from previous editions of the national valuation guide used by the

1 department during that five-year period. The actual cost of bed
2 replacement, as determined by the department, shall include the costs
3 not reflected in national valuation guides commonly used in the
4 building industry. The total capital authorization shall be calculated
5 on a biennial basis.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.46 RCW
7 to read as follows:

8 The department shall establish rules for issuing a certificate of
9 capital authorization. Applications for a certificate of capital
10 authorization shall be submitted and approved on a biennial basis. The
11 rules for a certificate of capital authorization shall be consistent
12 with the following principles:

13 (1) The certificate of capital authorization shall be approved on
14 a first-come, first-served basis.

15 (2) Those projects that do not receive approval in one
16 authorization period shall have priority the following biennium should
17 the project be resubmitted.

18 (3) The department shall have the authority to give priority for a
19 project that is necessitated by an emergency situation even if the
20 project is not submitted in a timely fashion. The department shall
21 establish rules for determining what constitutes an emergency.

22 (4) The department shall establish deadlines for progress and the
23 department shall have the authority to withdraw the certificate of
24 capital authorization where the holder of the certificate has not
25 complied with those deadlines in a good faith manner.

26 NEW SECTION. **Sec. 8.** RCW 74.46.908 (Repealer) and 1999 c 353 s 17
27 are each repealed.

28 NEW SECTION. **Sec. 9.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 10.** Section 8 of this act is necessary for the
33 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect immediately.

--- END ---