



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0469

Introduced 2/8/2007, by Sen. Bill Brady - Pamela J. Althoff -  
J. Bradley Burzynski - Dale A. Righter

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/12.3	
20 ILCS 3960/13.2 new	
20 ILCS 3960/19.6	
30 ILCS 105/8h	

Amends the Illinois Health Facilities Planning Act. Extends the sunset of the Act to June 30, 2011 (instead of April 1, 2007). Provides that the Health Facilities Planning Board shall consist of 4 consumer members and 5 health care professionals (instead of 5 appointed members). Provides for the terms of the new members. Deletes a provision that prohibits State Board members from being appointed or serving if they have a spouse, parent, or child who is a member of the Board of Directors of, or has a financial or business interest with, a health care facility. Requires the Board to create a 3-member rules revision subcommittee. Requires the Board to prepare written opinions. Provides that the Board has the burden of proving that the proposed construction, modification, or expenditure is not necessary before it denies an application for a permit. Amends the State Finance Act to exclude the Illinois Health Facilities Planning Fund from a Section of the Act that allows the State Treasurer to transfer funds from certain special funds into the General Revenue Fund. Effective immediately.

LRB095 06380 HLH 26476 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Sections 4, 12, 12.3, and 19.6 and by  
6 adding Section 13.2 as follows:

7 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

8 (Section scheduled to be repealed on April 1, 2007)

9 Sec. 4. Health Facilities Planning Board; membership;  
10 appointment; term; compensation; quorum. There is created the  
11 Health Facilities Planning Board, which shall perform the  
12 functions described in this Act.

13 The State Board shall consist of 4 consumer voting members  
14 ~~5 voting members~~. Each consumer voting member shall have a  
15 reasonable knowledge of health planning, health finance, or  
16 health care at the time of his or her appointment. The 4  
17 consumer voting members shall be the board members who are  
18 serving immediately prior to the effective date of this  
19 amendatory Act of the 95th General Assembly. They shall serve  
20 until their terms expire. The successor consumer voting members  
21 shall be appointed as provided in this Section. No person shall  
22 be appointed or continue to serve as a consumer voting member  
23 of the State Board who ~~is, or whose spouse, parent, or child~~

1 ~~is, a member of the Board of Directors of,~~ has a financial  
2 interest in, or has a business relationship with a health care  
3 facility.

4 The State Board shall also consist of the following 5  
5 health care professionals who shall be voting members:

6 (1) One member representing hospitals in Illinois.

7 (2) One member who is a professional nurse registered  
8 in Illinois.

9 (3) One member who is a physician in active private  
10 practice who is licensed in Illinois to practice medicine  
11 in all of its branches.

12 (4) One member who is actively engaged in the field of  
13 skilled nursing or intermediate care facility management.

14 (5) One member who has an extensive background in  
15 private and public health care finance.

16 Two of the initially appointed health care professionals  
17 shall serve 1-year terms, 2 shall serve 2-year terms, and one  
18 shall serve a 3-year term. Their successors shall serve 3-year  
19 terms.

20 Notwithstanding any provision of this Section to the  
21 contrary, the term of office of each member of the State Board  
22 is abolished on the effective date of this amendatory Act of  
23 the 93rd General Assembly and those members no longer hold  
24 office.

25 All members of the ~~The~~ State Board shall be appointed by  
26 the Governor, with the advice and consent of the Senate. Not

1 more than 5 ~~3~~ of the appointments shall be of the same  
2 political party at the time of the appointment. No person shall  
3 be appointed as a State Board member if that person has served,  
4 after the effective date of Public Act 93-41, 2 3-year terms as  
5 a State Board member, except for ex officio non-voting members.

6 The Secretary of Human Services, the Director of Healthcare  
7 and Family Services ~~Public Aid~~, and the Director of Public  
8 Health, or their designated representatives, shall serve as  
9 ex-officio, non-voting members of the State Board.

10 Of those members initially appointed by the Governor under  
11 this amendatory Act of the 93rd General Assembly, 2 shall serve  
12 for terms expiring July 1, 2005, 2 shall serve for terms  
13 expiring July 1, 2006, and 1 shall serve for a term expiring  
14 July 1, 2007. Thereafter, each appointed member shall hold  
15 office for a term of 3 years, provided that any member  
16 appointed to fill a vacancy occurring prior to the expiration  
17 of the term for which his or her predecessor was appointed  
18 shall be appointed for the remainder of such term and the term  
19 of office of each successor shall commence on July 1 of the  
20 year in which his predecessor's term expires. Each member  
21 appointed after the effective date of this amendatory Act of  
22 the 93rd General Assembly shall hold office until his or her  
23 successor is appointed and qualified.

24 State Board members, while serving on business of the State  
25 Board, shall receive actual and necessary travel and  
26 subsistence expenses while so serving away from their places of

1 residence. A member of the State Board who experiences a  
2 significant financial hardship due to the loss of income on  
3 days of attendance at meetings or while otherwise engaged in  
4 the business of the State Board may be paid a hardship  
5 allowance, as determined by and subject to the approval of the  
6 Governor's Travel Control Board.

7 The Governor shall designate one of the members to serve as  
8 Chairman and shall name as full-time Executive Secretary of the  
9 State Board, a person qualified in health care facility  
10 planning and in administration. The Agency shall provide  
11 administrative and staff support for the State Board. The State  
12 Board shall advise the Director of its budgetary and staff  
13 needs and consult with the Director on annual budget  
14 preparation.

15 The State Board shall meet at least once each quarter, or  
16 as often as the Chairman of the State Board deems necessary, or  
17 upon the request of a majority of the members.

18 Five ~~Three~~ members of the State Board shall constitute a  
19 quorum. The affirmative vote of 5 ~~3~~ of the members of the State  
20 Board shall be necessary for any action requiring a vote to be  
21 taken by the State Board. A vacancy in the membership of the  
22 State Board shall not impair the right of a quorum to exercise  
23 all the rights and perform all the duties of the State Board as  
24 provided by this Act.

25 A State Board member shall disqualify himself or herself  
26 from the consideration of any application for a permit or

1 exemption in which the State Board member or the State Board  
2 member's spouse, parent, or child: (i) has an economic interest  
3 in the matter; or (ii) is employed by, serves as a consultant  
4 for, or is a member of the governing board of the applicant or  
5 a party opposing the application.

6 (Source: P.A. 93-41, eff. 6-27-03; 93-889, eff. 8-9-04; revised  
7 8-21-06.)

8 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

9 (Section scheduled to be repealed on April 1, 2007)

10 Sec. 12. Powers and duties of State Board. For purposes of  
11 this Act, the State Board shall exercise the following powers  
12 and duties:

13 (1) Prescribe rules, regulations, standards, criteria,  
14 procedures or reviews which may vary according to the purpose  
15 for which a particular review is being conducted or the type of  
16 project reviewed and which are required to carry out the  
17 provisions and purposes of this Act.

18 (2) Adopt procedures for public notice and hearing on all  
19 proposed rules, regulations, standards, criteria, and plans  
20 required to carry out the provisions of this Act.

21 (3) Prescribe criteria for recognition for areawide health  
22 planning organizations, including, but not limited to,  
23 standards for evaluating the scientific bases for judgments on  
24 need and procedure for making these determinations.

25 (4) Develop criteria and standards for health care

1 facilities planning, conduct statewide inventories of health  
2 care facilities, maintain an updated inventory on the  
3 Department's web site reflecting the most recent bed and  
4 service changes and updated need determinations when new census  
5 data become available or new need formulae are adopted, and  
6 develop health care facility plans which shall be utilized in  
7 the review of applications for permit under this Act. Such  
8 health facility plans shall be coordinated by the Agency with  
9 the health care facility plans areawide health planning  
10 organizations and with other pertinent State Plans.  
11 Inventories pursuant to this Section of skilled or intermediate  
12 care facilities licensed under the Nursing Home Care Act or  
13 nursing homes licensed under the Hospital Licensing Act shall  
14 be conducted on an annual basis no later than July 1 of each  
15 year and shall include among the information requested a list  
16 of all services provided by a facility to its residents and to  
17 the community at large and differentiate between active and  
18 inactive beds.

19 In developing health care facility plans, the State Board  
20 shall consider, but shall not be limited to, the following:

21 (a) The size, composition and growth of the population  
22 of the area to be served;

23 (b) The number of existing and planned facilities  
24 offering similar programs;

25 (c) The extent of utilization of existing facilities;

26 (d) The availability of facilities which may serve as

1 alternatives or substitutes;

2 (e) The availability of personnel necessary to the  
3 operation of the facility;

4 (f) Multi-institutional planning and the establishment  
5 of multi-institutional systems where feasible;

6 (g) The financial and economic feasibility of proposed  
7 construction or modification; and

8 (h) In the case of health care facilities established  
9 by a religious body or denomination, the needs of the  
10 members of such religious body or denomination may be  
11 considered to be public need.

12 The health care facility plans which are developed and  
13 adopted in accordance with this Section shall form the basis  
14 for the plan of the State to deal most effectively with  
15 statewide health needs in regard to health care facilities.

16 (5) Coordinate with other state agencies having  
17 responsibilities affecting health care facilities, including  
18 those of licensure and cost reporting.

19 (6) Solicit, accept, hold and administer on behalf of the  
20 State any grants or bequests of money, securities or property  
21 for use by the State Board or recognized areawide health  
22 planning organizations in the administration of this Act; and  
23 enter into contracts consistent with the appropriations for  
24 purposes enumerated in this Act.

25 (7) The State Board shall prescribe, in consultation with  
26 the recognized areawide health planning organizations,



1 procedures for review, standards, and criteria which shall be  
2 utilized to make periodic areawide reviews and determinations  
3 of the appropriateness of any existing health services being  
4 rendered by health care facilities subject to the Act. The  
5 State Board shall consider recommendations of the areawide  
6 health planning organization and the Agency in making its  
7 determinations.

8 (8) Prescribe, in consultation with the recognized  
9 areawide health planning organizations, rules, regulations,  
10 standards, and criteria for the conduct of an expeditious  
11 review of applications for permits for projects of construction  
12 or modification of a health care facility, which projects are  
13 non-substantive in nature. Such rules shall not abridge the  
14 right of areawide health planning organizations to make  
15 recommendations on the classification and approval of  
16 projects, nor shall such rules prevent the conduct of a public  
17 hearing upon the timely request of an interested party. Such  
18 reviews shall not exceed 60 days from the date the application  
19 is declared to be complete by the Agency.

20 (9) Prescribe rules, regulations, standards, and criteria  
21 pertaining to the granting of permits for construction and  
22 modifications which are emergent in nature and must be  
23 undertaken immediately to prevent or correct structural  
24 deficiencies or hazardous conditions that may harm or injure  
25 persons using the facility, as defined in the rules and  
26 regulations of the State Board. This procedure is exempt from

1 public hearing requirements of this Act.

2 (10) Prescribe rules, regulations, standards and criteria  
3 for the conduct of an expeditious review, not exceeding 60  
4 days, of applications for permits for projects to construct or  
5 modify health care facilities which are needed for the care and  
6 treatment of persons who have acquired immunodeficiency  
7 syndrome (AIDS) or related conditions.

8 (11) Create a 3-member rules revision subcommittee, which  
9 will hold at least 2 rule revision meetings each year. The rule  
10 revision meetings must allow all parties to offer rule revision  
11 suggestions to the subcommittee. The rule revision  
12 subcommittee shall report to the full Board at least annually  
13 with any rule change recommendations.

14 (12) Any final decision of the State Board shall be  
15 accompanied by a written opinion prepared by the Board. The  
16 opinion shall include a statement of findings and conclusions  
17 with respect to all the material issues of fact, law, and  
18 discretion presented on the record. The written opinion shall  
19 be served on all parties by mailing a copy in a sealed package  
20 with postage prepaid.

21 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

22 (20 ILCS 3960/12.3)

23 (Section scheduled to be repealed on April 1, 2007)

24 Sec. 12.3. Revision of criteria, standards, and rules.  
25 Before December 31, 2004, the State Board shall review, revise,

1 and promulgate the criteria, standards, and rules used to  
2 evaluate applications for permit. To the extent practicable,  
3 the criteria, standards, and rules shall be based on objective  
4 criteria. In particular, the review of the criteria, standards,  
5 and rules shall consider:

6 (1) Whether the criteria and standards reflect current  
7 industry standards and anticipated trends.

8 (2) Whether the criteria and standards can be reduced  
9 or eliminated.

10 (3) Whether criteria and standards can be developed to  
11 authorize the construction of unfinished space for future  
12 use when the ultimate need for such space can be reasonably  
13 projected.

14 (4) Whether the criteria and standards take into  
15 account issues related to population growth and changing  
16 demographics in a community.

17 (5) Whether facility-defined service and planning  
18 areas should be recognized.

19 The rules shall identify and give special consideration to  
20 areas of the State with high population growth. Population  
21 growth must be measured based on past population and projected  
22 population, as established by an organization that specializes  
23 in projecting population growth. Travel time and traffic  
24 congestion shall be factors in determining health facility  
25 needs in designated high population growth areas.

26 (Source: P.A. 93-41, eff. 6-27-03.)

1 (20 ILCS 3960/13.2 new)

2 Sec. 13.2. Denial of permits; burden of proof. With respect  
3 to the denial of an application for a permit under this Act,  
4 the State Board shall have the burden of showing that the  
5 proposed construction, modification, or expenditure is not  
6 needed.

7 (20 ILCS 3960/19.6)

8 (Section scheduled to be repealed on April 1, 2007)

9 Sec. 19.6. Repeal. This Act is repealed on June 30, 2011  
10 ~~April 1, 2007.~~

11 (Source: P.A. 93-41, eff. 6-27-03; 93-889, eff. 8-9-04; 94-983,  
12 eff. 6-30-06.)

13 Section 10. The State Finance Act is amended by changing  
14 Section 8h as follows:

15 (30 ILCS 105/8h)

16 Sec. 8h. Transfers to General Revenue Fund.

17 (a) Except as otherwise provided in this Section and  
18 Section 8n of this Act, and ~~(e), (d), or (e),~~ notwithstanding  
19 any other State law to the contrary, the Governor may, through  
20 June 30, 2007, from time to time direct the State Treasurer and  
21 Comptroller to transfer a specified sum from any fund held by  
22 the State Treasurer to the General Revenue Fund in order to

1 help defray the State's operating costs for the fiscal year.  
2 The total transfer under this Section from any fund in any  
3 fiscal year shall not exceed the lesser of (i) 8% of the  
4 revenues to be deposited into the fund during that fiscal year  
5 or (ii) an amount that leaves a remaining fund balance of 25%  
6 of the July 1 fund balance of that fiscal year. In fiscal year  
7 2005 only, prior to calculating the July 1, 2004 final  
8 balances, the Governor may calculate and direct the State  
9 Treasurer with the Comptroller to transfer additional amounts  
10 determined by applying the formula authorized in Public Act  
11 93-839 to the funds balances on July 1, 2003. No transfer may  
12 be made from a fund under this Section that would have the  
13 effect of reducing the available balance in the fund to an  
14 amount less than the amount remaining unexpended and unreserved  
15 from the total appropriation from that fund estimated to be  
16 expended for that fiscal year. This Section does not apply to  
17 any funds that are restricted by federal law to a specific use,  
18 to any funds in the Motor Fuel Tax Fund, the Intercity  
19 Passenger Rail Fund, the Hospital Provider Fund, the Medicaid  
20 Provider Relief Fund, the Teacher Health Insurance Security  
21 Fund, the Reviewing Court Alternative Dispute Resolution Fund,  
22 the Voters' Guide Fund, the Foreign Language Interpreter Fund,  
23 the Lawyers' Assistance Program Fund, the Supreme Court Federal  
24 Projects Fund, the Supreme Court Special State Projects Fund,  
25 the Supplemental Low-Income Energy Assistance Fund, the Good  
26 Samaritan Energy Trust Fund, the Low-Level Radioactive Waste

1 Facility Development and Operation Fund, the Horse Racing  
2 Equity Trust Fund, or the Hospital Basic Services Preservation  
3 Fund, or to any funds to which subsection (f) of Section 20-40  
4 of the Nursing and Advanced Practice Nursing Act applies. No  
5 transfers may be made under this Section from the Pet  
6 Population Control Fund. Notwithstanding any other provision  
7 of this Section, for fiscal year 2004, the total transfer under  
8 this Section from the Road Fund or the State Construction  
9 Account Fund shall not exceed the lesser of (i) 5% of the  
10 revenues to be deposited into the fund during that fiscal year  
11 or (ii) 25% of the beginning balance in the fund. For fiscal  
12 year 2005 through fiscal year 2007, no amounts may be  
13 transferred under this Section from the Road Fund, the State  
14 Construction Account Fund, the Criminal Justice Information  
15 Systems Trust Fund, the Wireless Service Emergency Fund, or the  
16 Mandatory Arbitration Fund.

17 In determining the available balance in a fund, the  
18 Governor may include receipts, transfers into the fund, and  
19 other resources anticipated to be available in the fund in that  
20 fiscal year.

21 The State Treasurer and Comptroller shall transfer the  
22 amounts designated under this Section as soon as may be  
23 practicable after receiving the direction to transfer from the  
24 Governor.

25 (a-5) Transfers directed to be made under this Section on  
26 or before February 28, 2006 that are still pending on May 19,

1 2006 (the effective date of Public Act 94-774) ~~this amendatory~~  
2 ~~Act of the 94th General Assembly~~ shall be redirected as  
3 provided in Section 8n of this Act.

4 (b) This Section does not apply to: (i) the Ticket For The  
5 Cure Fund; (ii) any fund established under the Community Senior  
6 Services and Resources Act; or (iii) on or after January 1,  
7 2006 (the effective date of Public Act 94-511), the Child Labor  
8 and Day and Temporary Labor Enforcement Fund.

9 (c) This Section does not apply to the Demutualization  
10 Trust Fund established under the Uniform Disposition of  
11 Unclaimed Property Act.

12 (d) This Section does not apply to moneys set aside in the  
13 Illinois State Podiatric Disciplinary Fund for podiatric  
14 scholarships and residency programs under the Podiatric  
15 Scholarship and Residency Act.

16 (e) Subsection (a) does not apply to, and no transfer may  
17 be made under this Section from, the Pension Stabilization  
18 Fund.

19 (f) This Section does not apply to the Illinois Health  
20 Facilities Planning Fund.

21 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,  
22 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;  
23 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.  
24 1-15-05; 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff.  
25 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645,  
26 eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05;

1 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; 94-773, eff.  
2 5-18-06; 94-774, eff. 5-19-06; 94-804, eff. 5-26-06; 94-839,  
3 eff. 6-6-06; revised 6-19-06.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.