



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 33

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 33 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Sections 5 and 12.2 and by adding Section  
6 12.25 as follows:

7 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

8 (Text of Section before amendment by P.A. 100-518)

9 (Section scheduled to be repealed on December 31, 2019)

10 Sec. 5. Construction, modification, or establishment of  
11 health care facilities or acquisition of major medical  
12 equipment; permits or exemptions. No person shall construct,  
13 modify or establish a health care facility or acquire major  
14 medical equipment without first obtaining a permit or exemption  
15 from the State Board. The State Board shall not delegate to the  
16 staff of the State Board or any other person or entity the

1 authority to grant permits or exemptions whenever the staff or  
2 other person or entity would be required to exercise any  
3 discretion affecting the decision to grant a permit or  
4 exemption. The State Board may, by rule, delegate authority to  
5 the Chairman to grant permits or exemptions when applications  
6 meet all of the State Board's review criteria and are  
7 unopposed.

8 A permit or exemption shall be obtained prior to the  
9 acquisition of major medical equipment or to the construction  
10 or modification of a health care facility which:

11 (a) requires a total capital expenditure in excess of  
12 the capital expenditure minimum; or

13 (b) substantially changes the scope or changes the  
14 functional operation of the facility; or

15 (c) changes the bed capacity of a health care facility  
16 by increasing the total number of beds or by distributing  
17 beds among various categories of service or by relocating  
18 beds from one physical facility or site to another by more  
19 than 20 beds or more than 10% of total bed capacity as  
20 defined by the State Board, whichever is less, over a 2  
21 year period.

22 A permit shall be valid only for the defined construction  
23 or modifications, site, amount and person named in the  
24 application for such permit and shall not be transferable or  
25 assignable. A permit shall be valid until such time as the  
26 project has been completed, provided that the project commences

1 and proceeds to completion with due diligence by the completion  
2 date or extension date approved by the Board.

3 A permit holder must do the following: (i) submit the final  
4 completion and cost report for the project within 90 days after  
5 the approved project completion date or extension date and (ii)  
6 submit annual progress reports no earlier than 30 days before  
7 and no later than 30 days after each anniversary date of the  
8 Board's approval of the permit until the project is completed.  
9 To maintain a valid permit and to monitor progress toward  
10 project commencement and completion, routine post-permit  
11 reports shall be limited to annual progress reports and the  
12 final completion and cost report. Annual progress reports shall  
13 include information regarding the committed funds expended  
14 toward the approved project. If the project is not completed in  
15 one year, then, by the second annual report, the permit holder  
16 shall expend 33% or more of the total project cost or shall  
17 make a commitment to expend 33% or more of the total project  
18 cost by signed contracts or other legal means, and the report  
19 shall contain information regarding those expenditures or  
20 commitments. If the project is to be completed in one year,  
21 then the first annual report shall contain the expenditure  
22 commitment information for the total project cost. The State  
23 Board may extend the expenditure commitment period after  
24 considering a permit holder's showing of good cause and request  
25 for additional time to complete the project.

26 The Certificate of Need process required under this Act is

1 designed to restrain rising health care costs by preventing  
2 unnecessary construction or modification of health care  
3 facilities. The Board must assure that the establishment,  
4 construction, or modification of a health care facility or the  
5 acquisition of major medical equipment is consistent with the  
6 public interest and that the proposed project is consistent  
7 with the orderly and economic development or acquisition of  
8 those facilities and equipment and is in accord with the  
9 standards, criteria, or plans of need adopted and approved by  
10 the Board. Board decisions regarding the construction of health  
11 care facilities must consider capacity, quality, value, and  
12 equity. Projects may deviate from the costs, fees, and expenses  
13 provided in their project cost information for the project's  
14 cost components, provided that the final total project cost  
15 does not exceed the approved permit amount. Project alterations  
16 shall not increase the total approved permit amount by more  
17 than the limit set forth under the Board's rules.

18 Major construction projects, for the purposes of this Act,  
19 shall include but are not limited to: projects for the  
20 construction of new buildings; additions to existing  
21 facilities; modernization projects whose cost is in excess of  
22 \$1,000,000 or 10% of the facilities' operating revenue,  
23 whichever is less; and such other projects as the State Board  
24 shall define and prescribe pursuant to this Act.

25 The acquisition by any person of major medical equipment  
26 that will not be owned by or located in a health care facility

1 and that will not be used to provide services to inpatients of  
2 a health care facility shall be exempt from review provided  
3 that a notice is filed in accordance with exemption  
4 requirements.

5 Notwithstanding any other provision of this Act, no permit  
6 or exemption is required for the construction or modification  
7 of a non-clinical service area of a health care facility.

8 Notwithstanding any such advisory opinion issued by State  
9 Board staff prior to this amendatory Act of the 100th General  
10 Assembly, the State Board shall not grant, delegate, authorize,  
11 or otherwise permit the staff of the State Board the power to  
12 issue advisory opinions stating that it is the opinion of staff  
13 that a change of ownership is not reviewable by the State  
14 Board, nor shall the State Board or the staff of the State  
15 Board use any other mechanism to avoid the review of the change  
16 of ownership of a health care facility. This provision of this  
17 amendatory Act of the 100th General Assembly is declaratory of  
18 existing law.

19 (Source: P.A. 97-1115, eff. 8-27-12; 98-414, eff. 1-1-14.)

20 (Text of Section after amendment by P.A. 100-518)

21 (Section scheduled to be repealed on December 31, 2019)

22 Sec. 5. Construction, modification, or establishment of  
23 health care facilities or acquisition of major medical  
24 equipment; permits or exemptions. No person shall construct,  
25 modify or establish a health care facility or acquire major

1 medical equipment without first obtaining a permit or exemption  
2 from the State Board. The State Board shall not delegate to the  
3 staff of the State Board or any other person or entity the  
4 authority to grant permits or exemptions whenever the staff or  
5 other person or entity would be required to exercise any  
6 discretion affecting the decision to grant a permit or  
7 exemption. The State Board may, by rule, delegate authority to  
8 the Chairman to grant permits or exemptions when applications  
9 meet all of the State Board's review criteria and are  
10 unopposed.

11 A permit or exemption shall be obtained prior to the  
12 acquisition of major medical equipment or to the construction  
13 or modification of a health care facility which:

14 (a) requires a total capital expenditure in excess of  
15 the capital expenditure minimum; or

16 (b) substantially changes the scope or changes the  
17 functional operation of the facility; or

18 (c) changes the bed capacity of a health care facility  
19 by increasing the total number of beds or by distributing  
20 beds among various categories of service or by relocating  
21 beds from one physical facility or site to another by more  
22 than 20 beds or more than 10% of total bed capacity as  
23 defined by the State Board, whichever is less, over a 2  
24 year period.

25 A permit shall be valid only for the defined construction  
26 or modifications, site, amount and person named in the

1 application for such permit and shall not be transferable or  
2 assignable. A permit shall be valid until such time as the  
3 project has been completed, provided that the project commences  
4 and proceeds to completion with due diligence by the completion  
5 date or extension date approved by the Board.

6 A permit holder must do the following: (i) submit the final  
7 completion and cost report for the project within 90 days after  
8 the approved project completion date or extension date and (ii)  
9 submit annual progress reports no earlier than 30 days before  
10 and no later than 30 days after each anniversary date of the  
11 Board's approval of the permit until the project is completed.  
12 To maintain a valid permit and to monitor progress toward  
13 project commencement and completion, routine post-permit  
14 reports shall be limited to annual progress reports and the  
15 final completion and cost report. Annual progress reports shall  
16 include information regarding the committed funds expended  
17 toward the approved project. For projects to be completed in 12  
18 months or less, the permit holder shall report financial  
19 commitment in the final completion and cost report. For  
20 projects to be completed between 12 to 24 months, the permit  
21 holder shall report financial commitment in the first annual  
22 report. For projects to be completed in more than 24 months,  
23 the permit holder shall report financial commitment in the  
24 second annual progress report. The report shall contain  
25 information regarding financial commitment expenditures or  
26 commitments. The State Board may extend the financial

1 commitment period after considering a permit holder's showing  
2 of good cause and request for additional time to complete the  
3 project.

4 The Certificate of Need process required under this Act is  
5 designed to restrain rising health care costs by preventing  
6 unnecessary construction or modification of health care  
7 facilities. The Board must assure that the establishment,  
8 construction, or modification of a health care facility or the  
9 acquisition of major medical equipment is consistent with the  
10 public interest and that the proposed project is consistent  
11 with the orderly and economic development or acquisition of  
12 those facilities and equipment and is in accord with the  
13 standards, criteria, or plans of need adopted and approved by  
14 the Board. Board decisions regarding the construction of health  
15 care facilities must consider capacity, quality, value, and  
16 equity. Projects may deviate from the costs, fees, and expenses  
17 provided in their project cost information for the project's  
18 cost components, provided that the final total project cost  
19 does not exceed the approved permit amount. Project alterations  
20 shall not increase the total approved permit amount by more  
21 than the limit set forth under the Board's rules.

22 Major construction projects, for the purposes of this Act,  
23 shall include but are not limited to: projects for the  
24 construction of new buildings; additions to existing  
25 facilities; modernization projects whose cost is in excess of  
26 \$1,000,000 or 10% of the facilities' operating revenue,



1       whichever is less; and such other projects as the State Board  
2       shall define and prescribe pursuant to this Act.

3             The acquisition by any person of major medical equipment  
4       that will not be owned by or located in a health care facility  
5       and that will not be used to provide services to inpatients of  
6       a health care facility shall be exempt from review provided  
7       that a notice is filed in accordance with exemption  
8       requirements.

9             Notwithstanding any other provision of this Act, no permit  
10       or exemption is required for the construction or modification  
11       of a non-clinical service area of a health care facility.

12             Notwithstanding any such advisory opinion issued by State  
13       Board staff prior to this amendatory Act of the 100th General  
14       Assembly, the State Board shall not grant, delegate, authorize,  
15       or otherwise permit the staff of the State Board the power to  
16       issue advisory opinions stating that it is the opinion of staff  
17       that a change of ownership is not reviewable by the State  
18       Board, nor shall the State Board or the staff of the State  
19       Board use any other mechanism to avoid the review of the change  
20       of ownership of a health care facility. This provision of this  
21       amendatory Act of the 100th General Assembly is declaratory of  
22       existing law.

23       (Source: P.A. 100-518, eff. 6-1-18.)

24             (20 ILCS 3960/12.2)

25             (Section scheduled to be repealed on December 31, 2019)

1           Sec. 12.2. Powers of the State Board staff.

2           (a) For purposes of this Act, the staff shall exercise the  
3 following powers and duties:

4           (1) Review applications for permits and exemptions in  
5 accordance with the standards, criteria, and plans of need  
6 established by the State Board under this Act and certify  
7 its finding to the State Board.

8           (1.5) Post the following on the Board's web site:  
9 relevant (i) rules, (ii) standards, (iii) criteria, (iv)  
10 State norms, (v) references used by Board staff in making  
11 determinations about whether application criteria are met,  
12 and (vi) notices of project-related filings, including  
13 notice of public comments related to the application.

14           (2) Charge and collect an amount determined by the  
15 State Board and the staff to be reasonable fees for the  
16 processing of applications by the State Board. The State  
17 Board shall set the amounts by rule. Application fees for  
18 continuing care retirement communities, and other health  
19 care models that include regulated and unregulated  
20 components, shall apply only to those components subject to  
21 regulation under this Act. All fees and fines collected  
22 under the provisions of this Act shall be deposited into  
23 the Illinois Health Facilities Planning Fund to be used for  
24 the expenses of administering this Act.

25           (2.1) Publish the following reports on the State Board  
26 website:

1           (A) An annual accounting, aggregated by category  
2           and with names of parties redacted, of fees, fines, and  
3           other revenue collected as well as expenses incurred,  
4           in the administration of this Act.

5           (B) An annual report, with names of the parties  
6           redacted, that summarizes all settlement agreements  
7           entered into with the State Board that resolve an  
8           alleged instance of noncompliance with State Board  
9           requirements under this Act.

10          (C) A monthly report that includes the status of  
11          applications and recommendations regarding updates to  
12          the standard, criteria, or the health plan as  
13          appropriate.

14          (D) Board reports showing the degree to which an  
15          application conforms to the review standards, a  
16          summation of relevant public testimony, and any  
17          additional information that staff wants to  
18          communicate.

19          (3) Coordinate with other State agencies having  
20          responsibilities affecting health care facilities,  
21          including licensure and cost reporting agencies.

22          (b) For the purposes of this Act, the State Board staff  
23          shall not have the power or duty to issue any advisory opinions  
24          stating that any change of ownership is not reviewable by the  
25          Board. The provisions of this subsection (b) are declaratory of  
26          existing law.

1 (Source: P.A. 98-1086, eff. 8-26-14; 99-527, eff. 1-1-17.)

2 (20 ILCS 3960/12.25 new)

3 Sec. 12.25. Review of State Board staff advisory opinions.

4 (a) Within 150 days after this amendatory Act of the 100th  
5 General Assembly, the State Board shall review each staff  
6 advisory opinion issued since 2006 that is related to whether a  
7 permit or exemption is required for change of ownership or  
8 control. As part of that review, the State Board shall notify  
9 each attorney that has requested a staff advisory opinion, and  
10 the health care facility for which the staff advisory opinion  
11 was requested, that the health care facility may be operating  
12 in violation of this Act because it may have engaged in a  
13 change of ownership without a permit or exemption. The State  
14 Board shall also inform each such health care facility that  
15 this Act authorizes the Board to impose the fine described in  
16 paragraph (4) of subsection (a) of Section 14.1 of this Act,  
17 and that Section 13.1 of this Act prohibits the facility from  
18 applying for licensure.

19 (b) Within 150 days after this amendatory Act of the 100th  
20 General Assembly, the State Board shall, by rule, establish an  
21 expedited schedule for review of any permit or exemption  
22 application filed by a health care facility identified and  
23 notified under subsection (a).

24 (c) Within 150 days after this amendatory Act of the 100th  
25 General Assembly, the State Board shall, by rule, establish a

1 schedule for reviewing and determining whether a fine  
2 authorized under paragraph (4) of subsection (a) of Section  
3 14.1 of this Act is to be imposed on each health care facility  
4 identified and notified under subsection (a).

5 (d) Within 150 days after this amendatory Act of the 100th  
6 General Assembly, the State Board shall notify the Department  
7 of Public Health for each health care facility identified and  
8 notified under subsection (a) that such health care facility  
9 may be ineligible for licensure. The Department of Public  
10 Health shall not terminate the license of any health care  
11 facility identified and notified under subsection (a) that: (1)  
12 obtains a permit or exemption for a change of ownership; and  
13 (2) pays the fine levied under subsection (c).

14 Section 95. No acceleration or delay. Where this Act makes  
15 changes in a statute that is represented in this Act by text  
16 that is not yet or no longer in effect (for example, a Section  
17 represented by multiple versions), the use of that text does  
18 not accelerate or delay the taking effect of (i) the changes  
19 made by this Act or (ii) provisions derived from any other  
20 Public Act.

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."