



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0569

Introduced 2/17/2005, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/5	from Ch. 111 1/2, par. 1155
20 ILCS 3960/19.6	

Amends the Illinois Health Facilities Planning Act. Provides that "capital expenditure minimum" means \$10,000,000 (now, \$6,000,000) and "non-clinical service area" includes research facilities, auditoriums, and medical office buildings. Provides that permits are not required for the establishment of swing-beds authorized under Title XVIII of the federal Social Security Act, or for the modification of a hospital's bed capacity. Provides that the Illinois Health Facilities Planning Act is repealed on July 1, 2011 (now, July 1, 2006).

LRB094 09694 RSP 39950 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to health facilities.

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 3, 5, and 19.6 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on July 1, 2006)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the following
10 facilities and organizations:

11 1. An ambulatory surgical treatment center required to
12 be licensed pursuant to the Ambulatory Surgical Treatment
13 Center Act;

14 2. An institution, place, building, or agency required
15 to be licensed pursuant to the Hospital Licensing Act;

16 3. Skilled and intermediate long term care facilities
17 licensed under the Nursing Home Care Act;

18 3. Skilled and intermediate long term care facilities
19 licensed under the Nursing Home Care Act;

20 4. Hospitals, nursing homes, ambulatory surgical
21 treatment centers, or kidney disease treatment centers
22 maintained by the State or any department or agency
23 thereof;

24 5. Kidney disease treatment centers, including a
25 free-standing hemodialysis unit required to be licensed
26 under the End Stage Renal Disease Facility Act; and

27 6. An institution, place, building, or room used for
28 the performance of outpatient surgical procedures that is
29 leased, owned, or operated by or on behalf of an
30 out-of-state facility.

31 No federally owned facility shall be subject to the
32 provisions of this Act, nor facilities used solely for healing

1 by prayer or spiritual means.

2 No facility licensed under the Supportive Residences
3 Licensing Act or the Assisted Living and Shared Housing Act
4 shall be subject to the provisions of this Act.

5 A facility designated as a supportive living facility that
6 is in good standing with the demonstration project established
7 under Section 5-5.01a of the Illinois Public Aid Code shall not
8 be subject to the provisions of this Act.

9 This Act does not apply to facilities granted waivers under
10 Section 3-102.2 of the Nursing Home Care Act. However, if a
11 demonstration project under that Act applies for a certificate
12 of need to convert to a nursing facility, it shall meet the
13 licensure and certificate of need requirements in effect as of
14 the date of application.

15 This Act does not apply to a dialysis facility that
16 provides only dialysis training, support, and related services
17 to individuals with end stage renal disease who have elected to
18 receive home dialysis. This Act does not apply to a dialysis
19 unit located in a licensed nursing home that offers or provides
20 dialysis-related services to residents with end stage renal
21 disease who have elected to receive home dialysis within the
22 nursing home. The Board, however, may require these dialysis
23 facilities and licensed nursing homes to report statistical
24 information on a quarterly basis to the Board to be used by the
25 Board to conduct analyses on the need for proposed kidney
26 disease treatment centers.

27 This Act shall not apply to the closure of an entity or a
28 portion of an entity licensed under the Nursing Home Care Act
29 that elects to convert, in whole or in part, to an assisted
30 living or shared housing establishment licensed under the
31 Assisted Living and Shared Housing Act.

32 With the exception of those health care facilities
33 specifically included in this Section, nothing in this Act
34 shall be intended to include facilities operated as a part of
35 the practice of a physician or other licensed health care
36 professional, whether practicing in his individual capacity or

1 within the legal structure of any partnership, medical or
2 professional corporation, or unincorporated medical or
3 professional group. Further, this Act shall not apply to
4 physicians or other licensed health care professional's
5 practices where such practices are carried out in a portion of
6 a health care facility under contract with such health care
7 facility by a physician or by other licensed health care
8 professionals, whether practicing in his individual capacity
9 or within the legal structure of any partnership, medical or
10 professional corporation, or unincorporated medical or
11 professional groups. This Act shall apply to construction or
12 modification and to establishment by such health care facility
13 of such contracted portion which is subject to facility
14 licensing requirements, irrespective of the party responsible
15 for such action or attendant financial obligation.

16 "Person" means any one or more natural persons, legal
17 entities, governmental bodies other than federal, or any
18 combination thereof.

19 "Consumer" means any person other than a person (a) whose
20 major occupation currently involves or whose official capacity
21 within the last 12 months has involved the providing,
22 administering or financing of any type of health care facility,
23 (b) who is engaged in health research or the teaching of
24 health, (c) who has a material financial interest in any
25 activity which involves the providing, administering or
26 financing of any type of health care facility, or (d) who is or
27 ever has been a member of the immediate family of the person
28 defined by (a), (b), or (c).

29 "State Board" means the Health Facilities Planning Board.

30 "Construction or modification" means the establishment,
31 erection, building, alteration, reconstruction, modernization,
32 improvement, extension, discontinuation, change of ownership,
33 of or by a health care facility, or the purchase or acquisition
34 by or through a health care facility of equipment or service
35 for diagnostic or therapeutic purposes or for facility
36 administration or operation, or any capital expenditure made by

1 or on behalf of a health care facility which exceeds the
2 capital expenditure minimum; however, any capital expenditure
3 made by or on behalf of a health care facility for (i) the
4 construction or modification of a facility licensed under the
5 Assisted Living and Shared Housing Act or (ii) a conversion
6 project undertaken in accordance with Section 30 of the Older
7 Adult Services Act shall be excluded from any obligations under
8 this Act.

9 "Establish" means the construction of a health care
10 facility or the replacement of an existing facility on another
11 site.

12 "Major medical equipment" means medical equipment which is
13 used for the provision of medical and other health services and
14 which costs in excess of the capital expenditure minimum,
15 except that such term does not include medical equipment
16 acquired by or on behalf of a clinical laboratory to provide
17 clinical laboratory services if the clinical laboratory is
18 independent of a physician's office and a hospital and it has
19 been determined under Title XVIII of the Social Security Act to
20 meet the requirements of paragraphs (10) and (11) of Section
21 1861(s) of such Act. In determining whether medical equipment
22 has a value in excess of the capital expenditure minimum, the
23 value of studies, surveys, designs, plans, working drawings,
24 specifications, and other activities essential to the
25 acquisition of such equipment shall be included.

26 "Capital Expenditure" means an expenditure: (A) made by or
27 on behalf of a health care facility (as such a facility is
28 defined in this Act); and (B) which under generally accepted
29 accounting principles is not properly chargeable as an expense
30 of operation and maintenance, or is made to obtain by lease or
31 comparable arrangement any facility or part thereof or any
32 equipment for a facility or part; and which exceeds the capital
33 expenditure minimum.

34 For the purpose of this paragraph, the cost of any studies,
35 surveys, designs, plans, working drawings, specifications, and
36 other activities essential to the acquisition, improvement,

1 expansion, or replacement of any plant or equipment with
2 respect to which an expenditure is made shall be included in
3 determining if such expenditure exceeds the capital
4 expenditures minimum. Donations of equipment or facilities to a
5 health care facility which if acquired directly by such
6 facility would be subject to review under this Act shall be
7 considered capital expenditures, and a transfer of equipment or
8 facilities for less than fair market value shall be considered
9 a capital expenditure for purposes of this Act if a transfer of
10 the equipment or facilities at fair market value would be
11 subject to review.

12 "Capital expenditure minimum" means \$10,000,000
13 ~~\$6,000,000~~, which shall be annually adjusted to reflect the
14 increase in construction costs due to inflation, for major
15 medical equipment and for all other capital expenditures;
16 provided, however, that when a capital expenditure is for the
17 construction or modification of a health and fitness center,
18 "capital expenditure minimum" means the capital expenditure
19 minimum for all other capital expenditures in effect on March
20 1, 2000, which shall be annually adjusted to reflect the
21 increase in construction costs due to inflation.

22 "Non-clinical service area" means an area (i) for the
23 benefit of the patients, visitors, staff, or employees of a
24 health care facility and (ii) not directly related to the
25 diagnosis, treatment, or rehabilitation of persons receiving
26 services from the health care facility. "Non-clinical service
27 areas" include, but are not limited to, chapels; gift shops;
28 news stands; computer systems; tunnels, walkways, and
29 elevators; telephone systems; projects to comply with life
30 safety codes; research facilities; educational facilities;
31 auditoriums; student housing; patient, employee, staff, and
32 visitor dining areas; administration and volunteer offices;
33 medical office buildings; modernization of structural
34 components (such as roof replacement and masonry work); boiler
35 repair or replacement; vehicle maintenance and storage
36 facilities; parking facilities; mechanical systems for

1 heating, ventilation, and air conditioning; loading docks; and
2 repair or replacement of carpeting, tile, wall coverings,
3 window coverings or treatments, or furniture. Solely for the
4 purpose of this definition, "non-clinical service area" does
5 not include health and fitness centers.

6 "Areawide" means a major area of the State delineated on a
7 geographic, demographic, and functional basis for health
8 planning and for health service and having within it one or
9 more local areas for health planning and health service. The
10 term "region", as contrasted with the term "subregion", and the
11 word "area" may be used synonymously with the term "areawide".

12 "Local" means a subarea of a delineated major area that on
13 a geographic, demographic, and functional basis may be
14 considered to be part of such major area. The term "subregion"
15 may be used synonymously with the term "local".

16 "Areawide health planning organization" or "Comprehensive
17 health planning organization" means the health systems agency
18 designated by the Secretary, Department of Health and Human
19 Services or any successor agency.

20 "Local health planning organization" means those local
21 health planning organizations that are designated as such by
22 the areawide health planning organization of the appropriate
23 area.

24 "Physician" means a person licensed to practice in
25 accordance with the Medical Practice Act of 1987, as amended.

26 "Licensed health care professional" means a person
27 licensed to practice a health profession under pertinent
28 licensing statutes of the State of Illinois.

29 "Director" means the Director of the Illinois Department of
30 Public Health.

31 "Agency" means the Illinois Department of Public Health.

32 "Comprehensive health planning" means health planning
33 concerned with the total population and all health and
34 associated problems that affect the well-being of people and
35 that encompasses health services, health manpower, and health
36 facilities; and the coordination among these and with those

1 social, economic, and environmental factors that affect
2 health.

3 "Alternative health care model" means a facility or program
4 authorized under the Alternative Health Care Delivery Act.

5 "Out-of-state facility" means a person that is both (i)
6 licensed as a hospital or as an ambulatory surgery center under
7 the laws of another state or that qualifies as a hospital or an
8 ambulatory surgery center under regulations adopted pursuant
9 to the Social Security Act and (ii) not licensed under the
10 Ambulatory Surgical Treatment Center Act, the Hospital
11 Licensing Act, or the Nursing Home Care Act. Affiliates of
12 out-of-state facilities shall be considered out-of-state
13 facilities. Affiliates of Illinois licensed health care
14 facilities 100% owned by an Illinois licensed health care
15 facility, its parent, or Illinois physicians licensed to
16 practice medicine in all its branches shall not be considered
17 out-of-state facilities. Nothing in this definition shall be
18 construed to include an office or any part of an office of a
19 physician licensed to practice medicine in all its branches in
20 Illinois that is not required to be licensed under the
21 Ambulatory Surgical Treatment Center Act.

22 "Change of ownership of a health care facility" means a
23 change in the person who has ownership or control of a health
24 care facility's physical plant and capital assets. A change in
25 ownership is indicated by the following transactions: sale,
26 transfer, acquisition, lease, change of sponsorship, or other
27 means of transferring control.

28 "Related person" means any person that: (i) is at least 50%
29 owned, directly or indirectly, by either the health care
30 facility or a person owning, directly or indirectly, at least
31 50% of the health care facility; or (ii) owns, directly or
32 indirectly, at least 50% of the health care facility.

33 "Charity care" means care provided by a health care
34 facility for which the provider does not expect to receive
35 payment from the patient or a third-party payer.

36 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;

1 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; revised 10-25-04.)

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

3 (Section scheduled to be repealed on July 1, 2006)

4 Sec. 5. After effective dates set by the State Board, no
5 person shall construct, modify or establish a health care
6 facility or acquire major medical equipment without first
7 obtaining a permit or exemption from the State Board. The State
8 Board shall not delegate to the Executive Secretary of the
9 State Board or any other person or entity the authority to
10 grant permits or exemptions whenever the Executive Secretary or
11 other person or entity would be required to exercise any
12 discretion affecting the decision to grant a permit or
13 exemption. The State Board shall set effective dates applicable
14 to all or to each classification or category of health care
15 facilities and applicable to all or each type of transaction
16 for which a permit is required. Varying effective dates may be
17 set, providing the date or dates so set shall apply uniformly
18 statewide.

19 Notwithstanding any effective dates established by this
20 Act or by the State Board, no person shall be required to
21 obtain a permit for any purpose under this Act until the State
22 health facilities plan referred to in paragraph (4) of Section
23 12 of this Act has been approved and adopted by the State Board
24 subsequent to public hearings having been held thereon.

25 A permit or exemption shall be obtained prior to the
26 acquisition of major medical equipment or to the construction
27 or modification of a health care facility which:

28 (a) requires a total capital expenditure in excess of
29 the capital expenditure minimum; or

30 (b) except for the establishment of swing-beds
31 authorized under Title XVIII of the federal Social Security
32 Act, substantially changes the scope or changes the
33 functional operation of the facility; or

34 (c) changes the bed capacity of a health care facility,
35 other than a hospital, by increasing the total number of

1 beds or by distributing beds among various categories of
2 service or by relocating beds from one physical facility or
3 site to another by more than 10 beds or more than 10% of
4 total bed capacity as defined by the State Board, whichever
5 is less, over a 2 year period.

6 A permit shall be valid only for the defined construction
7 or modifications, site, amount and person named in the
8 application for such permit and shall not be transferable or
9 assignable. A permit shall be valid until such time as the
10 project has been completed, provided that (a) obligation of the
11 project occurs within 12 months following issuance of the
12 permit except for major construction projects such obligation
13 must occur within 18 months following issuance of the permit;
14 and (b) the project commences and proceeds to completion with
15 due diligence. Major construction projects, for the purposes of
16 this Act, shall include but are not limited to: projects for
17 the construction of new buildings; additions to existing
18 facilities; modernization projects whose cost is in excess of
19 \$1,000,000 or 10% of the facilities' operating revenue,
20 whichever is less; and such other projects as the State Board
21 shall define and prescribe pursuant to this Act. The State
22 Board may extend the obligation period upon a showing of good
23 cause by the permit holder. Permits for projects that have not
24 been obligated within the prescribed obligation period shall
25 expire on the last day of that period.

26 Persons who otherwise would be required to obtain a permit
27 shall be exempt from such requirement if the State Board finds
28 that with respect to establishing a new facility or
29 construction of new buildings or additions or modifications to
30 an existing facility, final plans and specifications for such
31 work have prior to October 1, 1974, been submitted to and
32 approved by the Department of Public Health in accordance with
33 the requirements of applicable laws. Such exemptions shall be
34 null and void after December 31, 1979 unless binding
35 construction contracts were signed prior to December 1, 1979
36 and unless construction has commenced prior to December 31,

1 1979. Such exemptions shall be valid until such time as the
2 project has been completed provided that the project proceeds
3 to completion with due diligence.

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

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

13 (Source: P.A. 91-782, eff. 6-9-00.)

14 (20 ILCS 3960/19.6)

15 (Section scheduled to be repealed on July 1, 2006)

16 Sec. 19.6. Repeal. This Act is repealed on July 1, 2011
17 ~~2006~~.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.