



Rep. Michael J. Madigan

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09300HB7307ham003

LRB093 22682 AMC 52557 a

1 AMENDMENT TO HOUSE BILL 7307

2 AMENDMENT NO. _____. Amend House Bill 7307, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Health Facilities Planning Act is
6 amended by changing Sections 4, 4.2, and 8 and adding Section
7 6.2 as follows:

8 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

9 (Section scheduled to be repealed on July 1, 2008)

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

14 The State Board shall consist of 5 voting members. Each
15 member shall have a reasonable knowledge of health planning,
16 health finance, and health care at the time of his or her
17 appointment. No person shall be appointed or continue to serve
18 as a member of the State Board who is, or whose spouse, parent,
19 or child is, a member of the Board of Directors of, has a
20 financial interest in, or has a business relationship with a
21 health care facility.

22 Notwithstanding any provision of this Section to the
23 contrary, the term of office of each member of the State Board
24 is abolished on the effective date of this amendatory Act of

1 the 93rd General Assembly and those members no longer hold
2 office.

3 ~~Notwithstanding any provision of this Section to the~~
4 ~~contrary, the term of office of each member of the State Board~~
5 ~~is abolished on the effective date of this amendatory Act of~~
6 ~~the 93rd General Assembly, but all incumbent members shall~~
7 ~~continue to exercise all of the powers and be subject to all of~~
8 ~~the duties of members of the State Board until all new members~~
9 ~~of the 9 member State Board authorized under this amendatory~~
10 ~~Act of the 93rd General Assembly are appointed and take office.~~
11 ~~Beginning on the effective date of this amendatory Act of the~~
12 ~~93rd General Assembly, the State Board shall consist of 9~~
13 ~~voting members.~~

14 The State Board shall be appointed by the Governor, with
15 the advice and consent of the Senate. Not more than 3 5 of the
16 appointments shall be of the same political party at the time
17 of the appointment. No person shall be appointed as a State
18 Board member if that person has served, after the effective
19 date of Public Act 93-41 ~~this amendatory Act of the 93rd~~
20 ~~General Assembly~~, 2 3-year terms as a State Board member,
21 except for ex officio non-voting members.

22 The Secretary of Human Services, the Director of Public
23 Aid, and the Director of Public Health, or their designated
24 representatives, shall serve as ex-officio, non-voting members
25 of the State Board.

26 Of those members initially appointed by the Governor under
27 this amendatory Act of the 93rd General Assembly, 2 shall serve
28 for terms expiring July 1, 2005, 2 shall serve for terms
29 expiring July 1, 2006, and 1 shall serve for a term expiring
30 July 1, 2007. ~~Of those members initially appointed by the~~
31 ~~Governor under this amendatory Act of the 93rd General~~
32 ~~Assembly, 3 shall serve for terms expiring July 1, 2004, 3~~
33 ~~shall serve for terms expiring July 1, 2005, and 3 shall serve~~
34 ~~for terms expiring July 1, 2006.~~ Thereafter, each appointed

1 member shall hold office for a term of 3 years, provided that
2 any member appointed to fill a vacancy occurring prior to the
3 expiration of the term for which his or her predecessor was
4 appointed shall be appointed for the remainder of such term and
5 the term of office of each successor shall commence on July 1
6 of the year in which his predecessor's term expires. Each
7 member appointed after the effective date of this amendatory
8 Act of the 93rd General Assembly shall hold office until his or
9 her successor is appointed and qualified.

10 State Board members, while serving on business of the State
11 Board, shall receive actual and necessary travel and
12 subsistence expenses while so serving away from their places of
13 residence. A member of the State Board who experiences a
14 significant financial hardship due to the loss of income on
15 days of attendance at meetings or while otherwise engaged in
16 the business of the State Board may be paid a hardship
17 allowance, as determined by and subject to the approval of the
18 Governor's Travel Control Board.

19 The Governor shall designate one of the members to serve as
20 Chairman and shall name as full-time Executive Secretary of the
21 State Board, a person qualified in health care facility
22 planning and in administration. The Agency shall provide
23 administrative and staff support for the State Board. The State
24 Board shall advise the Director of its budgetary and staff
25 needs and consult with the Director on annual budget
26 preparation.

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

30 Three ~~Five~~ members of the State Board shall constitute a
31 quorum. The affirmative vote of 3 ~~5~~ of the members of the State
32 Board shall be necessary for any action requiring a vote to be
33 taken by the State Board. A vacancy in the membership of the
34 State Board shall not impair the right of a quorum to exercise

1 all the rights and perform all the duties of the State Board as
2 provided by this Act.

3 A State Board member shall disqualify himself or herself
4 from the consideration of any application for a permit or
5 exemption in which the State Board member or the State Board
6 member's spouse, parent, or child: (i) has an economic interest
7 in the matter; or (ii) is employed by, serves as a consultant
8 for, or is a member of the governing board of the applicant or
9 a party opposing the application.

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

11 (20 ILCS 3960/4.2)

12 (Section scheduled to be repealed on July 1, 2008)

13 Sec. 4.2. Ex parte communications.

14 (a) Except in the disposition of matters that agencies are
15 authorized by law to entertain or dispose of on an ex parte
16 basis including, but not limited to rule making, the State
17 Board, any State Board member, employee, or a hearing officer
18 shall not engage in ex parte communication, after an
19 application for a permit is received, in connection with the
20 substance of any application for a permit with any person or
21 party or the representative of any party with a financial
22 interest in the outcome of the application. Any person or party
23 with a financial interest in a permit application may not
24 communicate with the any member, employee, or hearing officer
25 of the State Board regarding the substance of the permit
26 application for at least 6 months prior to the submission of
27 the application.

28 (b) A State Board member or employee may communicate with
29 other members or employees and any State Board member or
30 hearing officer may have the aid and advice of one or more
31 personal assistants.

32 (c) An ex parte communication received by the State Board,
33 any State Board member, employee, or a hearing officer shall be

1 made a part of the record of the pending matter, including all
2 written communications, all written responses to the
3 communications, and a memorandum stating the substance of all
4 oral communications and all responses made and the identity of
5 each person from whom the ex parte communication was received.

6 (d) "Ex parte communication" means a communication between
7 a person who is not a State Board member or employee and a
8 State Board member or employee that reflects on the substance
9 of a pending State Board proceeding and that takes place
10 outside the record of the proceeding. Communications regarding
11 matters of procedure and practice, such as the format of
12 pleading, number of copies required, manner of service, and
13 status of proceedings, are not considered ex parte
14 communications. Technical assistance with respect to an
15 application, not intended to influence any decision on the
16 application, may be provided by employees to the applicant. Any
17 assistance shall be documented in writing by the applicant and
18 employees within 10 business days after the assistance is
19 provided.

20 (e) For purposes of this Section, "employee" means a person
21 the State Board or the Agency employs on a full-time,
22 part-time, contract, or intern basis.

23 (f) The State Board, State Board member, or hearing
24 examiner presiding over the proceeding, in the event of a
25 violation of this Section, must take whatever action is
26 necessary to ensure that the violation does not prejudice any
27 party or adversely affect the fairness of the proceedings.

28 (g) Nothing in this Section shall be construed to prevent
29 the State Board or any member of the State Board from
30 consulting with the attorney for the State Board.

31 (Source: P.A. 91-782, eff. 6-9-00; revised 1-28-04.)

32 (20 ILCS 3960/6.2 new)

33 (Section scheduled to be repealed on July 1, 2008)

1 Sec. 6.2. Intervenor. The Health Facilities Planning Board
2 shall establish rules for consumers, as defined in Section 3,
3 to intervene in the Board's review process for permit
4 applications. These rules shall include, but not be limited to,
5 the following:

6 (1) Public notification of the right to intervene in
7 each application review process.

8 (2) A method for petitioning the Board for intervenor
9 status.

10 (3) A process for reviewing petitions for intervention
11 and for notification of all parties regarding intervenor
12 status.

13 A consumer permitted to intervene may participate in all
14 phases of the process, including receipt of all documents
15 related to the application review and an opportunity to testify
16 at Board meetings.

17 (20 ILCS 3960/8) (from Ch. 111 1/2, par. 1158)

18 (Section scheduled to be repealed on July 1, 2008)

19 Sec. 8. The Agency shall assist communities and regions
20 throughout the State to establish areawide health planning
21 organizations and, in particular, shall assist such
22 organizations to develop health care facilities planning which
23 meets the criteria for recognition thereof. Areawide health
24 planning organizations may be recognized to do health
25 facilities planning by providing this component of health
26 planning within the organization or by contracting with a
27 special-purpose health planning organization that meets the
28 criteria for health facilities planning.

29 Recognition of these organizations with regard to health
30 facilities planning, including establishment of the criteria
31 for such recognition, shall be the responsibility of the State
32 Board, as provided elsewhere in this Act.

33 The Agency is authorized to make grants-in-aid or to

1 furnish direct services to organizations in the development of
2 health facilities planning capability, as a part of other
3 financial and service assistance which the Agency is empowered
4 and required to provide in support of health planning
5 organizations.

6 Upon receipt of an application for a permit to establish,
7 construct or modify a health care facility, the Agency shall
8 notify the applicant in writing within 10 working days either
9 that the application is complete or the reasons why the
10 application is not complete. If the application is complete,
11 the Agency shall notify affected persons of the beginning of a
12 review and the review time cycle for the purposes of this Act
13 shall begin on the date this notification is mailed.

14 Upon notifying affected persons of the beginning of a
15 review of an application for a permit, a complete copy of such
16 application shall be transmitted to the areawide health
17 planning organization serving the area or community where the
18 health care facility or major medical equipment is proposed to
19 be acquired, established, constructed or modified. The Agency
20 shall also transmit a complete copy of such application to any
21 reasonably contiguous areawide health planning organization.
22 The Agency shall afford a reasonable time as established by the
23 State Board, but not to exceed 120 days in length, for the
24 areawide planning organizations' review of the application.
25 After reviewing the application, each recognized areawide
26 planning organization shall certify its findings to the State
27 Board as to whether or not the application is approved or
28 disapproved in accordance with standards, criteria or plans of
29 need adopted and approved by the recognized areawide health
30 planning organization pursuant to its recognition by the State
31 Board for health care facilities planning. The 120-day period
32 shall begin on the day the application is found to be
33 substantially complete, as that term is defined by the State
34 Board. During such 120-day period, the applicant may request an

1 extension. An applicant may modify the application at any time
2 prior to a final administrative decision on the application.

3 Upon its receipt of an application, the areawide health
4 planning organization or the Agency, as the case may be, may
5 submit a copy of such application to the federally-recognized
6 professional standards review organization, if any, and
7 appropriate local health planning organization, if any,
8 existing in the area where the proposed project is to occur.
9 Such organizations may review the application for a permit and
10 submit, within 30 days from the receipt of the application, a
11 finding to the agency or to the areawide health planning
12 organization, as the case may be. A review and finding by a
13 federally-recognized professional standards review
14 organization must be relevant to the activities for which such
15 organization is recognized, and shall be considered by the
16 Agency or the areawide health planning organization, as the
17 case may be, in its review of the application.

18 The State Board shall prescribe and provide the forms upon
19 which the review and finding of the organization shall be made.
20 The recognized areawide health planning organizations shall
21 submit their review and finding to the Agency for its finding
22 on the application and transmittal to the State Board for its
23 consideration of denial or approval.

24 If there is no areawide health planning organization in the
25 area where the proposed establishment, construction or
26 modification of a health care facility is to occur, then the
27 Agency shall be afforded a reasonable time, but not to exceed
28 120 days, for its review and finding thereon. The Agency shall
29 submit its review and finding to the State Board for its
30 approval or denial of the permit.

31 When an application for a permit is initially reviewed by a
32 recognized areawide health planning organization or the
33 Agency, as herein provided, the organization or the Agency, as
34 the case may be, shall ensure that a public hearing is

1 conducted if a written request for a public hearing is received
2 before the end of the comment period or if the Agency
3 determines that a hearing is in the public interest. The ~~afford~~
4 an opportunity for a public hearing shall be held within a
5 reasonable time after receipt of the complete application, not
6 to exceed 90 days. Notice of such hearing shall be made
7 promptly by certified mail to the applicant and members of the
8 General Assembly in whose district the facility is, or will be,
9 located, by posting the notice on the Agency's web site, and,
10 within 20 ~~10~~ days before ~~of~~ the hearing, by publication on 3
11 consecutive days in a newspaper of general circulation in the
12 area or community to be affected. For hearings pertaining to
13 facilities located within a metropolitan statistical area,
14 notice of the hearing must be made by publication on 3
15 consecutive days in 2 newspapers of general circulation in the
16 area or community to be affected. Such hearing shall be
17 conducted in the area or community where the proposed project
18 is to occur, and shall be for the purpose of allowing the
19 applicant and any interested person to present public testimony
20 concerning the approval, denial, renewal or revocation of the
21 permit. All interested persons attending such hearing shall be
22 given reasonable opportunity to present their views or
23 arguments in writing or orally, and a record of all such
24 testimony shall accompany any recommendation of the Agency or
25 the recognized areawide health planning organization for the
26 issuance, denial, revocation or renewal of a permit to the
27 State Board. The State Board shall promulgate reasonable rules
28 and regulations governing the procedure and conduct of such
29 hearings.

30 (Source: P.A. 88-18.)

31 Section 99. Effective date. This Act takes effect upon
32 becoming law."