



Rep. Julie Hamos

**Filed: 3/23/2010**

09600HB6441ham001

LRB096 21070 DRJ 39540 a

1 AMENDMENT TO HOUSE BILL 6441

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6441 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Illinois Health Information Exchange and Technology Act.

6 Section 5. Purpose. Health information technology improves  
7 the quality of patient care, increases the efficiency of health  
8 care practices, improves safety, and reduces healthcare  
9 errors. The State of Illinois has an interest in encouraging  
10 the adoption of a health information system to improve the  
11 safety, quality, and value of health care, to protect and keep  
12 health information secure, and to use the health information  
13 exchange system to advance and meet population health goals. To  
14 ensure that the benefits of health information technology are  
15 available to the consumers of Illinois and to encourage greater  
16 patient participation in health care decisions, the State must

1 provide a framework for the exchange of health information and  
2 encourage the widespread adoption of electronic health systems  
3 and the use of electronic health records among health care  
4 providers and patients. The creation of a State-level health  
5 information exchange system will allow, among other benefits,  
6 the widespread utilization of electronic health records by  
7 health care providers and patients in order to ensure that  
8 Illinois' health care providers can achieve the meaningful use  
9 of electronic records, as defined by federal law, and  
10 participate fully in the health information technology  
11 incentives available from the federal government under the  
12 Medicare and Medicaid programs.

13 Section 10. Creation of the Health Information Exchange  
14 Authority. There is hereby created the Illinois Health  
15 Information Exchange Authority ("Authority"), which is hereby  
16 constituted as an instrumentality and an administrative agency  
17 of the State of Illinois.

18 As part of its program to promote, develop, and sustain  
19 health information exchange at the State level, the Authority  
20 shall do the following:

21 (1) Establish the Illinois Health Information Exchange  
22 ("ILHIE"), to promote and facilitate the sharing of health  
23 information among health care providers within Illinois  
24 and in other states. ILHIE shall be an entity operated by  
25 the Authority to serve as a State-level electronic medical

1 records exchange providing for the transfer of health  
2 information, medical records, and other health data in a  
3 secure environment for the benefit of patient care, patient  
4 safety, reduction of duplicate medical tests, reduction of  
5 administrative costs, and any other benefits deemed  
6 appropriate by the Authority.

7 (2) Foster the widespread adoption of electronic  
8 health records and participation in the ILHIE.

9 Section 15. Governance of the Illinois Health Information  
10 Exchange Authority.

11 (a) The Authority shall consist of and be governed by one  
12 Executive Director and 8 directors who are hereby authorized to  
13 carry out the provisions of this Act and to exercise the powers  
14 conferred under this Act.

15 (b) The Executive Director and 8 directors shall be  
16 appointed to 3-year staggered terms by the Governor with the  
17 advice and consent of the Senate. Of the members first  
18 appointed after the effective date of this Act, 3 shall be  
19 appointed for a term of one year, 3 shall be appointed for a  
20 term of 2 years, and 3 shall be appointed for a term of 3 years.  
21 The Executive Director and directors may serve successive terms  
22 and, in the event the term of the Executive Director or a  
23 director expires, he or she shall serve in the expired term  
24 until a new Executive Director or director is appointed and  
25 qualified. Vacancies shall be filled for the unexpired term in

1 the same manner as original appointments. The Governor may  
2 remove a director or the Executive Director for incompetency,  
3 dereliction of duty, malfeasance, misfeasance, or nonfeasance  
4 in office or any other good cause. The Executive Director shall  
5 be compensated at an annual salary of 75% of the salary of the  
6 Governor.

7 (c) The Executive Director and directors shall be chosen  
8 with due regard to broad geographic representation and shall be  
9 representative of a broad spectrum of health care providers and  
10 stakeholders, including representatives from any of the  
11 following fields or groups: health care consumers, consumer  
12 advocates, physicians, nurses, hospitals, federally qualified  
13 health centers as defined in Section 1905(1)(2)(B) of the  
14 Social Security Act and any subsequent amendments thereto,  
15 health plans or third-party payors, employers, long-term care  
16 providers, pharmacists, State and local public health  
17 entities, outpatient diagnostic service providers, behavioral  
18 health providers, home health agency organizations, health  
19 professional schools in Illinois, health information  
20 technology, or health information research.

21 (d) The directors of the Illinois Department of Healthcare  
22 and Family Services, the Illinois Department of Public Health,  
23 and the Illinois Department of Insurance and the Secretary of  
24 the Illinois Department of Human Services, or their designees,  
25 and a designee of the Office of the Governor, shall serve as  
26 ex-officio members of the Authority.

1           (e) The Authority is authorized to conduct its business by  
2 a majority of the appointed members. The Authority may adopt  
3 bylaws in order to conduct meetings. The bylaws may permit the  
4 Authority to meet by telecommunication or electronic  
5 communication.

6           (f) The Authority shall appoint an Illinois Health  
7 Information Exchange Authority Advisory Committee ("Advisory  
8 Committee") with representation from any of the fields or  
9 groups listed in subsection (c) of this Section. The purpose of  
10 the Advisory Committee shall be to advise and provide  
11 recommendations to the Authority regarding the ILHIE. The  
12 Advisory Committee members shall serve 2-year terms. The  
13 Authority may establish other advisory committees and  
14 subcommittees to conduct the business of the Authority.

15           (g) Directors of the Authority, members of the Advisory  
16 Committee, and any other advisory committee and subcommittee  
17 members may be reimbursed for ordinary and contingent travel  
18 and meeting expenses for their service at the rate approved for  
19 State employee travel.

20           Section 20. Powers and duties of the Illinois Health  
21 Information Exchange Authority. The Authority has the  
22 following powers, together with all powers incidental or  
23 necessary to accomplish the purposes of this Act:

24           (1) The Authority shall create and administer the ILHIE  
25           using information systems and processes that are secure,

1 are cost effective, and meet all other relevant privacy and  
2 security requirements under State and federal law.

3 (2) The Authority shall establish and adopt standards  
4 and requirements for the use of health information and the  
5 requirements for participation in the ILHIE by persons or  
6 entities including, but not limited to, health care  
7 providers, payors, and local health information exchanges.

8 (3) The Authority shall establish minimum standards  
9 for accessing the ILHIE to ensure that the appropriate  
10 security and privacy protections apply to health  
11 information, consistent with applicable federal and State  
12 standards and laws. The Authority shall have the power to  
13 suspend, limit, or terminate the right to participate in  
14 the ILHIE for non-compliance or failure to act, with  
15 respect to applicable standards and laws, in the best  
16 interests of patients, users of the ILHIE, or the public.  
17 The Authority may seek all remedies allowed by law to  
18 address any violation of the terms of participation in the  
19 ILHIE.

20 (4) The Authority shall identify barriers to the  
21 adoption of electronic health records systems, including  
22 researching the rates and patterns of dissemination and use  
23 of electronic health record systems throughout the State.  
24 The Authority shall make the results of the research  
25 available on its website.

26 (5) The Authority shall prepare educational materials

1 and educate the general public on the benefits of  
2 electronic health records, the ILHIE, and the safeguards  
3 available to prevent unauthorized disclosure of health  
4 information.

5 (6) The Authority may appoint or designate an  
6 institutional review board in accordance with federal and  
7 State law to review and approve requests for research in  
8 order to ensure compliance with standards and patient  
9 privacy and security protections as specified in paragraph  
10 (3) of this Section.

11 (7) The Authority may enter into all contracts and  
12 agreements necessary or incidental to the performance of  
13 its powers under this Act. The Authority's expenditures of  
14 private funds are exempt from the Illinois Procurement  
15 Code, pursuant to Section 1-10 of that Act. Notwithstanding  
16 this exception, the Authority shall comply with the  
17 Business Enterprise for Minorities, Females, and Persons  
18 with Disabilities Act.

19 (8) The Authority may solicit and accept grants, loans,  
20 contributions, or appropriations from any public or  
21 private source and may expend those moneys, through  
22 contracts, grants, loans, or agreements, on activities it  
23 considers suitable to the performance of its duties under  
24 this Act.

25 (9) The Authority may determine, charge, and collect  
26 any fees, charges, costs, and expenses from any healthcare

1 provider or entity in connection with its duties under this  
2 Act. Moneys collected under this paragraph (9) shall be  
3 deposited into the Health Information Exchange Fund.

4 (10) The Authority may, under the direction of the  
5 Executive Director, employ and discharge staff, including  
6 administrative, technical, expert, professional, and legal  
7 staff, as is necessary or convenient to carry out the  
8 purposes of this Act. The Authority may establish and  
9 administer standards of classification regarding  
10 compensation, benefits, duties, performance, and tenure  
11 for that staff and may enter into contracts of employment  
12 with members of that staff for such periods and on such  
13 terms as the Authority deems desirable. All employees of  
14 the Authority are exempt from the Personnel Code as  
15 provided by Section 4 of the Personnel Code.

16 (11) The Authority shall consult and coordinate with  
17 the Department of Public Health to further the Authority's  
18 collection of health information from health care  
19 providers for public health purposes. The collection of  
20 public health information shall include identifiable  
21 information for use by the Authority or other State  
22 agencies to comply with State and federal laws. Any  
23 identifiable information so collected shall be privileged  
24 and confidential in accordance with Sections 8-2101,  
25 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil  
26 Procedure.



1           (12) All identified or deidentified health information  
2           in the form of health data or medical records contained in,  
3           stored in, submitted to, transferred by, or released from  
4           the Illinois Health Information Exchange, and identified  
5           or deidentified health information in the form of health  
6           data and medical records of the Illinois Health Information  
7           Exchange in the possession of the Illinois Health  
8           Information Exchange Authority due to its administration  
9           of the Illinois Health Information Exchange, shall be  
10          exempt from inspection and copying under the Freedom of  
11          Information Act. The terms "identified" and "deidentified"  
12          shall be given the same meaning as in the Health Insurance  
13          Accountability and Portability Act of 1996, Public Law  
14          104-191, or any subsequent amendments thereto, and any  
15          regulations promulgated thereunder.

16          (13) To address gaps in the adoption of, workforce  
17          preparation for, and exchange of electronic health records  
18          that result in regional and socioeconomic disparities in  
19          the delivery of care, the Authority may evaluate such gaps  
20          and provide resources as available, giving priority to  
21          healthcare providers serving a significant percentage of  
22          Medicaid or uninsured patients and in medically  
23          underserved or rural areas.

24          Section 25. Health Information Exchange Fund.

25          (a) The Health Information Exchange Fund (the "Fund") is

1 created as a separate fund outside the State treasury. Moneys  
2 in the Fund are not subject to appropriation by the General  
3 Assembly. The State Treasurer shall be ex-officio custodian of  
4 the Fund. Revenues arising from the operation and  
5 administration of the Authority and the ILHIE shall be  
6 deposited into the Fund. Fees, charges, State and federal  
7 moneys, grants, donations, gifts, interest, or other moneys  
8 shall be deposited into the Fund. "Private funds" means gifts,  
9 donations, and private grants.

10 (b) The Authority is authorized to spend moneys in the Fund  
11 on activities suitable to the performance of its duties as  
12 provided in Section 20 of this Act and authorized by this Act.  
13 Disbursements may be made from the Fund for purposes related to  
14 the operations and functions of the Authority and the ILHIE.

15 (c) The Illinois General Assembly may appropriate moneys to  
16 the Authority and the ILHIE, and those moneys shall be  
17 deposited into the Fund.

18 (d) The Fund is not subject to administrative charges or  
19 charge-backs, including but not limited to those authorized  
20 under Section 8h of the State Finance Act.

21 (e) The Authority's accounts and books shall be set up and  
22 maintained in accordance with the Office of the Comptroller's  
23 requirements, and the Authority's Executive Director shall be  
24 responsible for the approval of recording of receipts, approval  
25 of payments, and proper filing of required reports. The moneys  
26 held and made available by the Authority shall be subject to

1 financial and compliance audits by the Auditor General in  
2 compliance with the Illinois State Auditing Act.

3 Section 30. Participation in health information systems  
4 maintained by State agencies.

5 (a) By no later than January 1, 2015, each State agency  
6 that implements, acquires, or upgrades health information  
7 technology systems shall use health information technology  
8 systems and products that meet minimum standards adopted by the  
9 Authority for accessing the ILHIE. State agencies that have  
10 health information which supports and develops the ILHIE shall  
11 provide access to patient-specific data to complete the patient  
12 record at the ILHIE. Notwithstanding any other provision of  
13 State law, the State agencies shall provide patient-specific  
14 data to the ILHIE.

15 (b) Participation in the ILHIE shall have no impact on the  
16 content of or use or disclosure of health information of  
17 patient participants that is held in locations other than the  
18 ILHIE. Nothing in this Act shall limit or change an entity's  
19 obligation to exchange health information in accordance with  
20 applicable federal and State laws and standards.

21 Section 35. Illinois Administrative Procedure Act. The  
22 provisions of the Illinois Administrative Procedure Act are  
23 hereby expressly adopted and shall apply to all administrative  
24 rules and procedures of the Authority, except that Section 5-35

1 of the Illinois Administrative Procedure Act relating to  
2 procedures for rulemaking does not apply to the adoption of any  
3 rule required by federal law when the Authority is precluded by  
4 that law from exercising any discretion regarding that rule.

5 Section 40. Reliance on data. Any health care provider who  
6 relies in good faith upon any information provided through the  
7 ILHIE in his, her, or its treatment of a patient shall be  
8 immune from criminal or civil liability arising from any  
9 damages caused by such good faith reliance. This immunity does  
10 not apply to acts or omissions constituting gross negligence or  
11 reckless, wanton, or intentional misconduct. Notwithstanding  
12 this provision, the Authority does not waive any immunities  
13 provided under State or federal law.

14 Section 900. The Regulatory Sunset Act is amended by adding  
15 Section 4.31 as follows:

16 (5 ILCS 80/4.31 new)

17 Sec. 4.31. Act repealed on January 1, 2021. The following  
18 Act is repealed on January 1, 2021:

19 The Illinois Health Information Exchange and Technology  
20 Act.

21 Section 905. The Freedom of Information Act is amended by  
22 changing Section 7.5 as follows:

1 (5 ILCS 140/7.5)

2 Sec. 7.5. Statutory Exemptions. To the extent provided for  
3 by the statutes referenced below, the following shall be exempt  
4 from inspection and copying:

5 (a) All information determined to be confidential under  
6 Section 4002 of the Technology Advancement and Development Act.

7 (b) Library circulation and order records identifying  
8 library users with specific materials under the Library Records  
9 Confidentiality Act.

10 (c) Applications, related documents, and medical records  
11 received by the Experimental Organ Transplantation Procedures  
12 Board and any and all documents or other records prepared by  
13 the Experimental Organ Transplantation Procedures Board or its  
14 staff relating to applications it has received.

15 (d) Information and records held by the Department of  
16 Public Health and its authorized representatives relating to  
17 known or suspected cases of sexually transmissible disease or  
18 any information the disclosure of which is restricted under the  
19 Illinois Sexually Transmissible Disease Control Act.

20 (e) Information the disclosure of which is exempted under  
21 Section 30 of the Radon Industry Licensing Act.

22 (f) Firm performance evaluations under Section 55 of the  
23 Architectural, Engineering, and Land Surveying Qualifications  
24 Based Selection Act.

25 (g) Information the disclosure of which is restricted and

1 exempted under Section 50 of the Illinois Prepaid Tuition Act.

2 (h) Information the disclosure of which is exempted under  
3 the State Officials and Employees Ethics Act, and records of  
4 any lawfully created State or local inspector general's office  
5 that would be exempt if created or obtained by an Executive  
6 Inspector General's office under that Act.

7 (i) Information contained in a local emergency energy plan  
8 submitted to a municipality in accordance with a local  
9 emergency energy plan ordinance that is adopted under Section  
10 11-21.5-5 of the Illinois Municipal Code.

11 (j) Information and data concerning the distribution of  
12 surcharge moneys collected and remitted by wireless carriers  
13 under the Wireless Emergency Telephone Safety Act.

14 (k) Law enforcement officer identification information or  
15 driver identification information compiled by a law  
16 enforcement agency or the Department of Transportation under  
17 Section 11-212 of the Illinois Vehicle Code.

18 (l) Records and information provided to a residential  
19 health care facility resident sexual assault and death review  
20 team or the Executive Council under the Abuse Prevention Review  
21 Team Act.

22 (m) Information provided to the predatory lending database  
23 created pursuant to Article 3 of the Residential Real Property  
24 Disclosure Act, except to the extent authorized under that  
25 Article.

26 (n) Defense budgets and petitions for certification of

1 compensation and expenses for court appointed trial counsel as  
2 provided under Sections 10 and 15 of the Capital Crimes  
3 Litigation Act. This subsection (n) shall apply until the  
4 conclusion of the trial of the case, even if the prosecution  
5 chooses not to pursue the death penalty prior to trial or  
6 sentencing.

7 (o) Information that is prohibited from being disclosed  
8 under Section 4 of the Illinois Health and Hazardous Substances  
9 Registry Act.

10 (p) Security portions of system safety program plans,  
11 investigation reports, surveys, schedules, lists, data, or  
12 information compiled, collected, or prepared by or for the  
13 Regional Transportation Authority under Section 2.11 of the  
14 Regional Transportation Authority Act or the St. Clair County  
15 Transit District under the Bi-State Transit Safety Act.

16 (q) Information prohibited from being disclosed by the  
17 Personnel Records Review Act.

18 (r) Information prohibited from being disclosed by the  
19 Illinois School Student Records Act.

20 (s) Information the disclosure of which is restricted under  
21 Section 5-108 of the Public Utilities Act.

22 (t) All identified or deidentified health information in  
23 the form of health data or medical records contained in, stored  
24 in, submitted to, transferred by, or released from the Illinois  
25 Health Information Exchange, and identified or deidentified  
26 health information in the form of health data and medical

1 records of the Illinois Health Information Exchange in the  
2 possession of the Illinois Health Information Exchange  
3 Authority due to its administration of the Illinois Health  
4 Information Exchange. The terms "identified" and  
5 "deidentified" shall be given the same meaning as in the Health  
6 Insurance Accountability and Portability Act of 1996, Public  
7 Law 104-191, or any subsequent amendments thereto, and any  
8 regulations promulgated thereunder.

9 (Source: P.A. 96-542, eff. 1-1-10.)

10 Section 910. The Illinois Procurement Code is amended by  
11 changing Section 1-10 as follows:

12 (30 ILCS 500/1-10)

13 Sec. 1-10. Application.

14 (a) This Code applies only to procurements for which  
15 contractors were first solicited on or after July 1, 1998. This  
16 Code shall not be construed to affect or impair any contract,  
17 or any provision of a contract, entered into based on a  
18 solicitation prior to the implementation date of this Code as  
19 described in Article 99, including but not limited to any  
20 covenant entered into with respect to any revenue bonds or  
21 similar instruments. All procurements for which contracts are  
22 solicited between the effective date of Articles 50 and 99 and  
23 July 1, 1998 shall be substantially in accordance with this  
24 Code and its intent.



1           (b) This Code shall apply regardless of the source of the  
2 funds with which the contracts are paid, including federal  
3 assistance moneys. This Code shall not apply to:

4           (1) Contracts between the State and its political  
5 subdivisions or other governments, or between State  
6 governmental bodies except as specifically provided in  
7 this Code.

8           (2) Grants, except for the filing requirements of  
9 Section 20-80.

10          (3) Purchase of care.

11          (4) Hiring of an individual as employee and not as an  
12 independent contractor, whether pursuant to an employment  
13 code or policy or by contract directly with that  
14 individual.

15          (5) Collective bargaining contracts.

16          (6) Purchase of real estate, except that notice of this  
17 type of contract with a value of more than \$25,000 must be  
18 published in the Procurement Bulletin within 7 days after  
19 the deed is recorded in the county of jurisdiction. The  
20 notice shall identify the real estate purchased, the names  
21 of all parties to the contract, the value of the contract,  
22 and the effective date of the contract.

23          (7) Contracts necessary to prepare for anticipated  
24 litigation, enforcement actions, or investigations,  
25 provided that the chief legal counsel to the Governor shall  
26 give his or her prior approval when the procuring agency is

1       one subject to the jurisdiction of the Governor, and  
2       provided that the chief legal counsel of any other  
3       procuring entity subject to this Code shall give his or her  
4       prior approval when the procuring entity is not one subject  
5       to the jurisdiction of the Governor.

6       (8) Contracts for services to Northern Illinois  
7       University by a person, acting as an independent  
8       contractor, who is qualified by education, experience, and  
9       technical ability and is selected by negotiation for the  
10      purpose of providing non-credit educational service  
11      activities or products by means of specialized programs  
12      offered by the university.

13      (9) Procurement expenditures by the Illinois  
14      Conservation Foundation when only private funds are used.

15      (10) Procurement expenditures by the Illinois Health  
16      Information Exchange Authority involving private funds  
17      from the Health Information Exchange Fund. "Private funds"  
18      means gifts, donations, and private grants.

19      (c) This Code does not apply to the electric power  
20      procurement process provided for under Section 1-75 of the  
21      Illinois Power Agency Act and Section 16-111.5 of the Public  
22      Utilities Act.

23      (d) Except for Section 20-160 and Article 50 of this Code,  
24      and as expressly required by Section 9.1 of the Illinois  
25      Lottery Law, the provisions of this Code do not apply to the  
26      procurement process provided for under Section 9.1 of the

1 Illinois Lottery Law.

2 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;  
3 95-876, eff. 8-21-08; 96-840, eff. 12-23-09.)

4 Section 995. Severability. If any provision of this Act or  
5 application thereof to any person or circumstance is held  
6 invalid, such invalidity does not affect other provisions or  
7 applications of this Act which can be given effect without the  
8 invalid application or provision, and to this end the  
9 provisions of this Act are declared to be severable.

10 Section 999. Effective date. This Act takes effect upon  
11 becoming law."