



Senate

General Assembly

File No. 921

January Session, 2009

Substitute Senate Bill No. 782

Senate, May 8, 2009

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROMOTING THE USE OF HEALTH INFORMATION TECHNOLOGY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective from passage*) On or before July 1, 2009, the
2 Department of Public Health shall submit, in accordance with the
3 provisions of section 11-4a of the general statutes, to the joint standing
4 committee of the General Assembly having cognizance of matters
5 relating to public health, the state-wide health information technology
6 plan developed pursuant to section 19a-25d of the general statutes.

7 Sec. 2. (NEW) (*Effective from passage*) (a) Not later than June 1, 2009,
8 the speaker of the House of Representatives and the president pro
9 tempore of the Senate, in consultation with the chairpersons and
10 ranking members of the joint standing committee of the General
11 Assembly having cognizance of matters relating to public health, the
12 Lieutenant Governor and the Commissioner of Public Health, shall
13 designate an entity to serve, on and after July 1, 2009, as the lead health
14 information exchange organization for the state. The designated entity

15 shall, in consultation with the Department of Public Health, seek
16 private and federal funds, including funds made available pursuant to
17 the federal American Recovery and Reinvestment Act of 2009, for the
18 initial development of a state-wide health information exchange. Any
19 private or federal funds received by such entity may be used for the
20 purpose of establishing health information technology pilot programs.
21 Beginning on October 1, 2009, such entity shall submit, in accordance
22 with the provisions of section 11-4a of the general statutes, quarterly
23 reports to the joint standing committee of the General Assembly
24 having cognizance of matters relating to public health and to the
25 Department of Public Health on any private or federal funds received
26 during the preceding quarter and, if applicable, how such funds have
27 been expended. Such reports shall minimally include the total amount
28 of funds and the source providing such funds.

29 (b) The entity designated, pursuant to subsection (a) of this section,
30 as the lead health information exchange organization for the state
31 shall: (1) Facilitate the implementation and periodic revisions of the
32 health information technology plan after the plan is initially submitted
33 in accordance with the provisions of section 1 of this act, including the
34 implementation of an integrated state-wide electronic health
35 information infrastructure for the sharing of electronic health
36 information among health care facilities, health care professionals,
37 public and private payors and patients, and (2) on or before February
38 1, 2010, and annually thereafter, report, in accordance with the
39 provisions of section 11-4a of the general statutes, on the
40 implementation of such plan to the joint standing committee of the
41 General Assembly having cognizance of matters relating to public
42 health. Such report shall include details concerning the status of the
43 implementation of the health information technology plan, and may
44 include recommended revisions to such plan, statutory changes
45 needed to facilitate the implementation of such plan and funding
46 needed to effectuate such plan along with the proposed sources of
47 such funding.

48 Sec. 3. (NEW) (*Effective from passage*) The entity designated, pursuant

49 to subsection (a) of section 2 of this act, as the lead health information
 50 exchange organization for the state shall develop standards and
 51 protocols for privacy in the sharing of electronic health information.
 52 Such standards and protocols shall be no less stringent than the
 53 "Standards for Privacy of Individually Identifiable Health Information"
 54 established under the Health Insurance Portability and Accountability
 55 Act of 1996, (P.L. 104-191), as amended from time to time, and
 56 contained in 45 CFR 160, 164. Such standards and protocols shall
 57 require that individually identifiable health information be secure and
 58 that access to such information be traceable by an electronic audit trail.

59 Sec. 4. (NEW) (*Effective from passage*) (a) Not later than June 1, 2009,
 60 the Department of Public Health shall develop, in consultation with
 61 the Attorney General and within existing budgetary resources, conflict
 62 of interest policies that shall be applicable to the board of directors,
 63 employees and agents of the entity designated, pursuant to subsection
 64 (a) of section 2 of this act, as the lead health information exchange
 65 organization for the state.

66 (b) In carrying out the responsibilities prescribed under sections 2
 67 and 3 of this act, the board of directors, employees and agents of such
 68 entity shall be subject to conflict of interest policies established by the
 69 Department of Public Health, pursuant to subsection (a) of this section,
 70 to ensure that deliberations and decisions are fair and equitable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

APP *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill does not result in a fiscal impact:

Sec. 1 requires the Department of Public (DPH) health to submit a state-wide health information technology plan, to be developed according to 19a-25d of the general statutes, and does not result in a fiscal impact. Sec. 2 tasks various legislative and executive branch leaders with designating a lead health information exchange organization in the state and, along with Sec. 3, creates requirements for that organization. These sections do not result in a fiscal impact. Sec. 4 requires the DPH to develop conflict of interest policies applicable to the above organization's board of directors, employees and agents, in consultation with the Attorney General and within existing budgetary resources. It is anticipated that the Attorney General will be able to assist the DPH with this responsibility within its normally budgeted resources.

The Out Years

None

OLR Bill Analysis**sSB 782*****AN ACT PROMOTING THE USE OF HEALTH INFORMATION TECHNOLOGY.*****SUMMARY:**

This bill requires the Senate president pro tempore and House speaker, the lieutenant governor, and the public health commissioner, by June 1, 2009, to designate an entity to serve as the state's lead health information exchange organization beginning on July 1, 2009. It requires this entity to:

1. seek funds for developing a statewide health information exchange,
2. implement the statewide health information technology plan the bill requires the Public Health Department (DPH) to submit to the legislature by July 1, 2009, and
3. develop standards and protocols for privacy in sharing electronic health information.

The bill also requires DPH to develop conflict of interest policies to govern the designated entity's actions.

EFFECTIVE DATE: Upon passage

LEAD HEALTH INFORMATION EXCHANGE ORGANIZATION***Designation***

The bill requires the House speaker and Senate president pro tempore to consult with the Public Health Committee's chairpersons and ranking members in making the lead organization designation.

Responsibilities

The bill requires the designated entity, in consultation with DPH, to seek federal and private funds for the initial development of a statewide health information exchange. It specifically permits the entity to pursue federal stimulus funds. The entity can use any funds it receives to establish health information technology pilot programs.

The bill requires the designated entity to help implement and periodically revise the health information technology plan DPH submits. This can include implementing an integrated statewide electronic infrastructure that permits health care facilities, professionals, public and private payors, and patients to share health information.

The bill requires the entity to develop privacy standards and protocols for sharing electronic health information. These must be at least as stringent as the standards established under the 1996 federal Health Insurance Portability and Accountability Act (HIPAA). They must require security for individual health records and the ability to use an electronic audit trail to trace those who accessed records.

The bill requires the entity to report to the Public Health Committee:

1. quarterly, beginning October 1, 2009, on the funds it has received and how it has spent them, including the total amount received and the funding sources (this report also goes to DPH) and
2. annually, beginning February 1, 2010, on the status of implementing the statewide plan. The report can also include recommendations on plan revisions, statutory changes and funding needed for plan implementation, and proposed funding sources.

DPH RESPONSIBILITIES

Statewide Plan Submission

PA 07-2, June Special Session, required DPH to contract for the development of a statewide health information technology plan. It designated the entity that received this contract as the state's lead

health information exchange organization until June 30, 2009. The bill requires DPH to submit this plan to the Public Health Committee by July 1, 2009. By law, the plan must include (1) standards and protocols for health information exchange; (2) standards to facilitate the development of a statewide, integrated electronic health information system for use by state-funded health care providers and institutions; and (3) pilot programs for health information exchange, including costs and funding sources.

Conflict of Interest Policies

The bill requires DPH to develop conflict of interest policies that apply to the designated entity's directors, employees, and agents. DPH must do this by June 1, 2009 in consultation with the attorney general and within available resources. To ensure that their deliberations and decisions are fair and equitable, these individuals must follow these policies in carrying out the entity's responsibilities under the bill.

BACKGROUND

Health Information Exchange Organizations (HIEOs)

HIEOs provide the capability to electronically move clinical information between different health care information systems (e.g., a doctor's office and a hospital). Their goal is to facilitate access to and retrieval of clinical data to provide safer, more timely, efficient, effective, and patient-centered care. Typically, they are geographically defined entities, governed by representatives of a broad array of institutions and providers, that develop and maintain technical standards based on national standards and the ability to operate with other exchanges and arrange for the infrastructure needed to electronically exchange information.

American Recovery and Reinvestment Act of 2009 (ARRA)

The ARRA appropriated \$2 billion for competitive grants to (1) states or state-designated entities for planning or implementing health information technology exchanges and (2) states to establish loan programs to (a) help health providers to purchase technology, (b) train people to use the technology, and (c) improve security.

Planning and implementation grants awarded before October 1, 2009 may require a state match; grants approved after that date require one according to the following schedule: FY 11, at least \$1 in state fund for every \$10 federal dollars; FY 12, at least \$1:\$7; and FY 13 and beyond, at least \$1:\$3. A \$1:\$5 state:federal match is required for grants to establish loan funds.

Federal Privacy Requirements under HIPAA

HIPAA limits health care providers and insurers' release of protected health information (PHI). PHI includes medical information that contains information that could identify a person, including name, Social Security number, telephone number, medical record number, and ZIP code. Federal regulations protect this information regardless of how it is stored or transmitted.

The penalty under HIPAA for wrongful disclosure of individually identifiable health information is a \$50,000 fine, imprisonment up to one year, or both. Wrongful disclosure under false pretenses is punishable by a \$100,000 fine, imprisonment up to five years, or both. Committing wrongful disclosure with intent to sell the information is punishable by a \$250,000 fine, imprisonment up to 10 years, or both.

Legislative History

The Senate referred this bill (File 598) to the Appropriations Committee. That committee reported this substitute, requiring DPH to develop the conflict of interest policies within its budget and in consultation with the attorney general.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 27 Nay 2 (03/25/2009)

Appropriations Committee

Joint Favorable Substitute

Yea 39 Nay 12 (05/05/2009)

