

## Senate Bill No. 678

### CHAPTER 35

An act to amend Sections 101315 and 101317 of, and to repeal Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101 of, the Health and Safety Code, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 29, 2004. Filed with  
Secretary of State April 30, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 678, Ortiz. Bioterrorism preparedness: federal funding.

Existing law establishes procedures and requirements to govern the allocation to, and expenditure by, local health jurisdictions of federal funding received for the prevention of, and response to, bioterrorist attacks and other public health emergencies. Existing law provides that these procedures apply only when local health jurisdictions are designated by a federal or state agency to manage the funds for public health preparedness and response to bioterrorist attacks and other public health emergencies, pursuant to a specified federally approved plan.

Existing law also provides that federal funding received by the State Department of Health Services for bioterrorism preparedness and emergency response is subject to appropriation in the annual Budget Act commencing with the 2003–04 fiscal year.

Existing law also contains separate provisions that are substantially similar to those described above.

This bill would revise the provisions relating to the allocation and expenditure of federal bioterrorism preparedness funds, and would delete the similar provisions of existing law. The bill would appropriate \$18,145,889 from the Federal Trust Fund to the department, \$6,462,287 of which would be used for hospital bioterrorism preparedness in accordance with federal guidelines, and \$11,683,602 of which would be used for implementing the above provisions of existing law, including making appropriated funds available for smallpox preparedness costs, in accordance with the federally approved state-local plan for allocation and expenditure of these funds.

The bill would deem moneys made available in the 2003–04 Budget Act for bioterrorism preparedness available for expenditure and encumbrance until August 30, 2005.

This bill would authorize the department to use federal funds received from the Centers for Disease Control and Prevention and appropriated to the department to enter into contracts for the purpose of meeting the federally approved bioterrorism plan. The bill would exempt these contracts, as well as agreements for purposes of hospital bioterrorism preparedness, from provisions of existing law relating to contracting by state agencies.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 101315 of the Health and Safety Code, as added by Section 2 of Chapter 393 of the Statutes of 2002, is amended to read:

101315. (a) Federal funding received by the State Department of Health Services for bioterrorism preparedness and emergency response is subject to appropriation in the annual Budget Act or other statute, commencing with the 2003–04 fiscal year.

(b) This article shall govern those instances when federal funding is allocated and expended for public health preparedness and response by local health jurisdictions for the prevention of, and response to, bioterrorist attacks and other public health emergencies pursuant to the federally approved collaborative state-local plan.

(c) A local health jurisdiction shall be ineligible to receive funding from appropriations made for purposes of this article when that local health jurisdiction receives directly or through another local jurisdiction federal funding for the same purposes. Moneys appropriated for purposes of this article that would have been allocated to a local health jurisdiction that is ineligible, pursuant to this subdivision, to receive funding shall be allocated, as provided in Section 101317, among the remaining local health jurisdictions that are eligible.

(d) Funds appropriated for the purposes of this article shall not be used to supplant funding for existing levels of service and shall only be used for purposes specified in Section 101317.

(e) This article shall apply only when local health jurisdictions are designated by a federal or state agency to manage the funds for public health preparedness and response to bioterrorist attacks and other public health emergencies, pursuant to the federally approved collaborative state-local plan.

SEC. 2. Section 101317 of the Health and Safety Code, as added by Section 2 of Chapter 393 of the Statutes of 2002, is amended to read:



101317. (a) For purposes of this article, allocations shall be made to the administrative bodies of qualifying local health jurisdictions described as public health administrative organizations in Section 101185, and pursuant to Section 101315, in the following manner:

(1) (A) For the 2003–04 fiscal year and subsequent fiscal years, to the administrative bodies of each local health jurisdiction, a basic allotment of one hundred thousand dollars (\$100,000), subject to the availability of funds appropriated in the annual Budget Act or some other act.

(B) For the 2002–03 fiscal year, the basic allotment of one hundred thousand dollars (\$100,000) shall be reduced by the amount of federal funding allocated as part of a basic allotment for the purposes of this article to local health jurisdictions in the 2001–02 fiscal year.

(2) (A) Except as provided in subdivision (c), after determining the amount allowed for the basic allotment as provided in paragraph (1), the balance of the annual appropriation for purposes of this article, if any, shall be allotted on a per capita basis to the administrative bodies of each local health jurisdiction in the proportion that the population of that local health jurisdiction bears to the population of all eligible local health jurisdictions of the state.

(B) The population estimates used for the calculation of the per capita allotment pursuant to subparagraph (A) shall be based on the Department of Finance’s E-1 Report, “City/County Populations Estimates with Annual Percentage Changes” as of January 1 of the previous year. However, if within a local health jurisdiction there are one or more city health jurisdictions, the local health jurisdiction shall subtract the population of the city or cities from the local health jurisdiction total population for purposes of calculating the per capita total.

(b) If the amounts appropriated are insufficient to fully fund the allocations specified in subdivision (a), the department shall prorate and adjust each local health jurisdiction’s allocation so that the total amount allocated equals the amount appropriated.

(c) For the 2002–03 fiscal year and subsequent fiscal years, where the federally approved collaborative state-local plan identifies an allocation method, other than the basic allotment and per capita method described in subdivision (a), for specific funding to a local public health jurisdiction, including, but not limited to, funding laboratory training, chemical and nuclear terrorism preparedness, smallpox preparedness, and information technology approaches, that funding shall be paid to the administrative bodies of those local health jurisdictions in accordance with the federally approved collaborative state-local plan for bioterrorism preparedness and other public health threats in the state.



(d) Funds appropriated pursuant to the annual Budget Act or some other act for allocation to local health jurisdictions pursuant to this article shall be disbursed quarterly to local health jurisdictions beginning July 1, 2002, using the following process:

(1) Each fiscal year, upon the submission of an application for funding by the administrative body of a local health jurisdiction, the department shall make the first quarterly payment to each eligible local health jurisdiction. Initially, that application shall include a plan and budget for the local program that is in accordance with the department's plans and priorities for bioterrorism preparedness and response, and other public health threats and emergencies, and a certification by the chairperson of the board of supervisors or the mayor of a city with a local health department that the funds received pursuant to this article will not be used to supplant other funding sources in violation of subdivision (d) of Section 101315. In subsequent years, the department shall develop a streamlined process for continuation of funding that will address new federal requirements and will assure the continuity of local plan activities.

(2) The department shall establish procedures and a format for the submission of the local health jurisdiction's plan and budget. The local health jurisdiction's plan shall be consistent with the department's plans and priorities for bioterrorism preparedness and response and other public health threats and emergencies in accordance with requirements specified in the department's federal grant award. Payments to local health jurisdictions beyond the first quarter shall be contingent upon the approval of the department of the local health jurisdiction's plan and the local health jurisdiction's progress in implementing the provisions of the local health jurisdiction's plan, as determined by the department.

(3) If a local health jurisdiction does not apply or submits a noncompliant application for its allocation, those funds provided under this article may be redistributed according to subdivision (a) to the remaining local health jurisdictions.

(e) Funds shall be used for activities to improve and enhance local health jurisdictions' preparedness for and response to bioterrorism and other public health threats and emergencies, and for any other purposes, as determined by the department, that are consistent with the purposes for which the funds were appropriated.

(f) Any local health jurisdiction that receives funds pursuant to this article shall deposit them in a special local public health preparedness trust fund established solely for this purpose before transferring or expending the funds for any of the uses allowed pursuant to this article. The interest earned on moneys in the fund shall accrue to the benefit of



the fund and shall be expended for the same purposes as other moneys in the fund.

(g) (1) A local health jurisdiction that receives funding pursuant to this article shall submit reports that display cost data and the activities funded by moneys deposited in its local public health preparedness trust fund to the department on a regular basis in a form and according to procedures prescribed by the department.

(2) The department, in consultation with local health jurisdictions, shall develop required content for the reports required under paragraph (1), which shall include, but shall not be limited to, data and information needed to implement this article and to satisfy federal reporting requirements. The chairperson of the board of supervisors or the mayor of a city with a local health department shall certify the accuracy of the reports and that the moneys appropriated for the purposes of this article have not been used to supplant other funding sources.

(h) The administrative body of a local health jurisdiction may enter into a contract with the department and the department may enter into a contract with that local health jurisdiction for the department to administer all or a portion of the moneys allocated to the local health jurisdiction pursuant to this article. The department may use funds retained on behalf of a local jurisdiction pursuant to this subdivision solely for the purposes of administering the jurisdiction's bioterrorism preparedness activities. The funds appropriated pursuant to this article and retained by the department pursuant to this subdivision are available for expenditure and encumbrance for the purposes of support or local assistance.

(i) The department may recoup from a local health jurisdiction any moneys allocated pursuant to this article that are unspent or that are not expended for purposes specified in subdivision (d). The department may also recoup funds expended by a local health jurisdiction in violation of subdivision (d) of Section 101315. The department may withhold quarterly payments of moneys to a local health jurisdiction if the local health jurisdiction is not in compliance with this article or the terms of that local health jurisdiction's plan as approved by the department. Before any funds are recouped or withheld from a local health jurisdiction, the department shall meet with local health officials to discuss the status of the unspent moneys or the disputed use of the funds, or both.

(j) Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this article in the 2001–02 fiscal year shall be available for expenditure and encumbrance until June 30, 2003. Moneys made available for bioterrorism preparedness pursuant to this article from July 1, 2002, to August 30,



2003, inclusive, shall be available for expenditure and encumbrance until August 30, 2004. Moneys made available in the 2003–04 Budget Act for bioterrorism preparedness shall be available for expenditure and encumbrance until August 30, 2005.

SEC. 3. Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101 of the Health and Safety Code, as added by Section 8 of Chapter 1161 of the Statutes of 2002, is repealed.

SEC. 4. (a) The sum of eighteen million one hundred forty-five thousand eight hundred eighty-nine dollars (\$18,145,889) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services for the purpose of implementing bioterrorism preparedness measures by state and local jurisdictions, for allocation in accordance with the following schedule:

(1) The sum of six million four hundred sixty-two thousand two hundred eighty-seven dollars (\$6,462,287) for hospital bioterrorism preparedness purposes. These funds shall be allocated to entities eligible to receive them under the requirements of the federal Health Resources and Services Administration's National Bioterrorism Hospital Preparedness Program Cooperative Agreement Guidance, through the use of agreements that shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(2) The sum of three million five hundred eighty-one thousand forty-seven dollars (\$3,581,047) for purposes of allocating federal bioterrorism and public health preparedness funds to local health jurisdictions, and overseeing the expenditure of those funds, and for implementing state-level provisions of the federally approved collaborative state-local plan, which must be approved by the federal Centers for Disease Control and Prevention and the State Department of Health Services, in accordance with Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101 of the Health and Safety Code.

(3) The sum of eight million one hundred two thousand five hundred fifty-five dollars (\$8,102,555) for purposes of implementing Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101 of the Health and Safety Code. In accordance with the federally approved state-local plan, funds appropriated for purposes of this subdivision shall be available for allocation to local health jurisdictions for smallpox preparedness costs incurred beginning in the 2002–03 state fiscal year.

(b) Federal funds received by the department from the Centers for Disease Control and Prevention for bioterrorism preparedness and response, that are appropriated to the department for support by the act adding this section or any other provision of law, may be used to contract



with public or private entities to meet the federally approved bioterrorism plan. These contracts shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to best enhance California's preparedness for and response to the threat of terrorism, and in order for this act to be applicable during the entire 2003-04 fiscal year, thereby facilitating the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

