

AMENDED IN SENATE AUGUST 16, 2005  
AMENDED IN ASSEMBLY MARCH 30, 2005  
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 341**

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**Introduced by Assembly Member ~~Huff~~ Members *Daucher and Huff***

February 10, 2005

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~~An act to amend Section 7108.5 of the Business and Professions Code, to amend Sections 3260 and 3260.1 of the Civil Code, and to amend Sections 7107 and 10262.5 of the Public Contract Code, relating to works of improvement. An act to amend Section 14087.54 of the Welfare and Institutions Code, relating to health care, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, ~~Huff~~ *Daucher*. ~~Works of improvement: disputed amounts. County health care delivery systems.~~

*Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons are provided health care services.*

*Existing law authorizes a county or counties to establish, by ordinance, a special commission in order to meet the problems of the delivery of publicly assisted medical care and to demonstrate ways of promoting quality care and cost efficiency, and to negotiate an exclusive contract with the California Medical Assistance Commission to provide or arrange for the provision of health care services provided under the Medi-Cal program.*

*Existing law also authorizes the commission operating in Santa Cruz and Monterey Counties pursuant to the above provisions to enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.*

*This bill would reinstate provisions that took effect on June 9, 2005, which were superseded by Chapter 80 of the Statutes of 2005, to authorize a county, by ordinance, to authorize the special commission to provide delivery systems for persons eligible to receive health care services under the Medicare program and under both the Medi-Cal program and Medicare program. This bill would require a special commission providing delivery systems pursuant to this provision to obtain a license under the Knox-Keene Health Care Service Plan Act under certain circumstances, to conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services, and to provide notice that includes eligibility and enrollment information for those persons who are dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare program. These provisions would have continuous operation from June 9, 2005.*

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

~~Existing law contains various provisions relating to contracts for the performance of private and public works of improvement, including provisions for the withholding and disbursement of retention proceeds. Existing law provides that, with respect to those contracts for works of improvement, the retention proceeds withheld from any payment may not exceed 150% of the disputed amount.~~

~~This bill would increase the amount that may be withheld from progress payments or final payments, depending on the circumstances, to a sum of various amounts and percentages, as specified.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1     *SECTION 1. Section 14087.54 of the Welfare and Institutions*  
2 *Code, as amended by Chapter 80 of the Statutes of 2005, is*  
3 *amended to read:*

4     14087.54. (a) Any county or counties may establish a special  
5 commission in order to meet the problems of the delivery of  
6 publicly assisted medical care in the county or counties and to  
7 demonstrate ways of promoting quality care and cost efficiency.

8     (b) (1) A county board of supervisors may, by ordinance,  
9 establish a commission to negotiate the exclusive contract  
10 specified in Section 14087.5 and to arrange for the provision of  
11 health care services provided pursuant to this chapter. The boards  
12 of supervisors of more than one county may also establish a  
13 single commission with the authority to negotiate an exclusive  
14 contract and to arrange for the provision of services in those  
15 counties. If a board of supervisors elects to enact this ordinance,  
16 all rights, powers, duties, privileges, and immunities vested in a  
17 county by this article shall be vested in the county commission.  
18 Any reference in this article to “county” shall mean a  
19 commission established pursuant to this section.

20     (2) The commission operating in Santa Cruz and Monterey  
21 Counties pursuant to this section may also enter into contracts for  
22 the provision of health care services to persons who are eligible  
23 to receive medical benefits under any publicly supported  
24 program, if the commission and participating providers acting  
25 pursuant to subcontracts with the commission agree to hold  
26 harmless the beneficiaries of the publicly supported programs if  
27 the contract between the sponsoring government agency and the  
28 commission does not ensure sufficient funding to cover program  
29 costs. The commission shall not use any payments or reserves  
30 from the Medi-Cal program for this purpose.

31     (3) *In addition to the authority specified in paragraph (1), the*  
32 *board of supervisors may, by ordinance, authorize the*  
33 *commission established pursuant to this section to provide health*  
34 *care delivery systems for any or all of the following persons:*

35     (A) *Persons who are eligible to receive medical benefits under*  
36 *both Title 18 of the federal Social Security Act (42 U.S.C. Sec.*  
37 *1395 et seq.) and Title 19 of the federal Social Security Act (42*  
38 *U.S.C. Sec. 1396 et seq.).*

1 (B) Persons who are eligible to receive medical benefits under  
2 Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

3 (4) For purposes of providing services to persons described in  
4 paragraph (3), if the commission seeks a contract with the  
5 federal Centers for Medicare and Medicaid Services to provide  
6 Medicare services as a Medicare Advantage program, the  
7 commission shall first obtain a license under the Knox-Keene  
8 Health Care Service Plan Act (Chapter 2.2 (commencing with  
9 Section 1340) of Division 2 of the Health and Safety Code).

10 (5) With respect to the provision of services for persons  
11 described in paragraph (3), the commission shall conform to  
12 applicable state licensing and freedom of choice requirements as  
13 directed by the federal Centers for Medicare and Medicaid  
14 Services.

15 (6) Any material, provided to a person described in paragraph  
16 (3) who is dually eligible to receive medical benefits under both  
17 the Medi-Cal program and the Medicare program, regarding the  
18 enrollment or availability of enrollment in Medicare services  
19 established by the commission shall include notice of all of the  
20 following information in the following format:

21 (A) Medi-Cal eligibility will not be lost or otherwise affected if  
22 the person does not enroll in the plan for Medicare benefits.

23 (B) The person is not required to enroll in the Medicare plan  
24 to be eligible for Medicare benefits.

25 (C) The person may have other choices for Medicare coverage  
26 and for further assistance may contact the federal Centers for  
27 Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or  
28 <[www.Medicare.gov](http://www.Medicare.gov)>.

29 (D) The notice shall be in plain language, prominently  
30 displayed, and translated into any language other than English  
31 that the commission is required to use in communicating with  
32 Medi-Cal beneficiaries.

33 (c) It is the intent of the Legislature that if a county forms a  
34 commission pursuant to this section, the county shall, with  
35 respect to its medical facilities and programs occupy no greater  
36 or lesser status than any other health care provider in negotiating  
37 with the commission for contracts to provide health care services.

38 (d) The enabling ordinance shall specify the membership of  
39 the county commission, the qualifications for individual  
40 members, the manner of appointment, selection, or removal of

1 commissioners, and how long they shall serve, and any other  
2 matters as a board of supervisors deems necessary or convenient  
3 for the conduct of the county commission's activities. A  
4 commission so established shall be considered an entity separate  
5 from the county or counties, shall be considered a public entity  
6 for purposes of Division 3.6 (commencing with Section 810) of  
7 Title 1 of the Government Code, and shall file the statement  
8 required by Section 53051 of the Government Code. The  
9 commission shall have in addition to the rights, powers, duties,  
10 privileges, and immunities previously conferred, the power to  
11 acquire, possess, and dispose of real or personal property, as may  
12 be necessary for the performance of its functions, to employ  
13 personnel and contract for services required to meet its  
14 obligations, to sue or be sued, and to enter into agreements under  
15 Chapter 5 (commencing with Section 6500) of Division 7 of Title  
16 1 of the Government Code. Any obligations of a commission,  
17 statutory, contractual, or otherwise, shall be the obligations solely  
18 of the commission and shall not be the obligations of the county  
19 or of the state.

20 (e) Upon creation, a commission may borrow from the county  
21 or counties, and the county or counties may lend the commission  
22 funds, or issue revenue anticipation notes to obtain those funds  
23 necessary to commence operations.

24 (f) In the event a commission may no longer function for the  
25 purposes for which it was established, at such time as the  
26 commission's then existing obligations have been satisfied or the  
27 commission's assets have been exhausted, the board or boards of  
28 supervisors may by ordinance terminate the commission.

29 (g) Prior to the termination of a commission, the board or  
30 boards of supervisors shall notify the State Department of Health  
31 Services of its intent to terminate the commission. The  
32 department shall conduct an audit of the commission's records  
33 within 30 days of the notification to determine the liabilities and  
34 assets of the commission. The department shall report its findings  
35 to the board or boards within 10 days of completion of the audit.  
36 The board or boards shall prepare a plan to liquidate or otherwise  
37 dispose of the assets of the commission and to pay the liabilities  
38 of the commission to the extent of the commission's assets, and  
39 present the plan to the department within 30 days upon receipt of  
40 these findings.

1 (h) Upon termination of a commission by the board or boards,  
 2 the county or counties shall manage any remaining assets of the  
 3 commission until superseded by a department approved plan.  
 4 Any liabilities of the commission shall not become obligations of  
 5 the county or counties upon either the termination of the  
 6 commission or the liquidation or disposition of the commission's  
 7 remaining assets.

8 (i) Any assets of a commission shall be disposed of pursuant  
 9 to provisions contained in the contract entered into between the  
 10 state and the commission pursuant to this article.

11 *SEC. 2. This act reinstates the amendments to Section*  
 12 *14087.54 of the Welfare and Institutions Code made by Chapter*  
 13 *13 of the Statutes of 2005 (Assembly Bill 65). The provisions*  
 14 *added by this act shall have continuous operation from June 9,*  
 15 *2005.*

16 *SEC. 3. This act is an urgency statute necessary for the*  
 17 *immediate preservation of the public peace, health, or safety*  
 18 *within the meaning of Article IV of the Constitution and shall go*  
 19 *into immediate effect. The facts constituting the necessity are:*

20 *In order to reenact, as soon as possible, the amendments made*  
 21 *to Section 14087.54 of the Welfare and Institutions Code by*  
 22 *Chapter 13 of the Statutes of 2005 (Assembly Bill 65), which*  
 23 *were inadvertently deleted by the subsequent amendment of that*  
 24 *same section by Chapter 80 of the Statutes of 2005 (Assembly*  
 25 *Bill 131), and thereby ensure uninterrupted authority for*  
 26 *important changes in health care delivery systems in certain*  
 27 *geographical areas of the state, it is necessary that this act take*  
 28 *effect immediately.*

29 ~~SECTION 1. Section 7108.5 of the Business and Professions~~  
 30 ~~Code is amended to read:~~

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 33 **All matter omitted in this version of the bill**  
 34 **appears in the bill as amended in the**  
 35 **Assembly, March 30, 2005. (JR11)**  
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