

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JULY 5, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY MAY 11, 2005

AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1131

Introduced by Assembly Member Torrico
(Coauthor: Senator Figueroa)

February 22, 2005

An act to amend, repeal, and add Section 32126 of, and to repeal, amend, and add Section 32121 of, the Health and Safety Code, relating to health care districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1131, as amended, Torrico. Health care districts: asset transfer.

(1) The existing Local Health Care District Law provides for the formation of local health care districts and, until January 1, 2006, authorizes each local district to transfer, at fair market value, any part of its assets to one or more corporations to operate and maintain the assets. After January 1, 2006, existing law changes that provision to refer to transfers to nonprofit corporations, rather than corporations.

This bill would extend a district's authorization to transfer assets at fair market value to one or more corporations until January 1, 2011, and would thereafter only authorize the board to transfer assets at fair market value to one or more nonprofit corporations.

(2) Existing law, until January 1, 2006, authorizes the board of directors of a district to enter into lease agreements with one or more corporations. After January 1, 2006, existing law changes this provision to refer to transfers to nonprofit corporations, rather than corporations.

This bill would extend the board’s authorization to enter into lease agreements with one or more corporations until January 1, 2011, and would thereafter only authorize the board to enter into lease agreements with one or more nonprofit corporations.

(3) The bill would require a health care district to report to the Attorney General within 30 days of any transfer or lease of district assets to one or more nonprofit or for-profit corporations.

Vote: majority. 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 32121 of the Health and Safety Code,
2 as amended by Section 136 of Chapter 664 of the Statutes of
3 2002, is repealed.

4 SEC. 2. Section 32121 of the Health and Safety Code, as
5 amended by Section 137 of Chapter 664 of the Statutes of 2002,
6 is amended to read:

7 32121. Each local district shall have and may exercise the
8 following powers:

9 (a) To have and use a corporate seal and alter it at its pleasure.

10 (b) To sue and be sued in all courts and places and in all
11 actions and proceedings whatever.

12 (c) To purchase, receive, have, take, hold, lease, use, and
13 enjoy property of every kind and description within and without
14 the limits of the district, and to control, dispose of, convey, and
15 encumber the same and create a leasehold interest in the same for
16 the benefit of the district.

17 (d) To exercise the right of eminent domain for the purpose of
18 acquiring real or personal property of every kind necessary to the
19 exercise of any of the powers of the district.

20 (e) To establish one or more trusts for the benefit of the
21 district, to administer any trust declared or created for the benefit
22 of the district, to designate one or more trustees for trusts created
23 by the district, to receive by gift, devise, or bequest, and hold in

1 trust or otherwise, property, including corporate securities of all
2 kinds, situated in this state or elsewhere, and where not otherwise
3 provided, dispose of the same for the benefit of the district.

4 (f) To employ legal counsel to advise the board of directors in
5 all matters pertaining to the business of the district, to perform
6 the functions in respect to the legal affairs of the district as the
7 board may direct, and to call upon the district attorney of the
8 county in which the greater part of the land in the district is
9 situated for legal advice and assistance in all matters concerning
10 the district, except that if that county has a county counsel, the
11 directors may call upon the county counsel for legal advice and
12 assistance.

13 (g) To employ any officers and employees, including
14 architects and consultants, the board of directors deems necessary
15 to carry on properly the business of the district.

16 (h) To prescribe the duties and powers of the health care
17 facility administrator, secretary, and other officers and employees
18 of any health care facilities of the district, to establish offices as
19 may be appropriate and to appoint board members or employees
20 to those offices, and to determine the number of, and appoint, all
21 officers and employees and to fix their compensation. The
22 officers and employees shall hold their offices or positions at the
23 pleasure of the boards of directors.

24 (i) To do any and all things that an individual might do that are
25 necessary for, and to the advantage of, a health care facility and a
26 nurses' training school, or a child care facility for the benefit of
27 employees of the health care facility or residents of the district.

28 (j) To establish, maintain, and operate, or provide assistance in
29 the operation of, one or more health facilities or health services,
30 including, but not limited to, outpatient programs, services, and
31 facilities; retirement programs, services, and facilities; chemical
32 dependency programs, services, and facilities; or other health
33 care programs, services, and facilities and activities at any
34 location within or without the district for the benefit of the
35 district and the people served by the district.

36 "Health care facilities," as used in this subdivision, means
37 those facilities defined in subdivision (b) of Section 32000.1 and
38 specifically includes freestanding chemical dependency recovery
39 units. "Health facilities," as used in this subdivision, may also

1 include those facilities defined in subdivision (d) of Section
2 15432 of the Government Code.

3 (k) To do any and all other acts and things necessary to carry
4 out this division.

5 (l) To acquire, maintain, and operate ambulances or
6 ambulance services within and without the district.

7 (m) To establish, maintain, and operate, or provide assistance
8 in the operation of, free clinics, diagnostic and testing centers,
9 health education programs, wellness and prevention programs,
10 rehabilitation, aftercare, and any other health care services
11 provider, groups, and organizations that are necessary for the
12 maintenance of good physical and mental health in the
13 communities served by the district.

14 (n) To establish and operate in cooperation with its medical
15 staff a coinsurance plan between the hospital district and the
16 members of its attending medical staff.

17 (o) To establish, maintain, and carry on its activities through
18 one or more corporations, joint ventures, or partnerships for the
19 benefit of the health care district.

20 (p) (1) To transfer, at fair market value, any part of its assets
21 to one or more corporations to operate and maintain the assets. A
22 transfer pursuant to this paragraph shall be deemed to be at fair
23 market value if an independent consultant, with expertise in
24 methods of appraisal and valuation and in accordance with
25 applicable governmental and industry standards for appraisal and
26 valuation, determines that fair and reasonable consideration is to
27 be received by the district for the transferred district assets.
28 Before the district transfers, pursuant to this paragraph, 50
29 percent or more of the district's assets to one or more
30 corporations, in sum or by increment, the elected board shall, by
31 resolution, submit to the voters of the district a measure
32 proposing the transfer. The measure shall be placed on the ballot
33 of a special election held upon the request of the district or the
34 ballot of the next regularly scheduled election occurring at least
35 88 days after the resolution of the board. If a majority of the
36 voters voting on the measure vote in its favor, the transfer shall
37 be approved. The campaign disclosure requirements applicable to
38 local measures provided under Chapter 4 (commencing with
39 Section 84100) of Title 9 of the Government Code shall apply to
40 this election.

1 (2) To transfer, for the benefit of the communities served by
2 the district, in the absence of adequate consideration, any part of
3 the assets of the district, including, without limitation, real
4 property, equipment, and other fixed assets, current assets, and
5 cash, relating to the operation of the district's health care
6 facilities to one or more nonprofit corporations to operate and
7 maintain the assets.

8 (A) A transfer of 50 percent or more of the district's assets, in
9 sum or by increment, pursuant to this paragraph shall be deemed
10 to be for the benefit of the communities served by the district
11 only if all of the following occur:

12 (i) The transfer agreement and all arrangements necessary
13 thereto are fully discussed in advance of the district board
14 decision to transfer the assets of the district in at least five
15 properly noticed open and public meetings in compliance with
16 Section 32106 and the Ralph M. Brown Act (Chapter 9
17 (commencing with Section 54950) of Part 1 of Division 2 of Title
18 5 of the Government Code).

19 (ii) The transfer agreement provides that the hospital district
20 shall approve all initial board members of the nonprofit
21 corporation and any subsequent board members as may be
22 specified in the transfer agreement.

23 (iii) The transfer agreement provides that all assets transferred
24 to the nonprofit corporation, and all assets accumulated by the
25 corporation during the term of the transfer agreement arising out
26 of, or from, the operation of the transferred assets, are to be
27 transferred back to the district upon termination of the transfer
28 agreement, including any extension of the transfer agreement.

29 (iv) The transfer agreement commits the nonprofit corporation
30 to operate and maintain the district's health care facilities and its
31 assets for the benefit of the communities served by the district.

32 (v) The transfer agreement requires that any funds received
33 from the district at the outset of the agreement or any time
34 thereafter during the term of the agreement be used only to
35 reduce district indebtedness, to acquire needed equipment for the
36 district health care facilities, to operate, maintain, and make
37 needed capital improvements to the district's health care
38 facilities, to provide supplemental health care services or
39 facilities for the communities served by the district, or to conduct

1 other activities that would further a valid public purpose if
2 undertaken directly by the district.

3 (B) A transfer of 10 percent or more but less than 50 percent
4 of the district's assets, in sum or by increment, pursuant to this
5 paragraph shall be deemed to be for the benefit of the
6 communities served by the district only if both of the following
7 occur:

8 (i) The transfer agreement and all arrangements necessary
9 thereto are fully discussed in advance of the district board
10 decision to transfer the assets of the district in at least two
11 properly noticed open and public meetings in compliance with
12 Section 32106 and the Ralph M. Brown Act (Chapter 9
13 (commencing with Section 54950) of Part 1 of Division 2 of Title
14 5 of the Government Code).

15 (ii) The transfer agreement meets all of the requirements of
16 clauses (iii) to (v), inclusive, of subparagraph (A).

17 (C) Before the district transfers, pursuant to this paragraph, 50
18 percent or more of the district's assets to one or more nonprofit
19 corporations, in sum or by increment, the elected board shall, by
20 resolution, submit to the voters of the district a measure
21 proposing the transfer. The measure shall be placed on the ballot
22 of a special election held upon the request of the district or the
23 ballot of the next regularly scheduled election occurring at least
24 88 days after the resolution of the board. If a majority of the
25 voters voting on the measure vote in its favor, the transfer shall
26 be approved. The campaign disclosure requirements applicable to
27 local measures provided under Chapter 4 (commencing with
28 Section 84100) of Title 9 of the Government Code shall apply to
29 this election.

30 (D) Notwithstanding the other provisions of this paragraph, a
31 hospital district shall not transfer any portion of its assets to a
32 private nonprofit organization that is owned or controlled by a
33 religious creed, church, or sectarian denomination in the absence
34 of adequate consideration.

35 (3) If the district board has previously transferred less than 50
36 percent of the district's assets pursuant to this subdivision, before
37 any additional assets are transferred, the board shall hold a public
38 hearing and shall make a public determination that the additional
39 assets to be transferred will not, in combination with any assets

1 previously transferred, equal 50 percent or more of the total
2 assets of the district.

3 (4) The amendments to this subdivision made during the
4 1991–92 Regular Session, and the amendments made to this
5 subdivision and to Section 32126 made during the 1993–94
6 Regular Session, shall only apply to transfers made on or after
7 the effective dates of the acts amending this subdivision. The
8 amendments to this subdivision made during those sessions shall
9 not apply to any of the following:

10 (A) A district that has discussed and adopted a board
11 resolution prior to September 1, 1992, that authorizes the
12 development of a business plan for an integrated delivery system.

13 (B) A lease agreement, transfer agreement, or both between a
14 district and a nonprofit corporation that were in full force and
15 effect as of September 1, 1992, for as long as that lease
16 agreement, transfer agreement, or both remain in full force and
17 effect.

18 (5) Notwithstanding paragraph (4), if substantial amendments
19 are proposed to be made to a transfer agreement described in
20 subparagraph (A) or (B) of paragraph (4), the amendments shall
21 be fully discussed in advance of the district board’s decision to
22 adopt the amendments in at least two properly noticed open and
23 public meetings in compliance with Section 32106 and the Ralph
24 M. Brown Act (Chapter 9 (commencing with Section 54950) of
25 Part 1 of Division 2 of Title 5 of the Government Code).

26 (6) Notwithstanding paragraphs (4) and (5), a transfer
27 agreement described in subparagraph (A) or (B) of paragraph (4)
28 that provided for the transfer of less than 50 percent of a district’s
29 assets shall be subject to the requirements of this subdivision
30 when subsequent amendments to that transfer agreement would
31 result in the transfer, in sum or by increment, of 50 percent or
32 more of a district’s assets to the nonprofit corporation.

33 (7) For purposes of this subdivision, a “transfer” means the
34 transfer of ownership of the assets of a district. A lease of the real
35 property or the tangible personal property of a district shall not
36 be subject to this subdivision except as specified in Section
37 32121.4 and as required under Section 32126.

38 (8) Districts that request a special election pursuant to
39 paragraph (1) or (2) shall reimburse counties for the costs of that

1 special election as prescribed pursuant to Section 10520 of the
2 Elections Code.

3 (9) (A) Nothing in this section, including subdivision (j), shall
4 be construed to permit a local district to obtain or be issued a
5 single consolidated license to operate a separate physical plant as
6 a skilled nursing facility or an intermediate care facility that is
7 not located within the boundaries of the district.

8 (B) Notwithstanding subparagraph (A), Eastern Plumas Health
9 Care District may obtain and be issued a single consolidated
10 license to operate a separate physical plant as a skilled nursing
11 facility or an intermediate care facility that is located on the
12 campus of the Sierra Valley District Hospital. This subparagraph
13 shall have no application to any other district and is intended
14 only to address the urgent need to preserve skilled nursing or
15 intermediate care services within the rural County of Sierra.

16 (C) Subparagraph (B) shall only remain operative until the
17 Sierra Valley District Hospital is annexed by the Eastern Plumas
18 Health Care District or January 1, 2008, whichever occurs first.
19 In no event shall the Eastern Plumas Health Care District
20 increase the number of licensed beds at the Sierra Valley District
21 Hospital during the operative period of subparagraph (B).

22 (10) A transfer of any of the assets of a district to one or more
23 nonprofit corporations to operate and maintain the assets shall
24 not be required to meet paragraphs (1) to (9), inclusive, of this
25 subdivision if all of the following conditions apply at the time of
26 the transfer:

27 (A) The district has entered into a loan that is insured by the
28 State of California under Chapter 1 (commencing with Section
29 129000) of Part 6 of Division 107.

30 (B) The district is in default of its loan obligations, as
31 determined by the Office of Statewide Health Planning and
32 Development.

33 (C) The Office of Statewide Health Planning and
34 Development and the district, in their best judgment, agree that
35 the transfer of some or all of the assets of the district to a
36 nonprofit corporation or corporations is necessary to cure the
37 default, and will obviate the need for foreclosure. This cure of
38 default provision shall be applicable prior to the office
39 foreclosing on district hospital assets. After the office has
40 foreclosed on district hospital assets, or otherwise taken

1 possession in accordance with law, the office may exercise all of
2 its powers to deal with and dispose of hospital property.

3 (D) The transfer and all arrangements necessary thereto are
4 discussed in advance of the transfer in at least one properly
5 noticed open and public meeting in compliance with Section
6 32106 and the Ralph M. Brown Act (Chapter 9 (commencing
7 with Section 54950) of Part 1 of Division 2 of Title 5 of the
8 Government Code). The meeting referred to in this paragraph
9 shall be noticed and held within 90 days of notice in writing to
10 the district by the office of an event of default. If the meeting is
11 not held within this 90-day period, the district shall be deemed to
12 have waived this requirement to have a meeting.

13 (11) If a transfer under paragraph (10) is a lease, the lease
14 shall provide that the assets shall revert to the district at the
15 conclusion of the leasehold interest. If the transfer is a sale, the
16 proceeds shall be used first to retire the obligation insured by the
17 office, then to retire any other debts of the district. After
18 providing for debts, any remaining funds shall revert to the
19 district.

20 (12) A health care district shall report to the Attorney General,
21 within 30 days of any transfer of district assets to one or more
22 nonprofit or for-profit corporations, the type of transaction and
23 the entity to whom the assets were transferred or leased.

24 (q) To contract for bond insurance, letters of credit,
25 remarketing services, and other forms of credit enhancement and
26 liquidity support for its bonds, notes, and other indebtedness and
27 to enter into reimbursement agreements, monitoring agreements,
28 remarketing agreements, and similar ancillary contracts in
29 connection therewith.

30 (r) To establish, maintain, operate, participate in, or manage
31 capitated health care service plans, health maintenance
32 organizations, preferred provider organizations, and other
33 managed health care systems and programs properly licensed by
34 the Department of Insurance or the Department of Managed
35 Care, at any location within or without the district for the benefit
36 of residents of communities served by the district. However, that
37 activity shall not be deemed to result in, or constitute, the giving
38 or lending of the district's credit, assets, surpluses, cash, or
39 tangible goods to, or in aid of, any person, association, or

1 corporation in violation of Section 6 of Article XVI of the
2 California Constitution.

3 Nothing in this section shall be construed to authorize activities
4 that corporations and other artificial legal entities are prohibited
5 from conducting by Section 2400 of the Business and Professions
6 Code.

7 Any agreement to provide health care coverage that is a health
8 care service plan, as defined in subdivision (f) of Section 1345,
9 shall be subject to Chapter 2.2 (commencing with Section 1340)
10 of Division 2, unless exempted pursuant to Section 1343 or
11 1349.2.

12 A district shall not provide health care coverage for any
13 employee of an employer operating within the communities
14 served by the district, unless the Legislature specifically
15 authorizes, or has authorized in this section or elsewhere, the
16 coverage.

17 Nothing in this section shall be construed to authorize any
18 district to contribute its facilities to any joint venture that could
19 result in transfer of the facilities from district ownership.

20 (s) To provide health care coverage to members of the
21 district’s medical staff, employees of the medical staff members,
22 and the dependents of both groups, on a self-pay basis.

23 ~~(t) For purposes of this section, “assets” means the amount of~~
24 ~~total assets minus total liabilities, as disclosed in an audited~~
25 ~~financial statement prepared according to United States~~
26 ~~Generally Accepted Accounting Principles, and shall include~~
27 ~~unrestricted net assets, temporarily restricted net assets, and~~
28 ~~permanently restricted net assets.~~

29 ~~(u)~~

30 (t) This section shall remain in effect only until January 1,
31 2011, and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, 2011, deletes or extends
33 that date.

34 SEC. 3. Section 32121 is added to the Health and Safety
35 Code, to read:

36 32121. Each local district shall have and may exercise the
37 following powers:

38 (a) To have and use a corporate seal and alter it at its pleasure.

39 (b) To sue and be sued in all courts and places and in all
40 actions and proceedings whatever.

1 (c) To purchase, receive, have, take, hold, lease, use, and
2 enjoy property of every kind and description within and without
3 the limits of the district, and to control, dispose of, convey, and
4 encumber the same and create a leasehold interest in the same for
5 the benefit of the district.

6 (d) To exercise the right of eminent domain for the purpose of
7 acquiring real or personal property of every kind necessary to the
8 exercise of any of the powers of the district.

9 (e) To establish one or more trusts for the benefit of the
10 district, to administer any trust declared or created for the benefit
11 of the district, to designate one or more trustees for trusts created
12 by the district, to receive by gift, devise, or bequest, and hold in
13 trust or otherwise, property, including corporate securities of all
14 kinds, situated in this state or elsewhere, and where not otherwise
15 provided, dispose of the same for the benefit of the district.

16 (f) To employ legal counsel to advise the board of directors in
17 all matters pertaining to the business of the district, to perform
18 the functions in respect to the legal affairs of the district as the
19 board may direct, and to call upon the district attorney of the
20 county in which the greater part of the land in the district is
21 situated for legal advice and assistance in all matters concerning
22 the district, except that if that county has a county counsel, the
23 directors may call upon the county counsel for legal advice and
24 assistance.

25 (g) To employ any officers and employees, including
26 architects and consultants, the board of directors deems necessary
27 to carry on properly the business of the district.

28 (h) To prescribe the duties and powers of the health care
29 facility administrator, secretary, and other officers and employees
30 of any health care facilities of the district, to establish offices as
31 may be appropriate and to appoint board members or employees
32 to those offices, and to determine the number of, and appoint, all
33 officers and employees and to fix their compensation. The
34 officers and employees shall hold their offices or positions at the
35 pleasure of the boards of directors.

36 (i) To do any and all things that an individual might do that are
37 necessary for, and to the advantage of, a health care facility and a
38 nurses' training school, or a child care facility for the benefit of
39 employees of the health care facility or residents of the district.

1 (j) To establish, maintain, and operate, or provide assistance in
2 the operation of, one or more health facilities or health services,
3 including, but not limited to, outpatient programs, services, and
4 facilities; retirement programs, services, and facilities; chemical
5 dependency programs, services, and facilities; or other health
6 care programs, services, and facilities and activities at any
7 location within or without the district for the benefit of the
8 district and the people served by the district.

9 “Health care facilities,” as used in this subdivision means those
10 facilities defined in subdivision (b) of Section 32000.1 and
11 specifically includes freestanding chemical dependency recovery
12 units. “Health facilities,” as used in this subdivision, may also
13 include those facilities defined in subdivision (d) of Section
14 15432 of the Government Code.

15 (k) To do any and all other acts and things necessary to carry
16 out this division.

17 (l) To acquire, maintain, and operate ambulances or
18 ambulance services within and without the district.

19 (m) To establish, maintain, and operate, or provide assistance
20 in the operation of, free clinics, diagnostic and testing centers,
21 health education programs, wellness and prevention programs,
22 rehabilitation, aftercare, and any other health care services
23 provider, groups, and organizations that are necessary for the
24 maintenance of good physical and mental health in the
25 communities served by the district.

26 (n) To establish and operate in cooperation with its medical
27 staff a coinsurance plan between the hospital district and the
28 members of its attending medical staff.

29 (o) To establish, maintain, and carry on its activities through
30 one or more corporations, joint ventures, or partnerships for the
31 benefit of the health care district.

32 (p) (1) To transfer, at fair market value, any part of its assets to
33 one or more nonprofit corporations to operate and maintain the
34 assets. A transfer pursuant to this paragraph shall be deemed to
35 be at fair market value if an independent consultant, with
36 expertise in methods of appraisal and valuation and in
37 accordance with applicable governmental and industry standards
38 for appraisal and valuation, determines that fair and reasonable
39 consideration is to be received by the district for the transferred
40 district assets. Before the district transfers, pursuant to this

1 paragraph, 50 percent or more of the district's assets to one or
2 more nonprofit corporations, in sum or by increment, the elected
3 board shall, by resolution, submit to the voters of the district a
4 measure proposing the transfer. The measure shall be placed on
5 the ballot of a special election held upon the request of the
6 district or the ballot of the next regularly scheduled election
7 occurring at least 88 days after the resolution of the board. If a
8 majority of the voters voting on the measure vote in its favor, the
9 transfer shall be approved. The campaign disclosure
10 requirements applicable to local measures provided under
11 Chapter 4 (commencing with Section 84100) of Title 9 of the
12 Government Code shall apply to this election.

13 (2) To transfer, for the benefit of the communities served by
14 the district, in the absence of adequate consideration, any part of
15 the assets of the district, including, without limitation, real
16 property, equipment, and other fixed assets, current assets, and
17 cash, relating to the operation of the district's health care
18 facilities to one or more nonprofit corporations to operate and
19 maintain the assets.

20 (A) A transfer of 50 percent or more of the district's assets, in
21 sum or by increment, pursuant to this paragraph shall be deemed
22 to be for the benefit of the communities served by the district
23 only if all of the following occur:

24 (i) The transfer agreement and all arrangements necessary
25 thereto are fully discussed in advance of the district board
26 decision to transfer the assets of the district in at least five
27 properly noticed open and public meetings in compliance with
28 Section 32106 and the Ralph M. Brown Act (Chapter 9
29 (commencing with Section 54950) of Part 1 of Division 2 of Title
30 5 of the Government Code).

31 (ii) The transfer agreement provides that the hospital district
32 shall approve all initial board members of the nonprofit
33 corporation and any subsequent board members as may be
34 specified in the transfer agreement.

35 (iii) The transfer agreement provides that all assets transferred
36 to the nonprofit corporation, and all assets accumulated by the
37 corporation during the term of the transfer agreement arising out
38 of, or from, the operation of the transferred assets, are to be
39 transferred back to the district upon termination of the transfer
40 agreement, including any extension of the transfer agreement.

1 (iv) The transfer agreement commits the nonprofit corporation
2 to operate and maintain the district's health care facilities and its
3 assets for the benefit of the communities served by the district.

4 (v) The transfer agreement requires that any funds received
5 from the district at the outset of the agreement or any time
6 thereafter during the term of the agreement be used only to
7 reduce district indebtedness, to acquire needed equipment for the
8 district health care facilities, to operate, maintain, and make
9 needed capital improvements to the district's health care
10 facilities, to provide supplemental health care services or
11 facilities for the communities served by the district, or to conduct
12 other activities that would further a valid public purpose if
13 undertaken directly by the district.

14 (B) A transfer of 10 percent or more but less than 50 percent
15 of the district's assets, in sum or by increment, pursuant to this
16 paragraph shall be deemed to be for the benefit of the
17 communities served by the district only if both of the following
18 occur:

19 (i) The transfer agreement and all arrangements necessary
20 thereto are fully discussed in advance of the district board
21 decision to transfer the assets of the district in at least two
22 properly noticed open and public meetings in compliance with
23 Section 32106 and the Ralph M. Brown Act (Chapter 9
24 (commencing with Section 54950) of Part 1 of Division 2 of Title
25 5 of the Government Code).

26 (ii) The transfer agreement meets all of the requirements of
27 clauses (iii) to (v), inclusive, of subparagraph (A).

28 (C) Before the district transfers, pursuant to this paragraph, 50
29 percent or more of the district's assets to one or more nonprofit
30 corporations, in sum or by increment, the elected board shall, by
31 resolution, submit to the voters of the district a measure
32 proposing the transfer. The measure shall be placed on the ballot
33 of a special election held upon the request of the district or the
34 ballot of the next regularly scheduled election occurring at least
35 88 days after the resolution of the board. If a majority of the
36 voters voting on the measure vote in its favor, the transfer shall
37 be approved. The campaign disclosure requirements applicable to
38 local measures provided under Chapter 4 (commencing with
39 Section 84100) of Title 9 of the Government Code shall apply to
40 this election.

1 (D) Notwithstanding the other provisions of this paragraph, a
2 hospital district shall not transfer any portion of its assets to a
3 private nonprofit organization that is owned or controlled by a
4 religious creed, church, or sectarian denomination in the absence
5 of adequate consideration.

6 (3) If the district board has previously transferred less than 50
7 percent of the district's assets pursuant to this subdivision, before
8 any additional assets are transferred, the board shall hold a public
9 hearing and shall make a public determination that the additional
10 assets to be transferred will not, in combination with any assets
11 previously transferred, equal 50 percent or more of the total
12 assets of the district.

13 (4) The amendments to this subdivision made during the
14 1991–92 Regular Session, and the amendments made to this
15 subdivision and to Section 32126 made during the 1993–94
16 Regular Session, shall only apply to transfers made on or after
17 the effective dates of the acts amending this subdivision. The
18 amendments to this subdivision made during those sessions shall
19 not apply to either of the following:

20 (A) A district that has discussed and adopted a board
21 resolution prior to September 1, 1992, that authorizes the
22 development of a business plan for an integrated delivery system.

23 (B) A lease agreement, transfer agreement, or both between a
24 district and a nonprofit corporation that were in full force and
25 effect as of September 1, 1992, for as long as that lease
26 agreement, transfer agreement, or both remain in full force and
27 effect.

28 (5) Notwithstanding paragraph (4), if substantial amendments
29 are proposed to be made to a transfer agreement described in
30 subparagraph (A) or (B) of paragraph (4), the amendments shall
31 be fully discussed in advance of the district board's decision to
32 adopt the amendments in at least two properly noticed open and
33 public meetings in compliance with Section 32106 and the Ralph
34 M. Brown Act (Chapter 9 (commencing with Section 54950) of
35 Part 1 of Division 2 of Title 5 of the Government Code).

36 (6) Notwithstanding paragraphs (4) and (5), a transfer
37 agreement described in subparagraph (A) or (B) of paragraph (4)
38 that provided for the transfer of less than 50 percent of a district's
39 assets shall be subject to the requirements of this subdivision
40 when subsequent amendments to that transfer agreement would

1 result in the transfer, in sum or by increment, of 50 percent or
2 more of a district’s assets to the nonprofit corporation.

3 (7) For purposes of this subdivision, a “transfer” means the
4 transfer of ownership of the assets of a district. A lease of the real
5 property or the tangible personal property of a district shall not
6 be subject to this subdivision except as specified in Section
7 32121.4 and as required under Section 32126.

8 (8) Districts that request a special election pursuant to
9 paragraph (1) or (2) shall reimburse counties for the costs of that
10 special election as prescribed pursuant to Section 10520 of the
11 Elections Code.

12 (9) (A) Nothing in this section, including subdivision (j), shall
13 be construed to permit a local district to obtain or be issued a
14 single consolidated license to operate a separate physical plant as
15 a skilled nursing facility or an intermediate care facility that is
16 not located within the boundaries of the district.

17 (B) Notwithstanding subparagraph (A), Eastern Plumas Health
18 Care District may obtain and be issued a single consolidated
19 license to operate a separate physical plant as a skilled nursing
20 facility or an intermediate care facility that is located on the
21 campus of the Sierra Valley District Hospital. This subparagraph
22 shall have no application to any other district and is intended
23 only to address the urgent need to preserve skilled nursing or
24 intermediate care services within the rural County of Sierra.

25 (C) Subparagraph (B) shall only remain operative until the
26 Sierra Valley District Hospital is annexed by the Eastern Plumas
27 Health Care District or January 1, 2008, whichever occurs first.
28 In no event shall the Eastern Plumas Health Care District
29 increase the number of licensed beds at the Sierra Valley District
30 Hospital during the operative period of subparagraph (B).

31 (10) A transfer of any of the assets of a district to one or more
32 nonprofit corporations to operate and maintain the assets shall
33 not be required to meet paragraphs (1) to (9), inclusive, of this
34 subdivision if all of the following conditions apply at the time of
35 the transfer:

36 (A) The district has entered into a loan that is insured by the
37 State of California under Chapter 1 (commencing with Section
38 129000) of Part 6 of Division 107.

1 (B) The district is in default of its loan obligations, as
2 determined by the Office of Statewide Health Planning and
3 Development.

4 (C) The Office of Statewide Health Planning and
5 Development and the district, in their best judgment, agree that
6 the transfer of some or all of the assets of the district to a
7 nonprofit corporation or corporations is necessary to cure the
8 default, and will obviate the need for foreclosure. This cure of
9 default provision shall be applicable prior to the office
10 foreclosing on district hospital assets. After the office has
11 foreclosed on district hospital assets, or otherwise taken
12 possession in accordance with law, the office may exercise all of
13 its powers to deal with and dispose of hospital property.

14 (D) The transfer and all arrangements necessary thereto are
15 discussed in advance of the transfer in at least one properly
16 noticed open and public meeting in compliance with Section
17 32106 and the Ralph M. Brown Act (Chapter 9 (commencing
18 with Section 54950) of Part 1 of Division 2 of Title 5 of the
19 Government Code). The meeting referred to in this paragraph
20 shall be noticed and held within 90 days of notice in writing to
21 the district by the office of an event of default. If the meeting is
22 not held within this 90-day period, the district shall be deemed to
23 have waived this requirement to have a meeting.

24 (11) If a transfer under paragraph (10) is a lease, the lease
25 shall provide that the assets shall revert to the district at the
26 conclusion of the leasehold interest. If the transfer is a sale, the
27 proceeds shall be used first to retire the obligation insured by the
28 office, then to retire any other debts of the district. After
29 providing for debts, any remaining funds shall revert to the
30 district.

31 (12) A health care district shall report to the Attorney General,
32 within 30 days of any transfer of district assets to one or more
33 nonprofit or for-profit corporations, the type of transaction and
34 the entity to whom the assets were transferred or leased.

35 (q) To contract for bond insurance, letters of credit,
36 remarketing services, and other forms of credit enhancement and
37 liquidity support for its bonds, notes, and other indebtedness and
38 to enter into reimbursement agreements, monitoring agreements,
39 remarketing agreements, and similar ancillary contracts in
40 connection therewith.

1 (r) To establish, maintain, operate, participate in, or manage
 2 capitated health care service plans, health maintenance
 3 organizations, preferred provider organizations, and other
 4 managed health care systems and programs properly licensed by
 5 the Department of Insurance or the Department of Managed
 6 Care, at any location within or without the district for the benefit
 7 of residents of communities served by the district. However, that
 8 activity shall not be deemed to result in, or constitute, the giving
 9 or lending of the district’s credit, assets, surpluses, cash, or
 10 tangible goods to, or in aid of, any person, association, or
 11 corporation in violation of Section 6 of Article XVI of the
 12 California Constitution.

13 Nothing in this section shall be construed to authorize activities
 14 that corporations and other artificial legal entities are prohibited
 15 from conducting by Section 2400 of the Business and Professions
 16 Code.

17 Any agreement to provide health care coverage that is a health
 18 care service plan, as defined in subdivision (f) of Section 1345,
 19 shall be subject to Chapter 2.2 (commencing with Section 1340)
 20 of Division 2, unless exempted pursuant to Section 1343 or
 21 1349.2.

22 A district shall not provide health care coverage for any
 23 employee of an employer operating within the communities
 24 served by the district, unless the Legislature specifically
 25 authorizes, or has authorized in this section or elsewhere, the
 26 coverage.

27 Nothing in this section shall be construed to authorize any
 28 district to contribute its facilities to any joint venture that could
 29 result in transfer of the facilities from district ownership.

30 (s) To provide health care coverage to members of the
 31 district’s medical staff, employees of the medical staff members,
 32 and the dependents of both groups, on a self-pay basis.

33 ~~(t) For purposes of this section, “assets” means the amount of~~
 34 ~~total assets minus total liabilities, as disclosed in an audited~~
 35 ~~financial statement prepared according to United States~~
 36 ~~Generally Accepted Accounting Principles, and shall include~~
 37 ~~unrestricted net assets, temporarily restricted net assets, and~~
 38 ~~permanently restricted net assets.~~

39 ~~(u)~~

40 (t) This section shall become operative on January 1, 2011.

1 SEC. 4. Section 32126 of the Health and Safety Code, as
2 added by Section 6 of Chapter 169 of the Statutes of 2000, is
3 amended to read:

4 32126. (a) The board of directors may provide for the
5 operation and maintenance through tenants of the whole or any
6 part of any hospital acquired or constructed by it pursuant to this
7 division, and for that purpose may enter into any lease agreement
8 that it believes will best serve the interest of the district. A lease
9 entered into with one or more corporations for the operation of
10 50 percent or more of the district's hospital, or that is part of, or
11 contingent upon, a transfer of 50 percent or more of the district's
12 assets, in sum or by increment, as described in subdivision (p) of
13 Section 32121, shall be subject to the requirements of
14 subdivision (p) of Section 32121. Any lease for the operation of
15 any hospital shall require the tenant or lessee to conform to, and
16 abide by, Section 32128. No lease for the operation of an entire
17 hospital shall run for a term in excess of 30 years. No lease for
18 the operation of less than an entire hospital shall run for a term in
19 excess of 10 years.

20 (b) Notwithstanding any other provision of law, a sublease, an
21 assignment of an existing lease, or the release of a tenant or
22 lessee from obligations under an existing lease in connection
23 with an assignment of an existing lease shall not be subject to the
24 requirements of subdivision (p) of Section 32121 so long as all of
25 the following conditions are met:

26 (1) The sublease or assignment of the existing lease otherwise
27 remains in compliance with subdivision (a).

28 (2) The district board determines that the total consideration
29 that the district shall receive following the assignment or
30 sublease, or as a result thereof, taking into account all monetary
31 and other tangible and intangible consideration to be received by
32 the district including, without limitation, all benefits to the
33 communities served by the district, is no less than the total
34 consideration that the district would have received under the
35 existing lease.

36 (3) The existing lease was entered into on or before July 1,
37 1984, upon approval of the board of directors following
38 solicitation and review of no less than five offers from
39 prospective tenants.

1 (4) If substantial amendments are made to an existing lease in
2 connection with the sublease or assignment of that existing lease,
3 the amendments shall be fully discussed in advance of the district
4 board's decision to adopt the amendments in at least two
5 properly noticed open and public meetings in compliance with
6 Section 32106 and the Ralph M. Brown Act (Chapter 9
7 (commencing with Section 54950) of Part 1 of Division 2 of Title
8 5 of the Government Code).

9 (c) A health care district shall report to the Attorney General,
10 within 30 days of any lease of district assets to one or more
11 corporations, the type of transaction and the entity to whom the
12 assets were leased.

13 (d) This section shall remain in effect only until January 1,
14 2011, and as of that date is repealed, unless a later enacted
15 statute, that is enacted before January 1, 2011, deletes or extends
16 that date.

17 SEC. 5. Section 32126 is added to the Health and Safety
18 Code, to read:

19 32126. (a) The board of directors may provide for the
20 operation and maintenance through tenants of the whole or any
21 part of any hospital acquired or constructed by it pursuant to this
22 division, and for that purpose may enter into any lease agreement
23 that it believes will best serve the interest of the district. A lease
24 entered into with one or more nonprofit corporations for the
25 operation of 50 percent or more of the district's hospital, or that
26 is part of, or contingent upon, a transfer of 50 percent or more of
27 the district's assets, in sum or by increment, as described in
28 subdivision (p) of Section 32121, shall be subject to the
29 requirements of subdivision (p) of Section 32121. Any lease for
30 the operation of any hospital shall require the tenant or lessee to
31 conform to, and abide by, Section 32128. No lease for the
32 operation of an entire hospital shall run for a term in excess of 30
33 years. No lease for the operation of less than an entire hospital
34 shall run for a term in excess of 10 years.

35 (b) Notwithstanding any other provision of law, a sublease, an
36 assignment of an existing lease, or the release of a tenant or
37 lessee from obligations under an existing lease in connection
38 with an assignment of an existing lease shall not be subject to the
39 requirements of subdivision (p) of Section 32121 so long as all of
40 the following conditions are met:

- 1 (1) The sublease or assignment of the existing lease otherwise
2 remains in compliance with subdivision (a).
- 3 (2) The district board determines that the total consideration
4 that the district shall receive following the assignment or
5 sublease, or as a result thereof, taking into account all monetary
6 and other tangible and intangible consideration to be received by
7 the district, including, without limitation, all benefits to the
8 communities served by the district, is no less than the total
9 consideration that the district would have received under the
10 existing lease.
- 11 (3) The existing lease was entered into on or before July 1,
12 1984, upon approval of the board of directors following
13 solicitation and review of no less than five offers from
14 prospective tenants.
- 15 (4) If substantial amendments are made to an existing lease in
16 connection with the sublease or assignment of that existing lease,
17 the amendments shall be fully discussed in advance of the district
18 board's decision to adopt the amendments in at least two
19 properly noticed open and public meetings in compliance with
20 Section 32106 and the Ralph M. Brown Act (Chapter 9
21 (commencing with Section 54950) of Part 1 of Division 2 of Title
22 5 of the Government Code).
- 23 (c) A health care district shall report to the Attorney General
24 within 30 days of any lease of district assets to one or more
25 nonprofit corporations, the type of transaction and the entity to
26 whom the assets were leased.
- 27 (d) This section shall become operative on January 1, 2011.