

AMENDED IN SENATE JULY 2, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 55

Introduced by Assembly Member Dymally

December 4, 2006

~~An act to amend Section 14005.40 of the Welfare and Institutions Code, relating to Medi-Cal.~~ *An act to add Chapter 5.5 (commencing with Section 101855) to Part 4 of Division 101 of the Health and Safety Code, relating to health care, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 55, as amended, Dymally. ~~Medi-Cal: aged and disabled individuals.~~ *Los Angeles County Hospital Authority.*

Existing law authorizes the boards of supervisors of certain counties to establish a hospital authority for the management, administration, and control of certain medical facilities.

This bill would authorize the Board of Supervisors of the County of Los Angeles to establish, by ordinance, a hospital authority for the management, administration, and control of the Martin Luther King Jr. Harbor Medical Center, as specified.

This bill would make legislative findings and declarations regarding the unique and special circumstances of this legislation.

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

~~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 receive health care services. Existing law requires the department, to the extent federal financial~~

participation is available, to exercise an option to implement a program to provide specified medical assistance for aged and disabled persons; as described in a specified provision of federal law. Under existing law, an individual satisfies the financial eligibility requirement of the program if, among other conditions, the individual's countable income does not exceed an income standard equal to 100% of the applicable federal poverty level, plus specified additional amounts for individuals and couples.

This bill would revise the applicable income standard for purposes of this program, by increasing the percentage of the federal poverty level to 133%, and by deleting the specified additional income amounts. To the extent that it would expand eligibility for the Medi-Cal program, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~yes~~
no. State-mandated local program: ~~yes~~^{no}.

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

1 SECTION 1. Chapter 5.5 (commencing with Section 101855)
2 is added to Part 4 of Division 101 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 5.5. LOS ANGELES COUNTY HOSPITAL AUTHORITY

6
7 101855. (a) The Legislature finds and declares that because
8 there is no general law under which a Los Angeles County hospital
9 authority could be formed, the adoption of a special act and the
10 formation of a special authority is required.

11 (b) The following definitions shall apply for purposes of this
12 chapter:

13 (1) "County" means the County of Los Angeles.

14 (2) "Governing board" means the governing body of the
15 hospital authority.

1 (3) “Hospital authority” means the separate public agency
2 established by the Board of Supervisors of Los Angeles County to
3 manage, administer, and control the Martin Luther King Jr. Harbor
4 Medical Center in Willowbrook, Los Angeles.

5 (4) “Medical Center” means the Martin Luther King Jr. Harbor
6 Medical Center in Willowbrook, Los Angeles.

7 (c) The board of supervisors of the county may, by ordinance,
8 establish a hospital authority separate and apart from the county
9 for the purpose of effecting a transfer of the management,
10 administration, and control of the medical center in accordance
11 with Section 14000.2 of the Welfare and Institutions Code. A
12 hospital authority established pursuant to this chapter shall be
13 strictly and exclusively dedicated to the management,
14 administration, and control of the medical center within parameters
15 set forth in this chapter, and in the ordinance, bylaws, and
16 contracts adopted by the board of supervisors, which shall not be
17 in conflict with this chapter or Section 1442.5, or with Section
18 17000 of the Welfare and Institutions Code.

19 (d) (1) The governing board of the hospital authority established
20 pursuant to subdivision (c) shall be appointed pursuant to this
21 section. The governing board shall consist of 12 members and
22 shall include the following members, who, except as provided for
23 in subparagraph (H), shall be appointed by resolution or ordinance
24 of the board:

25 (A) Five members who shall be designated by the Los Angeles
26 board of supervisors.

27 (B) One member who shall be nominated by the Governor.

28 (C) One member who shall be nominated by the Speaker of the
29 Assembly.

30 (D) One member who shall be nominated by the Senate
31 Committee on Rules.

32 (E) One member who shall be nominated by the Governor from
33 the University of California, Los Angeles or University of
34 California, Irvine.

35 (F) One member who shall be nominated by the Governor from
36 the Los Angeles County Medical Association.

37 (G) One member who shall be nominated by the Governor from
38 the Charles R. Drew University of Medicine and Science.

39 (H) One member, who shall be appointed by the Health
40 Authority, from the Los Angeles County community of Willowbrook.

1 (e) *The mission of the hospital authority shall be the*
2 *management, administration, and other control, as determined by*
3 *the board of supervisors, of the medical center, clinics, and*
4 *programs that comprise the medical center, in a manner that*
5 *ensures appropriate, quality, and cost-effective medical care as*
6 *required of counties by Section 17000 of the Welfare and*
7 *Institutions Code, and, to the extent feasible, other populations,*
8 *including special populations in Los Angeles County.*

9 (f) *The board of supervisors shall adopt bylaws for the medical*
10 *center that set forth those matters, related to the operation of the*
11 *medical center by the hospital authority, that the board of*
12 *supervisors deems necessary and appropriate. The bylaws shall*
13 *become operative upon approval by a majority vote of the board*
14 *of supervisors. Any changes or amendments to the bylaws shall*
15 *be by majority vote of the board of supervisors.*

16 (g) *The hospital authority created and appointed pursuant to*
17 *this chapter is a duly constituted governing body within the*
18 *meaning of Section 1250, and Section 70035 of Title 22 of the*
19 *California Code of Regulations, as currently written or*
20 *subsequently amended.*

21 (h) *Unless otherwise provided by the board of supervisors by*
22 *way of resolution, the hospital authority is empowered, or the*
23 *board of supervisors is empowered on behalf of the hospital*
24 *authority, to apply as a public agency for one or more licenses for*
25 *the provision of health care pursuant to statutes and regulations*
26 *governing licensing, as currently written or subsequently amended.*

27 (i) *In the event of a change of license ownership, the governing*
28 *body of the hospital authority shall comply with the obligations*
29 *of governing bodies of general acute care hospitals generally as*
30 *set forth in Section 70701 of Title 22 of the California Code of*
31 *Regulations, as currently written or subsequently amended, as*
32 *well as the terms and conditions of the license. The hospital*
33 *authority shall be the responsible party with respect to compliance*
34 *with these obligations, terms, and conditions.*

35 (j) *Any transfer by the county to the hospital authority of the*
36 *administration, management, and control of the medical center,*
37 *whether or not the transfer includes the surrendering by the county*
38 *of the existing general acute care hospital licenses and*
39 *corresponding application for a change of ownership of the license,*
40 *shall not affect the eligibility of the county, or in the case of a*

1 *change of license ownership, the hospital authority, to receive*
2 *funds that would otherwise be available to the medical center as*
3 *a county hospital, including any funding sources either specific to*
4 *county hospitals or county ambulatory care clinics or for which*
5 *there are special provisions specific to county hospitals or to*
6 *county ambulatory care clinics and funding programs in which*
7 *the county, on behalf of the medical center and the Los Angeles*
8 *County Department of Health Services, had participated prior to*
9 *the creation of the hospital authority, or would otherwise be*
10 *qualified to participate in had the hospital authority not been*
11 *created, and administration, management, and control not been*
12 *transferred by the county to the hospital authority, pursuant to*
13 *this chapter.*

14 *(k) A hospital authority created pursuant to this chapter shall*
15 *be a legal entity separate and apart from the county and, shall file*
16 *the statement required by Section 53051 of the Government Code.*
17 *The hospital authority shall be a government entity separate and*
18 *apart from the county, and shall not be considered to be an agency,*
19 *division, or department of the county. The hospital authority shall*
20 *not be governed by, nor be subject to, the charter of the county*
21 *and shall not be subject to policies or operational rules of the*
22 *county, including, but not limited to, those relating to personnel*
23 *and procurement.*

24 *(l) Notwithstanding any other provision of this chapter, any*
25 *transfer of the administration, management, or assets of the*
26 *medical center, whether or not accompanied by a change in*
27 *licensing, shall not relieve the county of the ultimate responsibility*
28 *for indigent care pursuant to Section 17000 of the Welfare and*
29 *Institutions Code or any obligation pursuant to Section 1442.5.*

30 *(m) The hospital authority shall be a public agency subject to*
31 *the Myers-Milias-Brown Act (Chapter 10 (commencing with*
32 *Section 3500) of Division 4 of Title 1 of the Government Code).*

33 *(n) Open sessions of the hospital authority shall constitute*
34 *official proceedings authorized by law within the meaning of*
35 *Section 47 of the Civil Code. The privileges set forth in that section*
36 *with respect to official proceedings shall apply to open sessions*
37 *of the hospital authority.*

38 *(o) The hospital authority shall be a public agency for purposes*
39 *of eligibility with respect to grants and other funding and loan*
40 *guarantee programs. Contributions to the hospital authority shall*

1 *be tax deductible to the extent permitted by state and federal law.*
2 *Nonproprietary income of the hospital authority shall be exempt*
3 *from state income taxation.*

4 *(p) Contracts by and between the hospital authority and the*
5 *state and contracts by and between the hospital authority and*
6 *providers of health care, goods, or services may be let on a nonbid*
7 *basis and shall be exempt from Chapter 2 (commencing with*
8 *Section 10290) of Part 2 of Division 2 of the Public Contract Code.*

9 *(q) (1) Provisions of the Evidence Code, the Government Code,*
10 *including the Public Records Act (Chapter 3.5 (commencing with*
11 *Section 6250) of Division 7 of Title 1 of the Government Code),*
12 *the Civil Code, the Business and Professions Code, and other*
13 *applicable law pertaining to the confidentiality of peer review*
14 *activities of peer review bodies shall apply to the peer review*
15 *activities of the hospital authority. Peer review proceedings shall*
16 *constitute an official proceeding authorized by law within the*
17 *meaning of Section 47 of the Civil Code and those privileges set*
18 *forth in that section with respect to official proceedings shall apply*
19 *to peer review proceedings of the hospital authority. If the hospital*
20 *authority is required by law or contractual obligation to submit*
21 *to the state or federal government peer review information or*
22 *information relevant to the credentialing of a participating*
23 *provider, that submission shall not constitute a waiver of*
24 *confidentiality. The laws pertaining to the confidentiality of peer*
25 *review activities shall be together construed as extending, to the*
26 *extent permitted by law, the maximum degree of protection of*
27 *confidentiality.*

28 *(2) Notwithstanding any other law, Section 1461 shall apply to*
29 *hearings on the reports of hospital medical audit or quality*
30 *assurance committees.*

31 *(r) The hospital authority shall carry general liability insurance*
32 *to the extent sufficient to cover its activities.*

33 *(s) In the event the board of supervisors determines that the*
34 *hospital authority should no longer function for the purposes set*
35 *forth in this chapter, the board of supervisors may, by ordinance,*
36 *terminate the activities of the hospital authority and expire the*
37 *hospital authority as an entity.*

38 *(t) (1) The county shall establish baseline data reporting*
39 *requirements for the medical center consistent with the Medically*
40 *Indigent Health Care Reporting System (MICRS) program*

1 *established pursuant to Section 16910 of the Welfare and*
2 *Institutions Code, and shall collect that data for at least one year*
3 *prior to the final transfer of the medical center to the hospital*
4 *authority. The baseline data shall include, but not be limited to,*
5 *all of the following:*

- 6 (A) *Inpatient days by facility by quarter.*
- 7 (B) *Outpatient visits by facility by quarter.*
- 8 (C) *Emergency room visits by facility by quarter.*
- 9 (D) *Number of unduplicated users receiving services within the*
10 *medical center.*

11 (2) *Upon transfer of the medical center, the county shall*
12 *establish baseline data reporting requirements for the medical*
13 *center's inpatient facilities consistent with data reporting*
14 *requirements of the Office of Statewide Health Planning and*
15 *Development, including, but not limited to, monthly average daily*
16 *census by facility.*

17 (3) *From the date of transfer of the medical center to the hospital*
18 *authority, the hospital authority shall provide the county with*
19 *quarterly reports specified in paragraphs (1) and (2) and any other*
20 *data required by the county. The county, in consultation with health*
21 *care consumer groups, shall develop other data requirements that*
22 *shall include, at a minimum, reasonable measurements of the*
23 *changes in medical care for the indigent population of Los Angeles*
24 *County that result from the transfer of the administration,*
25 *management, and control of the medical center from the county*
26 *to the hospital authority.*

27 *SEC. 2. Due to the unique circumstances of the County of Los*
28 *Angeles, with respect to its health care system, the Legislature*
29 *hereby finds and declares that a general statute cannot be made*
30 *applicable within the meaning of Section 16 of Article IV of the*
31 *California Constitution. Therefore, this act is necessarily*
32 *applicable only to the County of Los Angeles.*

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

37 *In order to address serious health care delivery problems in the*
38 *County of Los Angeles at the earliest possible time, it is necessary*
39 *for this act to go into immediate effect.*

1 SECTION 1. Section 14005.40 of the Welfare and Institutions
2 Code is amended to read:
3 14005.40. (a) To the extent federal financial participation is
4 available, the department shall exercise its option under Section
5 1902(a)(10)(A)(ii)(X) of the federal Social Security Act (42 U.S.C.
6 Sec. 1396a(a)(10)(A)(ii)(X), to implement a program for aged and
7 disabled persons as described in Section 1902(m) of the federal
8 Social Security Act (42 U.S.C. Sec. 1396a(m)(1)).
9 (b) To the extent federal financial participation is available, the
10 blind shall be included within the definition of disabled for the
11 purposes of the program established in this section.
12 (c) An individual shall satisfy the financial eligibility
13 requirement of this program if both of the following conditions
14 are met:
15 (1) Countable income, as determined in accordance with Section
16 1902(m) of the federal Social Security Act (42 U.S.C. Sec.
17 1396a(m)), does not exceed an income standard equal to 133
18 percent of the applicable federal poverty level, provided that the
19 income standard so determined shall not be less than the SSI/SSP
20 payment level for a disabled individual or, in the case of a couple,
21 the SSI/SSP payment level for a disabled couple.
22 (2) Countable resources, as determined in accordance with
23 Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec.
24 1396a(m)), do not exceed the maximum levels established in that
25 section.
26 (d) The financial eligibility requirements provided in
27 subdivisions (c) may be adjusted upwards to reflect the cost of
28 living in California, contingent upon appropriation in the annual
29 Budget Act.
30 (e) Notwithstanding Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
32 the department shall implement this section by means of all-county
33 letters or similar instructions, and without taking regulatory action.
34 Thereafter, the department shall adopt regulations in accordance
35 with the requirements of Chapter 3.5 (commencing with Section
36 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
37 (f) For purposes of calculating income under this section during
38 any calendar year, increases in social security benefit payments
39 under Title II of the federal Social Security Act (42 U.S.C. Sec.
40 401 et seq.) arising from cost-of-living adjustments shall be

1 ~~disregarded commencing in the month that these social security~~
2 ~~benefit payments are increased by the cost-of-living adjustment~~
3 ~~through the month before the month in which a change in the~~
4 ~~federal poverty level requires the department to modify the income~~
5 ~~standard described in subdivision (c):~~

6 ~~(g) (1) For purposes of this section the following definitions~~
7 ~~apply:~~

8 ~~(A) “SSI” means the federal Supplemental Security Income~~
9 ~~program established under Title XVI of the federal Social Security~~
10 ~~Act.~~

11 ~~(B) “Income standard” means the applicable income standard~~
12 ~~specified in paragraph (1) of subdivision (c).~~

13 ~~(C) The board and care “personal care services” or “PCS”~~
14 ~~deduction refers to an income disregard that is applied to a resident~~
15 ~~in a licensed community care facility in lieu of the board and care~~
16 ~~deduction (equal to the amount by which the basic board and care~~
17 ~~rate exceeds the income standard in subparagraph (B), of paragraph~~
18 ~~(1) of subdivision (g)) when the PCS deduction is greater than the~~
19 ~~board and care deduction.~~

20 ~~(2) (A) For purposes of this section, the SSI recipient retention~~
21 ~~amount is the amount by which the SSI maximum payment amount~~
22 ~~to an individual residing in a licensed community care facility~~
23 ~~exceeds the maximum amount that the state allows community~~
24 ~~care facilities to charge a resident who is an SSI recipient.~~

25 ~~(B) For the purposes of this section, the personal and incidental~~
26 ~~needs deduction for an individual residing in a licensed community~~
27 ~~care facility is either of the following:~~

28 ~~(i) If the board and care deduction is applicable to the individual,~~
29 ~~the amount, not to exceed the amount by which the SSI recipient~~
30 ~~retention amount exceeds twenty dollars (\$20), nor to be less than~~
31 ~~zero, by which the sum of the amount which the individual pays~~
32 ~~to his or her licensed community care facility and the SSI recipient~~
33 ~~retention amount exceed the sum of the individual’s income~~
34 ~~standard, the individual’s board and care deduction, and twenty~~
35 ~~dollars (\$20).~~

36 ~~(ii) If the PCS deduction specified in paragraph (1) of~~
37 ~~subdivision (g) is applicable to the individual, an amount, not to~~
38 ~~exceed the amount by which the SSI recipient retention amount~~
39 ~~exceeds twenty dollars (\$20), nor to be less than zero, by which~~
40 ~~the sum of the amount which the individual pays to his or her~~

1 community care facility and the SSI recipient retention amount
2 exceed the sum of the individual's income standard, the
3 individual's PCS deduction and twenty dollars (\$20).

4 (3) In determining the countable income under this section of
5 an individual residing in a licensed community care facility, the
6 individual shall have deducted from his or her income the amount
7 specified in subparagraph (B) of paragraph (2).

8 (h) No later than one month after the effective date of
9 subdivision (g), the department shall submit to the federal medicaid
10 administrator a state plan amendment seeking approval of the
11 income deduction specified in paragraph (3) of subdivision (g),
12 and of federal financial participation for the costs resulting from
13 that income deduction.

14 (i) The deduction prescribed by paragraph (3) of subdivision
15 (g) shall be applied no later than the first day of the fourth month
16 after the month in which the department receives approval for the
17 federal financial participation specified in subdivision (h). Until
18 approval for federal financial participation is received, there shall
19 be no deduction under paragraph (3) of subdivision (g).

20 SEC. 2. — If the Commission on State Mandates determines
21 that this act contains costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.