AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 411

Introduced by Assembly ~~Member Garrick~~ *Members Garrick and Harkey*

February 23, 2009

An act to amend Section 130061.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as amended, Garrick. Health facilities: seismic safety.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973. Existing law authorizes the office to assess an application fee for the review of facilities' design and construction, and requires that full and complete plans be submitted to the office for review and approval.

Existing law requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes, except that the office may grant an extension under prescribed circumstances. Existing law allows certain hospital owners who do not have the financial capacity to bring certain buildings into compliance by 2013 to, instead, replace those buildings by January 1, 2020.

This bill would ~~make technical, nonsubstantive changes to those provisions~~ *allow an extension of the 2020 replacement deadline for a hospital owned or operated by a health district where a ballot measure*

for bond financing to fund compliance and has been rejected by the voters of the district.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

SECTION 1. Section 130061.5 of the Health and Safety Code is amended to read:

130061.5. (a) The Legislature finds and declares the following:

(1) By enacting this section, the Legislature reinforces its commitment to ensuring the seismic safety of hospitals in California. In order to meet that commitment, this section provides a mechanism for hospitals that lack the financial capacity to retrofit Structural Performance Category-1 (SPC-1) buildings by 2013 to, instead, redirect available capital and borrowing capacity to replace those building by 2020. The mechanism is intended to allow these hospitals to meet the seismic requirements, and provide state agencies and the public with more timely and detailed information about the progress these hospitals are making toward seismic safety compliance.

(2) This section requires hospitals seeking this assistance to demonstrate that their financial condition does not allow them to retrofit these buildings by 2013, and requires them to meet specified benchmarks in order to be eligible for the extended timelines set forth in this section. Failure to meet any of these benchmarks shall result in the hospital being noncompliant and subject the hospital to loss of licensure.

(3) It is the intent of the Legislature to ensure the continuation of services in medically underserved communities in which the closure of the hospital would have significant negative impacts on access to health care services in the community.

(4) It is also the intent of the Legislature that this section be implemented very narrowly to target only facilities that are essential providers in underserved communities and that lack the financial capacity to retrofit SPC-1 buildings by 2013.

(b) A hospital owner may meet the requirements of subdivision (a) of Section 130060 by replacing all of its buildings subject to that subdivision by January 1, 2020, if the hospital owner meets all of the following conditions:

(1) The hospital owner has requested an extension of the deadline described in subdivision (a) or (b) of Section 130060.

(2) (A) The office certifies that the hospital owner lacks the financial capacity to meet the requirements of subdivision (a) of Section 130060 for that building. In order to receive the certification, the hospital owner shall file with the office by January 1, 2009, financial information as required by the office. This information shall include a schedule demonstrating that, as of the end of the hospital owner's most recent fiscal year for which the hospital owner has filed annual financial data with the office by July 1, 2007, the hospital owner's annual financial data for that fiscal year show that the hospital owner meets all of the following financial conditions:

(i) The owner's net long-term debt to capitalization ratio, as measured by the ratio of net long-term debt to net long-term debt plus equity, was above 60 percent.

(ii) The owner's debt service coverage, as measured by the ratio of net income plus depreciation expense plus interest expense to current maturities on long-term debt plus interest expense, was below 4.5.

(iii) The owner's cash-to-debt ratio, as measured by the ratio of cash plus marketable securities plus limited use cash plus limited use investments to current maturities on long-term debt plus net long-term debt, was below 90 percent.

(B) The office shall certify that a hospital owner applying for relief under this subdivision meets each of these financial conditions. For the purposes of this subdivision, a hospital owner shall be eligible for certification only if the annual financial data required by this paragraph for the hospital owners and all of its hospital affiliates, considered in total, meets all of these financial conditions. For purposes of this section, "hospital affiliate" means any hospital owned by an entity that controls, is controlled by, or is under the common control of, directly or through an intermediate entity, the entity that owns the specified hospital. The applicant hospital owner shall bear all costs for review, but not to exceed the costs of review, of its financial information.

(3) The hospital owner files with the office, by January 1, 2009, a declaration that the hospital for which the hospital owner is seeking relief under this subdivision shall satisfy all of the following conditions:

(A) The hospital shall maintain a contract with the California Medical Assistance Commission (CMAC) under the selective provider contracting program, unless in an open area as established by CMAC.

(B) The hospital shall maintain at least basic emergency medical services if the hospital provided emergency medical services at the basic or higher level as of July 1, 2007.

(C) The hospital meets any of the following criteria:

(i) The hospital is located within a Medically Underserved Area or a Health Professions Shortage Area designated by the federal government pursuant to Sections 330 and 332 of the federal Public Health Service Act (42 U.S.C. Secs. 254b and 254e).

(ii) The office determines, by means of a health impact assessment, that removal of the building or buildings from service may diminish significantly the availability or accessibility of health care services to an underserved community.

(iii) The CMAC determines that the hospital is essential to providing and maintaining Medi-Cal services in the hospital's service area.

(iv) The hospital demonstrates that, based on annual utilization data submitted to the office for 2006 or later, the hospital had, in one year, over 30 percent of all discharges for either Medi-Cal or indigent patients in the county in which the hospital is located.

(4) The hospital owner submits, by January 1, 2010, a facility master plan for all the buildings that are subject to subdivision (a) of Section 130060 that the hospital intends to replace by January 1, 2020. The facility master plan shall identify at least all of the following:

(A) Each building that is subject to subdivision (a) of Section 130060.

(B) The plan to replace each building with buildings that would be in compliance with subdivision (a) of Section 130065.

(C) The building or buildings to be removed from acute care service and the projected date or dates of that action.

(D) The location for any new building or buildings, including, but not limited to, whether the owner has received a permit for that location. The replacement buildings shall be planned within the same service area as the buildings to be removed from service.

(E) A copy of the preliminary design for the new building or buildings.

(F) The number of beds available for acute care use in each new building.

(G) The timeline for completed plan submission.

(H) The proposed construction timeline.

(I) The proposed cost at the time of submission.

(J) A copy of any records indicating the hospital governing board's approval of the facility plan.

(5) By January 1, 2013, the hospital owner submits to the office a building plan that is deemed ready for review by the office, for each building.

(6) By January 1, 2015, the hospital owner receives a building permit to begin construction for each building that the owner intends to replace pursuant to the master plan.

(7) Within six months of receipt of the building permit, the hospital owner submits a construction timeline that identifies at least all of the following:

(A) Each building that is subject to subdivision (a) of Section 130060.

(B) The project number or numbers for replacement of each building.

(C) The projected construction start date or dates and projected construction completion date or dates.

(D) The building or buildings to be removed from acute care.

(E) The estimated cost of construction.

(F) The name of the contractor.

(8) Every six months thereafter, the hospital owner reports to the office on the status of the project, including any delays or circumstances that could materially affect the estimated completion date.

(9) The hospital owner pays an additional fee to the office, to be determined by the office, sufficient to cover the additional cost incurred by the office for maintaining all reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the financial information submitted pursuant to paragraph (2). This additional fee shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(c) The office may also approve an extension of the deadline described in subdivision (a) or (b) of Section 130060 for a general acute care hospital building that is classified as a nonconforming

SPC-1 building and is owned or operated by a county, city, ~~or county and city that~~ *city and county, or a health district, if a ballot measure for bond financing to fund compliance in accordance with Section 130050 and has been rejected by the voters of the district, if the local entity* has requested an extension of this deadline by June 30, 2009, if the owner files a declaration with the office stating that, as of the date of that filing, the owner lacks the ability to meet the requirements of subdivision (a) of Section 130060 for that building pursuant to subdivision (b) of that section. The declaration shall state the commitment of the hospital to replace those buildings by January 1, 2020, with other buildings that meet the requirements of Section 130065 and shall meet the requirements of paragraphs (4) to (9), inclusive, of subdivision (b).

(d) A hospital filing a declaration pursuant to this section but failing to meet any of the deadlines set forth in this section shall be deemed in violation of this section and Section 130060, and shall be subject to loss of licensure.

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