

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 852**

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**Introduced by Assembly Member Quirk**

February 21, 2013

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An act to amend Section 129785 of, and to add Section 129788 to, the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Quirk. Skilled nursing facility construction, alteration, or addition: review.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, requires design and construction standards for hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves. Existing law also requires that those standards specify that hospitals must be reasonably capable of providing services to the public after a disaster.

Existing law requires the Office of Statewide Health Planning and Development (OSHPD) to approve or reject all plans for the construction or alteration of a hospital building. Existing law specifically requires the office, contingent upon an appropriation in the annual Budget Act, to establish a program for training fire and life safety officers to facilitate the timely performance of the office's duties and responsibilities relating to the review of plans and specifications pertaining to the design and observation of construction of hospital buildings, as specified. Existing

law authorizes the office to establish other training programs as necessary to ensure that a sufficient number of qualified persons are available to facilitate the timely performance of the office's duties and responsibilities, as specified.

Existing law authorized the office to determine and assess an application fee not to exceed 2% of the project's estimated construction costs for certain hospital facilities, and not to exceed 1.5% of the estimated construction costs for prescribed skilled nursing facilities or intermediate care facilities. Existing law establishes the Hospital Building Fund, requires deposit of these fees into the fund, and ~~continuously~~ *continuously* appropriates the moneys in the fund for the purposes of administration of these provisions.

This bill would increase the maximum fee assessed to those skilled nursing facilities or intermediate care facilities to 2% of the project's estimated construction costs. By increasing the amounts to be deposited into a continuously appropriated fund, this bill would make an appropriation.

This bill would require OSHPD, except as prescribed, to develop, with stakeholders, reasonable timeframes for review and approval of skilled nursing facility construction, alteration, or addition projects and would authorize the office, *until January 1, 2019*, to assess a reasonable fee for this review, as specified. The bill would require documents submitted for review to include the name and contact information of a project coordinator. The bill would, *until January 1, 2019*, require the office to designate ~~a professional staff to review the projects and to complete the review within the timeframes~~ *member to conduct a peer review of projects relating to skilled nursing facility construction or alteration*. The bill would authorize the office to seek outside assistance through contracts with qualified professional architectural or engineering firms to meet those ~~review turnaround times~~ *timeframes*. The bill would require ~~OSHPD to monitor document submissions related to new or comparable design concepts meeting approval requirements and,~~ *authorize OSHPD to*, when feasible, publish standard requirements *for design concepts* for use by stakeholders *when submitting plans for new construction, renovation, or replacement*. The bill would require OSHPD to work with stakeholders to establish education and outreach programs directed at reducing document submission error rates and turnaround times. The bill would require ~~the office~~ *OSHPD, if resources are available*, to publish the timeframes *and other requirements* on its Internet Web site.

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

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) A variety of factors have contributed to making health care  
4 construction costs in California among the highest in the nation.  
5 The costs are driven by the escalating price of raw materials, high  
6 demand for skilled labor, and the complexity of design, plan  
7 review, and approval of skilled nursing facility construction.

8 (b) Skilled nursing facilities are licensed health care facilities  
9 that care for the state's most fragile and vulnerable citizens.

10 (c) The physical infrastructure and related systems of these  
11 licensed health facilities are governed by building and fire and life  
12 safety code requirements regulated by the Office of Statewide  
13 Health Planning and Development, the Office of the State Fire  
14 Marshal, and the State Department of Public Health.

15 (d) As the industry moves to update the aging health care  
16 infrastructure, incorporate advances in medical technology,  
17 implement a modern health care delivery system, and improve  
18 electronic medical records systems, health care construction activity  
19 will increase to unseen levels, creating additional economic  
20 pressure on the skilled nursing and construction industry.

21 (e) Licensed health care facilities are required to go through a  
22 building application and plan check process under the jurisdiction  
23 of the Office of Statewide Health Planning and Development.

24 (f) This process is bureaucratically efficient, but is subject to  
25 inherent delays impacting timely approvals of projects. Although  
26 the Office of Statewide Health Planning and Development has  
27 developed internal policies that set timeframes for plan review and  
28 approval, these policies are targets rather than enforceable  
29 requirements.

30 (g) Improving the efficiency of health care building plan review  
31 and construction efforts will not only reduce the time to design,  
32 review, and complete facility construction, but also lower the cost  
33 of the project and reduce overall cost pressures on the health care  
34 system, allowing more resources to be directed to direct patient  
35 services.

1 (h) Therefore, it is the intent of the Legislature to codify the  
2 timeframes and due dates for completion by the Office of Statewide  
3 Health Planning and Development of the review of facility  
4 construction documents and to require the office to notify  
5 applicants of the anticipated date the review will be completed and  
6 returned to them.

7 SEC. 2. Section 129785 of the Health and Safety Code is  
8 amended to read:

9 129785. (a) (1) The office shall determine an application  
10 filing fee that will cover the costs of administering this chapter.  
11 For a hospital facility, as defined in subdivision (a), (b), or (f) of  
12 Section 1250, and for a skilled nursing or intermediate care facility,  
13 as defined in subdivision (c), (d), (e), or (g) of Section 1250, the  
14 fee shall not exceed 2 percent of a project's estimated construction  
15 cost. Application filing fees shall be established in accordance  
16 with applicable procedures established in Article 5 (commencing  
17 with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title  
18 2 of the Government Code.

19 (2) Notwithstanding paragraph (1), the minimum application  
20 filing fee in any case shall be two hundred fifty dollars (\$250).

21 (b) The office shall issue an annual permit upon submission of  
22 an application, pursuant to Section 129765, for one or more projects  
23 of a hospital facility, as defined in subdivision (a), (b), or (f) of  
24 Section 1250, if the total estimated construction cost is fifty  
25 thousand dollars (\$50,000) or less per fiscal year. The fee for the  
26 annual permit shall be five hundred dollars (\$500) and shall be in  
27 lieu of an application filing fee. The annual permit shall cover all  
28 projects undertaken for a particular hospital facility up to a total  
29 estimated construction cost of fifty thousand dollars (\$50,000)  
30 during the state fiscal year in which the annual permit is issued.  
31 If a hospital facility chooses not to apply for an annual permit to  
32 cover a project or projects costing fifty thousand dollars (\$50,000)  
33 or less in total, the hospital facility may instead submit the project  
34 or projects for review and approval as otherwise specified in this  
35 chapter, including paying the application filing fee determined  
36 under subdivision (a).

37 (c) The office shall issue an annual permit upon submission of  
38 an application, pursuant to Section 129765, for one or more projects  
39 of a skilled nursing or intermediate care facility, as defined in  
40 subdivision (c), (d), (e), or (g) of Section 1250, if the total estimated

1 construction cost is twenty-five thousand dollars (\$25,000) or less  
2 per fiscal year. The fee for the annual permit shall be two hundred  
3 fifty dollars (\$250) and shall be in lieu of an application filing fee.  
4 The annual permit shall cover all projects undertaken for a  
5 particular skilled nursing or intermediate care facility up to a total  
6 estimated construction cost of twenty-five thousand dollars  
7 (\$25,000) during the state fiscal year in which the annual permit  
8 is issued. If a skilled nursing or intermediate care facility chooses  
9 not to apply for an annual permit to cover a project or projects  
10 costing twenty-five thousand dollars (\$25,000) or less in total, the  
11 skilled nursing or intermediate care facility may instead submit  
12 the project or projects for review and approval as otherwise  
13 specified in this chapter, including paying the application filing  
14 fee determined under subdivision (a).

15 (d) If the actual construction cost exceeds the estimated  
16 construction cost by more than 5 percent, a further fee shall be  
17 paid to the office, based on the above schedule and computed on  
18 the amount that the actual cost exceeds the amount of the estimated  
19 cost. If the estimated construction cost exceeds the actual  
20 construction cost by more than 5 percent, the office shall refund  
21 the excess portion of any paid fees, based on the above schedule  
22 and computed on the amount that the estimated cost exceeds the  
23 amount of the actual cost. A refund is not required if the applicant  
24 did not complete construction or alteration of 75 percent of the  
25 square footage included in the project, as contained in the approved  
26 drawings and specifications for the project. In addition, the office  
27 shall adopt regulations specifying other circumstances when the  
28 office shall refund to an applicant all or part of any paid fees for  
29 projects submitted under this chapter. The regulations shall include,  
30 but not be limited to, refunds of paid fees for a project that is  
31 determined by the office to be exempt or otherwise not reviewable  
32 under this chapter, and for a project that is withdrawn by the  
33 applicant prior to the commencement of review by the office of  
34 the drawing and specifications submitted for the project. All  
35 refunds pursuant to this section shall be paid from the Hospital  
36 Building Account in the Architecture Public Building Fund, as  
37 established pursuant to Section 129795.

38 SEC. 3. Section 129788 is added to the Health and Safety Code,  
39 to read:

1 129788. (a) For projects not qualifying for rapid review under  
 2 Section 129856, the Facilities Development Division shall meet  
 3 reasonable timeframes developed by the office, in conjunction  
 4 with stakeholders, that include all of the following:

- 5 (1) Preliminary review of documents submitted to the office.
- 6 (2) First review of new projects.
- 7 (3) Backchecks.
- 8 (4) Amended construction documents.

9 (b) Documents submitted to the office for new construction of,  
 10 alteration of, or addition to, health facilities licensed pursuant to  
 11 subdivision (c) of Section 1250 shall include the name and contact  
 12 information for an individual designated to be the project  
 13 coordinator and shall be reviewed and approved within the  
 14 timeframes set forth in this section.

15 ~~(c) The~~ *In order to ensure consistency of application of*  
 16 *California Building Code standards, the office shall designate a*  
 17 *professional staff member familiar with health facilities providing*  
 18 *skilled nursing care to conduct a peer review of projects relating*  
 19 *to skilled nursing facility construction or alteration pursuant to*  
 20 *this section.*

21 (d) The office shall charge a reasonable fee for the review and  
 22 approval of plans submitted pursuant to this section. This fee shall  
 23 be based on the estimated cost, including costs associated with the  
 24 designated-qualified professional staff member, but shall not exceed  
 25 the reasonable cost of the entire phased review and approval  
 26 process for those plans.

27 ~~(e) The project cost threshold under subdivision (a) of Section~~  
 28 ~~129880, for the purposes of a skilled nursing facility only, shall~~  
 29 ~~be increased to one hundred thousand dollars (\$100,000) without~~  
 30 ~~regard to the cost of equipment or other items not related to the~~  
 31 ~~actual repair or construction costs.~~

32 (f)

33 (e) In order to meet the review timeframes developed pursuant  
 34 to this section, the office may seek outside assistance through  
 35 contracts with qualified professional architectural or engineering  
 36 firms.

37 ~~(g) The office shall monitor document submissions related to~~  
 38 ~~new or comparable design concepts meeting approval requirements~~  
 39 ~~and, when feasible, publish standard requirements for use by~~

1 stakeholders. Design concepts may include new construction,  
2 renovation, or replacement.

3 (f) If resources are available, the office may publish standard  
4 requirements, when feasible, for design concepts for use by  
5 stakeholders when submitting plans for new construction,  
6 renovation, or replacement.

7 ~~(h)~~

8 (g) Design concepts to be considered under subdivision ~~(g)~~ (f)  
9 may include, but are not limited to, reduction in beds; installation  
10 and use of new technology, such as electronic medical records;  
11 space conversion dedicated to changes in care delivery models;  
12 and common replacement of major infrastructure equipment,  
13 including roofing, HVAC, generators and emergency power  
14 systems, water heaters and boilers, ~~kitchen~~, and kitchen and laundry  
15 room equipment.

16 ~~(i)~~

17 (h) The office shall work with stakeholders to ~~establish~~ receive  
18 input for, or assistance with, the establishment of education and  
19 outreach programs directed at reducing document submission error  
20 rates and turnaround times. ~~The~~ To the extent resources are  
21 available, the office shall publish on its Internet Web site these  
22 requirements, including, but not limited to, the timeframes  
23 developed pursuant to this section.

24 (i) Subdivisions (c) and (d) shall cease to be implemented, and  
25 all related fees shall cease to be assessed, on January 1, 2019.