

AMENDED IN SENATE JULY 10, 2013

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 and repeal Section 129788 to,~~ of 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 appropriates the moneys in the fund for the purposes of administration of these provisions.

This bill ~~would~~ *would, until January 1, 2019*, increase the maximum fee assessed to ~~those certain of 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~~ *continuously* appropriated fund, this bill would make an appropriation.

This bill would require ~~OSHPD, except as prescribed,~~ *OSHPD* to develop, with stakeholders, ~~and would require the Facilities Development Division of OSHPD to meet,~~ *reasonable timeframes* for review and approval of *skilled nursing facility and intermediate care 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.~~ *projects, except as prescribed.* 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 member to ~~conduct a peer review of~~ *provide consultation on the review of* projects relating to *skilled nursing facility and intermediate care 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 timeframes. The bill would authorize OSHPD to, when feasible, publish standard requirements for design concepts for use by ~~stakeholders~~ *skilled nursing and intermediate care facilities* 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 OSHPD, if resources are available, to publish the timeframes and other requirements on its Internet Web site. *The bill would provide that these provisions shall be operative until January 1, 2019.*

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 *and intermediate*  
8 *care facility* construction.
- 9 (b) Skilled nursing facilities *and intermediate care facilities* are  
10 licensed health care facilities that care for the state’s most fragile  
11 and vulnerable citizens.
- 12 (c) The physical infrastructure and related systems of these  
13 licensed health facilities are governed by building and fire and life  
14 safety code requirements regulated by the Office of Statewide  
15 Health Planning and Development, the Office of the State Fire  
16 Marshal, and the State Department of Public Health.
- 17 (d) As the industry moves to update the aging health care  
18 infrastructure, incorporate advances in medical technology,  
19 implement a modern health care delivery system, and improve  
20 electronic medical records systems, health care construction activity  
21 will increase to unseen levels, creating additional economic  
22 pressure on the skilled nursing, *intermediate care*, and construction  
23 ~~industry~~ *industries*.
- 24 (e) Licensed health care facilities are required to go through a  
25 building application and plan check process under the jurisdiction  
26 of the Office of Statewide Health Planning and Development.
- 27 (f) This process is bureaucratically efficient, but is subject to  
28 inherent delays impacting timely approvals of projects. Although  
29 the Office of Statewide Health Planning and Development has  
30 developed internal policies that set timeframes for plan review and

1 approval, these policies are targets rather than enforceable  
 2 requirements.

3 (g) Improving the efficiency of health care building plan review  
 4 and construction efforts will not only reduce the time to design,  
 5 review, and complete facility construction, but also lower the cost  
 6 of the project and reduce overall cost pressures on the health care  
 7 system, allowing more resources to be directed to direct patient  
 8 services.

9 (h) Therefore, it is the intent of the Legislature to codify the  
 10 timeframes and due dates for completion by the Office of Statewide  
 11 Health Planning and Development of the review of facility  
 12 construction documents and to require the office to notify  
 13 applicants of the anticipated date the review will be completed and  
 14 returned to them.

15 ~~SEC. 2. Section 129785 of the Health and Safety Code is~~  
 16 ~~amended to read:~~

17 ~~129785. (a) (1) The office shall determine an application~~  
 18 ~~filing fee that will cover the costs of administering this chapter.~~  
 19 ~~For a hospital facility, as defined in subdivision (a), (b), or (f) of~~  
 20 ~~Section 1250, and for a skilled nursing or intermediate care facility,~~  
 21 ~~as defined in subdivision (c), (d), (e), or (g) of Section 1250, the~~  
 22 ~~fee shall not exceed 2 percent of a project's estimated construction~~  
 23 ~~cost. Application filing fees shall be established in accordance~~  
 24 ~~with applicable procedures established in Article 5 (commencing~~  
 25 ~~with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title~~  
 26 ~~2 of the Government Code.~~

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

29 ~~(b) The office shall issue an annual permit upon submission of~~  
 30 ~~an application, pursuant to Section 129765, for one or more projects~~  
 31 ~~of a hospital facility, as defined in subdivision (a), (b), or (f) of~~  
 32 ~~Section 1250, if the total estimated construction cost is fifty~~  
 33 ~~thousand dollars (\$50,000) or less per fiscal year. The fee for the~~  
 34 ~~annual permit shall be five hundred dollars (\$500) and shall be in~~  
 35 ~~lieu of an application filing fee. The annual permit shall cover all~~  
 36 ~~projects undertaken for a particular hospital facility up to a total~~  
 37 ~~estimated construction cost of fifty thousand dollars (\$50,000)~~  
 38 ~~during the state fiscal year in which the annual permit is issued.~~  
 39 ~~If a hospital facility chooses not to apply for an annual permit to~~  
 40 ~~cover a project or projects costing fifty thousand dollars (\$50,000)~~

1 or less in total, the hospital facility may instead submit the project  
2 or projects for review and approval as otherwise specified in this  
3 chapter, including paying the application filing fee determined  
4 under subdivision (a).

5 (e) The office shall issue an annual permit upon submission of  
6 an application, pursuant to Section 129765, for one or more projects  
7 of a skilled nursing or intermediate care facility, as defined in  
8 subdivision (c), (d), (e), or (g) of Section 1250, if the total estimated  
9 construction cost is twenty-five thousand dollars (\$25,000) or less  
10 per fiscal year. The fee for the annual permit shall be two hundred  
11 fifty dollars (\$250) and shall be in lieu of an application filing fee.  
12 The annual permit shall cover all projects undertaken for a  
13 particular skilled nursing or intermediate care facility up to a total  
14 estimated construction cost of twenty-five thousand dollars  
15 (\$25,000) during the state fiscal year in which the annual permit  
16 is issued. If a skilled nursing or intermediate care facility chooses  
17 not to apply for an annual permit to cover a project or projects  
18 costing twenty-five thousand dollars (\$25,000) or less in total, the  
19 skilled nursing or intermediate care facility may instead submit  
20 the project or projects for review and approval as otherwise  
21 specified in this chapter, including paying the application filing  
22 fee determined under subdivision (a).

23 (d) If the actual construction cost exceeds the estimated  
24 construction cost by more than 5 percent, a further fee shall be  
25 paid to the office, based on the above schedule and computed on  
26 the amount that the actual cost exceeds the amount of the estimated  
27 cost. If the estimated construction cost exceeds the actual  
28 construction cost by more than 5 percent, the office shall refund  
29 the excess portion of any paid fees, based on the above schedule  
30 and computed on the amount that the estimated cost exceeds the  
31 amount of the actual cost. A refund is not required if the applicant  
32 did not complete construction or alteration of 75 percent of the  
33 square footage included in the project, as contained in the approved  
34 drawings and specifications for the project. In addition, the office  
35 shall adopt regulations specifying other circumstances when the  
36 office shall refund to an applicant all or part of any paid fees for  
37 projects submitted under this chapter. The regulations shall include,  
38 but not be limited to, refunds of paid fees for a project that is  
39 determined by the office to be exempt or otherwise not reviewable  
40 under this chapter, and for a project that is withdrawn by the

1 applicant prior to the commencement of review by the office of  
2 the drawing and specifications submitted for the project. All  
3 refunds pursuant to this section shall be paid from the Hospital  
4 Building Account in the Architecture Public Building Fund, as  
5 established pursuant to Section 129795.

6 ~~SEC. 3.~~

7 *SEC. 2.* Section 129788 is added to the Health and Safety Code,  
8 to read:

9 129788. (a) For projects *submitted by health facilities licensed*  
10 *pursuant to subdivisions (c) and (d) of Section 1250 that do not*  
11 ~~qualifying~~ *qualify* for rapid review under Section ~~129856, 129880,~~  
12 the Facilities Development Division shall meet reasonable  
13 timeframes developed by the office, in conjunction with  
14 stakeholders, that include all of the following:

15 (1) Preliminary review of documents submitted to the office.

16 (2) First review of new projects.

17 (3) Backchecks.

18 (4) Amended construction documents.

19 (b) Documents submitted to the office for new construction of,  
20 alteration of, or addition to, health facilities licensed pursuant to  
21 ~~subdivision~~ *subdivisions (c) and (d)* of Section 1250 shall include  
22 the name and contact information for an individual designated to  
23 be the project coordinator and shall be reviewed and approved  
24 within the timeframes set forth in this section.

25 (c) In order to ensure consistency of application of California  
26 Building Code standards, the office shall designate a professional  
27 staff member familiar with health facilities providing skilled  
28 nursing care to ~~conduct a peer~~ *provide consultation on* the review  
29 of projects relating to skilled nursing facility *and intermediate*  
30 *care facility* construction or alteration pursuant to this section.

31 ~~(d) The office shall charge a reasonable fee for the review and~~  
32 ~~approval of plans submitted pursuant to this section. This fee shall~~  
33 ~~be based on the estimated cost, including costs associated with the~~  
34 ~~designated professional staff member, but shall not exceed the~~  
35 ~~reasonable cost of the entire phased review and approval process~~  
36 ~~for those plans.~~

37 (e)

38 (d) In order to meet the review timeframes developed pursuant  
39 to this section, the office may seek outside assistance through

1 contracts with qualified professional architectural or engineering  
2 firms.

3 (f)

4 (e) If resources are available, the office may publish standard  
5 requirements, when feasible, for design concepts for use by  
6 ~~stakeholders~~ *skilled nursing facilities and intermediate care*  
7 *facilities* when submitting plans for new construction, renovation,  
8 or replacement.

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

17 (h)

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

25 (g) *Notwithstanding subdivision (a) of Section 129785, the*  
26 *maximum application filing fee for a skilled nursing or intermediate*  
27 *care facility, as defined in subdivision (c) or (d) of Section 1250,*  
28 *shall not exceed 2 percent of a project's estimated construction*  
29 *cost.*

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

32 (h) *This section shall remain in effect only until January 1, 2019,*  
33 *and as of that date is repealed, unless a later enacted statute, that*  
34 *is enacted before January 1, 2019, deletes or extends that date.*