

AMENDED IN SENATE AUGUST 11, 2014
AMENDED IN SENATE JUNE 26, 2014
AMENDED IN SENATE JUNE 10, 2014
AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY APRIL 29, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2546

Introduced by Assembly Member Salas

February 21, 2014

An act to amend Section 31468 of, and to add Section 31552.5 to, the Government Code, and to add Chapter 5.5 (commencing with Section 101852) to Part 4 of Division 101 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2546, as amended, Salas. Kern County Hospital Authority.

Existing law authorizes the board 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 Kern to establish, by ordinance, the Kern County Hospital Authority to manage, administer, and control the Kern Medical Center and for the operation of additional programs, clinics and other facilities, care organizations, ~~physical~~ *physician* practice plans, and delivery systems that may be affiliated or consolidated with the medical center. The bill

would also authorize the establishment of the authority to negotiate and enter into contracts to provide or arrange, or provide directly, on a fee-for-service, capitated, or other basis, health care services to specified individuals.

The bill would require the board of supervisors, in the enabling ordinance, to establish the terms and conditions of the transfers to the authority from the ~~county and Kern Health Systems~~, *county*, which includes, among other things, any transfer of real and personal property. The bill would require the authority to be governed by a board of governors, and would require the board of supervisors, in the enabling ordinance, to specify, among other things, the number of members and composition of membership of the board of governors and the qualifications of members.

The bill would grant to the authority, among other powers, the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state. The bill would specify that the transfer to the authority of the management, administration, and control of the medical center does not affect the eligibility of the county for, but authorizes the authority to participate in and receive, various sources of funding, as specified, including various Medi-Cal programs. The bill would require the board of supervisors to adopt, and the authority to implement, a personnel transition plan that requires specified actions, including ongoing communication to employees and recognized employee organizations regarding the impact of the transition on certain existing employees and employee classifications.

The bill would authorize the board of supervisors to find and declare that the authority ceases to exist, and in that event, the bill would require the board of supervisors to provide for the disposition of the authority's assets, obligations, and liabilities, as specified.

Existing law, the County Employees Retirement Law of 1937, authorizes counties to establish retirement systems, as specified, in order to provide pension benefits to county, city, and district employees. Existing law defines a district for these purposes as a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

This bill would include the authority within the definition of district and would authorize employees of the authority to participate in the Kern County Employees' Retirement Association, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public

officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would incorporate additional changes to Section 31468 of the Government Code proposed by SB 673 that would become operative if this bill and SB 673 are both enacted and this bill is enacted last.

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

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

1 SECTION 1. Section 31468 of the Government Code is
2 amended to read:

3 31468. (a) "District" means a district, formed under the laws
4 of the state, located wholly or partially within the county other
5 than a school district.

6 (b) "District" also includes any institution operated by two or
7 more counties, in one of which there has been adopted an ordinance
8 placing this chapter in operation.

9 (c) "District" also includes any organization or association
10 authorized by Chapter 26 of the Statutes of 1935, as amended by
11 Chapter 30 of the Statutes of 1941, or by Section 50024, which
12 organization or association is maintained and supported entirely
13 from funds derived from counties, and the board of any retirement
14 system is authorized to receive the officers and employees of that
15 organization or association into the retirement system managed
16 by the board.

17 (d) "District" also includes, but is not limited to, any sanitary
18 district formed under Part 1 (commencing with Section 6400) of
19 Division 6 of the Health and Safety Code.

20 (e) "District" also includes any city, public authority, public
21 agency, and any other political subdivision or public corporation
22 formed or created under the constitution or laws of this state and
23 located or having jurisdiction wholly or partially within the county.

24 (f) "District" also includes any nonprofit corporation or
25 association conducting an agricultural fair for the county pursuant
26 to a contract between the corporation or association and the board
27 of supervisors under the authority of Section 25905.

1 (g) “District” also includes the Regents of the University of
2 California, but with respect only to employees who were employees
3 of a county in a county hospital, who became university employees
4 pursuant to an agreement for transfer to the regents of a county
5 hospital or of the obligation to provide professional medical
6 services at a county hospital, and who under that agreement had
7 the right and did elect to continue membership in the county’s
8 retirement system established under this chapter.

9 (h) “District” also includes the South Coast Air Quality
10 Management District, a new public agency created on February
11 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
12 of Part 3 of Division 26 of the Health and Safety Code.

13 (1) Employees of the South Coast Air Quality Management
14 District shall be deemed to be employees of a new public agency
15 occupying new positions on February 1, 1977. On that date, those
16 new positions are deemed not to have been covered by any
17 retirement system.

18 (2) No retirement system coverage may be effected for an
19 employee of the South Coast Air Quality Management District
20 who commenced employment with the district during the period
21 commencing on February 1, 1977, and ending on December 31,
22 1978, unless and until the employee shall have elected whether to
23 become a member of the retirement association established in
24 accordance with this chapter for employees of Los Angeles County
25 or the retirement association established in accordance with this
26 chapter for employees of San Bernardino County. The election
27 shall occur before January 1, 1980. Any employee who fails to
28 make the election provided for herein shall be deemed to have
29 elected to become a member of the retirement association
30 established in accordance with this chapter for the County of Los
31 Angeles.

32 (3) The South Coast Air Quality Management District shall
33 make application to the retirement associations established in
34 accordance with this chapter for employees of Los Angeles County
35 and San Bernardino County for coverage of employees of the South
36 Coast Air Quality Management District.

37 (4) An employee of the South Coast Air Quality Management
38 District who commenced employment with the district during the
39 period commencing on February 1, 1977, and ending on December
40 31, 1978, and who has not terminated employment before January

1 1, 1980, shall be covered by the retirement association elected by
2 the employee pursuant to paragraph (2). That coverage shall be
3 effected no later than the first day of the first month following the
4 date of the election provided for in paragraph (2).

5 (5) Each electing employee shall receive credit for all service
6 with the South Coast Air Quality Management District. However,
7 the elected retirement association may require, as a prerequisite
8 to granting that credit, the payment of an appropriate sum of money
9 or the transfer of funds from another retirement association in an
10 amount determined by an enrolled actuary and approved by the
11 elected retirement association's board. The amount to be paid shall
12 include all administrative and actuarial costs of making that
13 determination. The amount to be paid shall be shared by the South
14 Coast Air Quality Management District and the employee. The
15 share to be paid by the employee shall be determined by good faith
16 bargaining between the district and the recognized employee
17 organization, but in no event shall the employee be required to
18 contribute more than 25 percent of the total amount required to be
19 paid. The elected retirement association's board may not grant that
20 credit for that prior service unless the request for that credit is
21 made to, and the required payment deposited with, the elected
22 retirement association's board no earlier than January 1, 1980, and
23 no later than June 30, 1980. The foregoing shall have no effect on
24 any employee's rights to reciprocal benefits under Article 15
25 (commencing with Section 31830).

26 (6) An employee of the South Coast Air Quality Management
27 District who commenced employment with the district after
28 December 31, 1978, shall be covered by the retirement association
29 established in accordance with this chapter for employees of San
30 Bernardino County. That coverage shall be effected as of the first
31 day of the first month following the employee's commencement
32 date.

33 (7) Notwithstanding paragraphs (2) and (4) above, employees
34 of the South Coast Air Quality Management District who were
35 employed between February 1, 1977, and December 31, 1978, and
36 who terminate their employment between February 1, 1977, and
37 January 1, 1980, shall be deemed to be members of the retirement
38 association established in accordance with this chapter for the
39 employees of Los Angeles County commencing on the date of

1 their employment with the South Coast Air Quality Management
2 District.

3 (i) “District” also includes any nonprofit corporation that
4 operates one or more museums within a county of the 15th class,
5 as described by Sections 28020 and 28036 of the Government
6 Code, as amended by Chapter 1204 of the Statutes of 1971,
7 pursuant to a contract between the corporation and the board of
8 supervisors of the county, and that has entered into an agreement
9 with the board and the county setting forth the terms and conditions
10 of the corporation’s inclusion in the county’s retirement system.

11 (j) “District” also includes any economic development
12 association funded in whole or in part by a county of the 15th class,
13 as described by Sections 28020 and 28036 of the Government
14 Code, as amended by Chapter 1204 of the Statutes of 1971, and
15 that has entered into an agreement with the board of supervisors
16 and the county setting forth the terms and conditions of the
17 association’s inclusion in the county’s retirement system.

18 (k) “District” also includes any special commission established
19 in the Counties of Tulare and San Joaquin as described by Section
20 14087.31 of the Welfare and Institutions Code, pursuant to a
21 contract between the special commission and the county setting
22 forth the terms and conditions of the special commission’s
23 inclusion in the county’s retirement system with the approval of
24 the board of supervisors and the board of retirement.

25 (l) (1) “District” also includes the retirement system established
26 under this chapter in Orange County.

27 (2) “District” also includes the retirement system established
28 under this chapter in San Bernardino County at such time as the
29 board of retirement, by resolution, makes this section applicable
30 in that county.

31 (m) “District” also includes the Kern County Hospital Authority,
32 a public agency that is a local unit of government established
33 pursuant to Chapter 5.5 (commencing with Section 101852) of
34 Part 4 of Division 101 of the Health and Safety Code.

35 *SEC. 1.5. Section 31468 of the Government Code is amended*
36 *to read:*

37 31468. (a) “District” means a district, formed under the laws
38 of the state, located wholly or partially within the county other
39 than a school district.

1 (b) “District” also includes any institution operated by two or
2 more counties, in one of which there has been adopted an ordinance
3 placing this chapter in operation.

4 (c) “District” also includes any organization or association
5 authorized by Chapter 26 of the Statutes of 1935, as amended by
6 Chapter 30 of the Statutes of 1941, or by Section 50024, which
7 organization or association is maintained and supported entirely
8 from funds derived from counties, and the board of any retirement
9 system is authorized to receive the officers and employees of that
10 organization or association into the retirement system managed
11 by the board.

12 (d) “District” also includes, but is not limited to, any sanitary
13 district formed under Part 1 (commencing with Section 6400) of
14 Division 6 of the Health and Safety Code.

15 (e) “District” also includes any city, public authority, public
16 agency, and any other political subdivision or public corporation
17 formed or created under the constitution or laws of this state and
18 located or having jurisdiction wholly or partially within the county.

19 (f) “District” also includes any nonprofit corporation or
20 association conducting an agricultural fair for the county pursuant
21 to a contract between the corporation or association and the board
22 of supervisors under the authority of Section 25905.

23 (g) “District” also includes the Regents of the University of
24 California, but with respect only to employees who were employees
25 of a county in a county hospital, who became university employees
26 pursuant to an agreement for transfer to the regents of a county
27 hospital or of the obligation to provide professional medical
28 services at a county hospital, and who under that agreement had
29 the right and did elect to continue membership in the county’s
30 retirement system established under this chapter.

31 (h) “District” also includes the South Coast Air Quality
32 Management District, a new public agency created on February
33 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
34 of Part 3 of Division 26 of the Health and Safety Code.

35 (1) Employees of the South Coast Air Quality Management
36 District shall be deemed to be employees of a new public agency
37 occupying new positions on February 1, 1977. On that date, those
38 new positions are deemed not to have been covered by any
39 retirement system.

1 (2) No retirement system coverage may be effected for an
2 employee of the South Coast Air Quality Management District
3 who commenced employment with the district during the period
4 commencing on February 1, 1977, and ending on December 31,
5 1978, unless and until the employee shall have elected whether to
6 become a member of the retirement association established in
7 accordance with this chapter for employees of Los Angeles County
8 or the retirement association established in accordance with this
9 chapter for employees of San Bernardino County. The election
10 shall occur before January 1, 1980. Any employee who fails to
11 make the election provided for herein shall be deemed to have
12 elected to become a member of the retirement association
13 established in accordance with this chapter for the County of Los
14 Angeles.

15 (3) The South Coast Air Quality Management District shall
16 make application to the retirement associations established in
17 accordance with this chapter for employees of Los Angeles County
18 and San Bernardino County for coverage of employees of the South
19 Coast Air Quality Management District.

20 (4) An employee of the South Coast Air Quality Management
21 District who commenced employment with the district during the
22 period commencing on February 1, 1977, and ending on December
23 31, 1978, and who has not terminated employment before January
24 1, 1980, shall be covered by the retirement association elected by
25 the employee pursuant to paragraph (2). That coverage shall be
26 effected no later than the first day of the first month following the
27 date of the election provided for in paragraph (2).

28 (5) Each electing employee shall receive credit for all service
29 with the South Coast Air Quality Management District. However,
30 the elected retirement association may require, as a prerequisite
31 to granting that credit, the payment of an appropriate sum of money
32 or the transfer of funds from another retirement association in an
33 amount determined by an enrolled actuary and approved by the
34 elected retirement association's board. The amount to be paid shall
35 include all administrative and actuarial costs of making that
36 determination. The amount to be paid shall be shared by the South
37 Coast Air Quality Management District and the employee. The
38 share to be paid by the employee shall be determined by good faith
39 bargaining between the district and the recognized employee
40 organization, but in no event shall the employee be required to

1 contribute more than 25 percent of the total amount required to be
2 paid. The elected retirement association's board may not grant that
3 credit for that prior service unless the request for that credit is
4 made to, and the required payment deposited with, the elected
5 retirement association's board no earlier than January 1, 1980, and
6 no later than June 30, 1980. The foregoing shall have no effect on
7 any employee's rights to reciprocal benefits under Article 15
8 (commencing with Section 31830).

9 (6) An employee of the South Coast Air Quality Management
10 District who commenced employment with the district after
11 December 31, 1978, shall be covered by the retirement association
12 established in accordance with this chapter for employees of San
13 Bernardino County. That coverage shall be effected as of the first
14 day of the first month following the employee's commencement
15 date.

16 (7) Notwithstanding paragraphs (2) and (4) above, employees
17 of the South Coast Air Quality Management District who were
18 employed between February 1, 1977, and December 31, 1978, and
19 who terminate their employment between February 1, 1977, and
20 January 1, 1980, shall be deemed to be members of the retirement
21 association established in accordance with this chapter for the
22 employees of Los Angeles County commencing on the date of
23 their employment with the South Coast Air Quality Management
24 District.

25 (i) "District" also includes any nonprofit corporation that
26 operates one or more museums within a county of the 15th class,
27 as described by Sections 28020 and 28036 of the Government
28 Code, as amended by Chapter 1204 of the Statutes of 1971,
29 pursuant to a contract between the corporation and the board of
30 supervisors of the county, and that has entered into an agreement
31 with the board and the county setting forth the terms and conditions
32 of the corporation's inclusion in the county's retirement system.

33 (j) "District" also includes any economic development
34 association funded in whole or in part by a county of the 15th class,
35 as described by Sections 28020 and 28036 of the Government
36 Code, as amended by Chapter 1204 of the Statutes of 1971, and
37 that has entered into an agreement with the board of supervisors
38 and the county setting forth the terms and conditions of the
39 association's inclusion in the county's retirement system.

1 (k) "District" also includes any special commission established
2 in the Counties of Tulare and San Joaquin as described by Section
3 14087.31 of the Welfare and Institutions Code, pursuant to a
4 contract between the special commission and the county setting
5 forth the terms and conditions of the special commission's
6 inclusion in the county's retirement system with the approval of
7 the board of supervisors and the board of retirement.

8 (l) (1) "District" also includes the retirement system established
9 under this chapter in Orange County.

10 (2) "District" also includes the retirement system established
11 under this chapter in San Bernardino County at such time as the
12 board of retirement, by resolution, makes this section applicable
13 in that county.

14 (3) "District" also includes the retirement system established
15 under this chapter in Contra Costa County.

16 (m) "District" also includes the Kern County Hospital Authority,
17 a public agency that is a local unit of government established
18 pursuant to Chapter 5.5 (commencing with Section 101852) of
19 Part 4 of Division 101 of the Health and Safety Code.

20 SEC. 2. Section 31552.5 is added to the Government Code, to
21 read:

22 31552.5. Employees and officers of the Kern County Hospital
23 Authority, a public agency that is a local unit of government
24 established pursuant to Chapter 5.5 (commencing with Section
25 101852) of Part 4 of Division 101 of the Health and Safety Code,
26 shall not automatically become members of the Kern County
27 Employees' Retirement Association, but shall have their eligibility
28 for membership in the Kern County Employees' Retirement
29 Association be established pursuant to the provisions of that
30 chapter.

31 SEC. 3. Chapter 5.5 (commencing with Section 101852) is
32 added to Part 4 of Division 101 of the Health and Safety Code, to
33 read:

34
35 CHAPTER 5.5. KERN COUNTY HOSPITAL AUTHORITY ACT

36
37 Article 1. General Provisions

38
39 101852. (a) This chapter shall be known and may be cited as
40 the Kern County Hospital Authority Act.

1 (b) The Legislature finds and declares all of the following:

2 (1) Kern Medical Center, an acute care hospital currently
3 operated as a constituent department of the County of Kern, is a
4 designated public hospital, as defined in subdivision (d) of Section
5 14166.1 of the Welfare and Institutions Code, and a critical
6 component of the state’s health care safety net.

7 (2) Counties are authorized under current law to integrate their
8 county hospital services with those of other hospitals into a system
9 of community service that offers free choice of hospitals to those
10 requiring hospital care, with the objective of eliminating
11 discrimination or segregation based on economic disability, so that
12 the county hospital and other hospitals in the community share in
13 providing services to paying patients and to those who qualify for
14 care in public medical care programs. However, in a new era of
15 health care delivery, it is necessary to pursue approaches that
16 transition beyond acute care-centric orientations.

17 (3) The ongoing evolution of the health care environment
18 requires public entities providing or arranging health care services
19 to pursue innovative health care delivery models that proactively
20 improve the quality of patient care services and patient experience,
21 efficiently and effectively increase access to needed health care
22 services across the care continuum, provide services in a
23 patient-centered manner, and moderate the rate of growth of health
24 care expenditures.

25 (4) The board of supervisors of the County of Kern has
26 determined that providing access to affordable, high-quality health
27 care services, and ensuring the full engagement and viability of
28 the health care safety net in the county are essential for improving
29 the health status of the people of the County of Kern. To further
30 this imperative, it is necessary that the Kern Medical Center, while
31 continuing as a designated public hospital and maintaining its
32 mission, is provided with an organizational and operational
33 structure that facilitates and improves its ability to function with
34 flexibility, responsiveness, and innovation to promote a
35 patient-centric system of care delivery featuring community-based
36 care. This can best be accomplished by allowing the operation of
37 the Kern Medical Center, along with other health-related resources,
38 under a new hospital authority that is able to pursue efforts towards
39 a delivery system that embraces population health management
40 strategies, is effectively positioned for health-plan-provider

1 *plan-provider* alignment, and maximizes opportunities for
2 employees and enhancement of staff morale.

3 (5) This chapter is necessary to allow the formation of a public
4 hospital authority for the purposes described above.

5 101852.1. For purposes of this chapter, the following
6 definitions shall apply:

7 (a) “Authority” means the Kern Hospital System Authority
8 established pursuant to this chapter.

9 (b) “Board of supervisors” means the board of supervisors of
10 the County of Kern.

11 (c) “Board of governors” means the governing body of the
12 authority.

13 (d) “County” means the County of Kern.

14 (e) “Enabling ordinance” means the county ordinance enacted
15 by the board of supervisors pursuant to this chapter to establish
16 the authority, as it may be amended from time to time.

17 (f) “Medical center” means the assets and liabilities comprising
18 the Kern Medical Center, including, without limitation, a licensed
19 acute care hospital and related public health care programs,
20 facilities, care organizations, physician practice plans and delivery
21 systems, which may be hospital-based or nonhospital-based, as
22 specified by the board of supervisors or the authority now or in
23 the future, as the case may be, depending on which entity controls
24 the medical center.

25

26 Article 2. Establishment of the Kern County Hospital Authority
27

28 101853. (a) Pursuant to this chapter, the board of supervisors
29 may establish by ordinance the Kern County Hospital Authority,
30 which shall be a public agency that is a local unit of government
31 separate and apart from the county and any other public entity for
32 all purposes. The authority established pursuant to this chapter
33 shall file the statement required by Section 53051 of the
34 Government Code, and is a public entity for purposes of Division
35 3.6 (commencing with Section 810) of Title 1 of the Government
36 Code.

37 (b) The purpose of the authority shall be to do all of the
38 following:

39 (1) Provide management, administration, and other controls
40 consistent with this chapter as needed to operate the medical center

1 and maintain its status as a designated public hospital, as defined
2 in subdivision (d) of Section 14166.1 of the Welfare and
3 Institutions Code, and for the operation of additional programs,
4 clinics and other facilities, care organizations, health care service
5 and physician practice plans, and delivery systems that may be
6 affiliated or consolidated with the medical center, to ensure the
7 viability of the health care safety net in the county in a manner
8 consistent with the county's requirements under Section 17000 of
9 the Welfare and Institutions Code.

10 (2) Provide management, administration, and other controls
11 consistent with this chapter to negotiate and enter into contracts
12 to provide or arrange, or provide directly, on a fee-for-service,
13 capitated, or other basis, health care services to individuals
14 including, but not limited to, those covered under Subchapters
15 XVIII (commencing with Section 1395), XIX (commencing with
16 Section 1396), and XXI (commencing with Section 1397aa) of
17 Chapter 7 of Title 42 of the United States Code, those entitled to
18 coverage under private group coverage, private individual coverage,
19 including without limitation, coverage through Covered California,
20 other publicly supported programs, those employed by public
21 agencies or private businesses, and uninsured or indigent
22 individuals.

23 (c) Subject to the requirements of this chapter, the authority
24 shall have and be charged with authority for the management,
25 administration, and control of the medical center and other
26 health-related resources. The State Department of Health Care
27 Services shall take all necessary steps to ensure all of the following:

28 (1) The authority is permitted to operate the medical center.

29 (2) The medical center continues its status as a designated public
30 hospital to at least the same extent as it would be designated in the
31 absence of its transfer to the authority pursuant to this chapter.

32 (3) The authority may participate as a contributing public agency
33 for all of the purposes specified in Section 433.51 of Title 42 of
34 the Code of Federal Regulations, to the extent permitted by federal
35 law.

36 (d) The board of supervisors, in the enabling ordinance, shall
37 establish the terms and conditions of the transfer to the authority
38 from the county, including, but not limited to, all of the following:

39 (1) Any transfer of real and personal property, ~~assets~~ *assets*,
40 and liabilities, including, but not limited to, liabilities of the

1 medical center determined and assigned by the county for county
2 funds previously advanced, but not repaid or otherwise recovered,
3 to fund the operations of the medical center.

4 (2) Transfer of employees, including any necessary personnel
5 transition plan, as specified in Section 101853.1, ~~and assignment~~
6 ~~of title to~~ *allocation of credit for funded pension assets and*
7 *responsibility for any unfunded pension liabilities: liabilities under*
8 *the Kern County Employees' Retirement Association or other*
9 *retirement plans, and funding of the accrued benefits of employees*
10 *of the authority in the event of withdrawal from the plan or*
11 *dissolution of the authority. Any allocation of credit for funded*
12 *pension assets and responsibility for any unfunded pension*
13 *liabilities with respect to the Kern County Employees' Retirement*
14 *Association must be approved by its governing board of retirement*
15 *after consideration of legal and actuarial analysis, and no such*
16 *allocation may be made that would jeopardize the qualified status*
17 *of the Kern County Employees' Retirement Association under the*
18 *federal Internal Revenue Code.*

19 (3) Maintenance, operation, and management or ownership of
20 the medical center.

21 (4) Transfer of licenses.

22 (5) Any other matters as the board of supervisors deems
23 necessary, ~~appropriate~~ *appropriate*, or convenient for the conduct
24 of the authority's activities.

25 (e) (1) Notwithstanding any other law, a transfer of
26 maintenance, operation, and management or ownership or lease
27 of the medical center to the authority may be made, with or without
28 the payment of a purchase price by the authority, and otherwise
29 upon the terms and conditions as found necessary by the board of
30 supervisors and specified in the enabling ordinance to ensure that
31 the transfer will constitute an ongoing material benefit to the county
32 and its residents.

33 (2) A transfer of the maintenance, operation, and management,
34 or ownership or lease of the medical center to the authority shall
35 not be construed as empowering the authority to transfer any
36 ownership interest of the county in any portion of the medical
37 center except as otherwise approved by the board of supervisors.

38 (3) The authority shall not transfer the maintenance, operation,
39 and management or ownership or lease of the medical center to
40 any other person or entity without the prior written approval of

1 the board of supervisors. This paragraph shall not prevent the
2 county, by ordinance, from allowing the disposal of obsolete or
3 surplus equipment, supplies, or furnishings of the medical center
4 by the authority.

5 (4) With respect to the maintenance, operation, and management
6 or ownership or lease of the medical center, the authority shall
7 conform to both of the following requirements:

8 (A) Comply with any applicable requirements of Section
9 14000.2 of the Welfare and Institutions Code.

10 (B) Comply with any applicable requirements of Section 1442.5.

11 (5) The board of supervisors may retain control of the medical
12 center physical plant and facilities, as specifically provided for in
13 the enabling ordinance or other lawful agreements entered into by
14 the board of supervisors. Any lease agreement between the county
15 and the authority shall provide that county premises shall not be
16 sublet without the approval of the board of supervisors.

17 (6) Notwithstanding any other provision of this chapter, and
18 whether or not accompanied by a change in licensing, the
19 authority's responsibility for the maintenance, operation, and
20 management of the medical center, or any ownership or leasehold
21 interest of the authority in the medical center, does not relieve the
22 county of the ultimate responsibility for indigent care pursuant to
23 Section 17000 of the Welfare and Institutions Code.

24 (7) For purposes of Article 12 (commencing with Section
25 17612.1) of Chapter 6 of Part 5 of Division 9 of the Welfare and
26 Institutions Code, and the definition set forth in subdivision (f) of
27 Section 17612.2 of the Welfare and Institutions Code, the medical
28 center, excluding components that provide predominately public
29 health services, and the county are affiliated governmental entities.

30 (f) The board of supervisors may contract with the authority for
31 the provision of indigent care services on behalf of the county.
32 The contract shall specify that county policies, as may be modified
33 from time to time and consistent with the county's obligations
34 under Section 17000 of the Welfare and Institutions Code, shall
35 be applicable. Notwithstanding any other provision of this chapter,
36 the authority shall not undertake any of the county's obligations
37 under Section 17000 of the Welfare and Institutions Code, nor
38 shall the authority have an entitlement to receive any revenue for
39 the discharge of the county's obligations, without a written
40 agreement with the county. Any contract executed by and between

1 the county and the authority shall provide for the indemnification
2 of the county by the authority for liabilities as specifically set forth
3 in the contract, except that the contract shall include a provision
4 that the county shall remain liable for its own negligent acts.
5 Indemnification by the authority shall not divest the county from
6 its ultimate responsibility for compliance with Section 17000 of
7 the Welfare and Institutions Code.

8 (g) Unless otherwise agreed to by the authority and the board
9 of supervisors, an obligation of the authority, statutory, contractual,
10 or otherwise, shall be the obligation solely of the authority and
11 shall not be the obligation of the county or any other entity, and
12 any contract executed by and between the county and the authority,
13 or any other entity and the authority, shall contain a provision that
14 liabilities or obligations of the authority with respect to its activities
15 pursuant to the contract shall be the liabilities or obligations of the
16 authority and shall not be or become the liabilities or obligations
17 of the county or the other entity, respectively. An obligation of the
18 authority, statutory, contractual, or otherwise, shall not be the
19 obligation of the state.

20 (h) The authority shall not be a “person” subject to suit under
21 the Cartwright Act (Chapter 2 (commencing with Section 16700)
22 of Part 2 of Division 7 of the Business and Professions Code).

23 (i) The authority is not subject to the jurisdiction of a local
24 agency formation commission pursuant to the
25 Cortese-Knox-Hertzberg Local Government Reorganization Act
26 of 2000 (Division 3 (commencing with Section 56000) of Title 5
27 of the Government Code), or any successor statute.

28 (j) The authority is a “district” within the meaning set forth in
29 the County Employees Retirement Law of 1937 (Chapter 3
30 (commencing with Section 31450) of Part 3 of Division 4 of Title
31 3 of the Government Code). Employees of the authority are eligible
32 to become members or maintain membership, as applicable, in the
33 Kern County Employees’ Retirement Association, to the extent
34 described in subdivision (g) of Section 101853.1.

35 (k) *Any determination with respect to the manner in which the*
36 *authority qualifies as a governmental plan sponsor under Section*
37 *414(d) of the Internal Revenue Code shall be limited to relevant*
38 *employee benefits purposes of that code only, and shall not change*
39 *or otherwise modify the authority’s status as a public agency that*

1 *is a unit of local government for other purposes specified in this*
2 *chapter.*

3 101853.1. (a) In exercising its powers to employ personnel,
4 the authority shall implement, and the board of supervisors shall
5 adopt, a personnel transition plan. The personnel transition plan
6 shall require all of the following:

7 (1) Ongoing communication to employees and recognized
8 employee organizations regarding the impact of the transition on
9 existing medical center, county, and other health care facility
10 employees and employee classifications.

11 (2) Meeting and conferring with representatives of affected
12 bargaining unit employees on both of the following issues:

13 (A) A timeframe for which the transfer of personnel shall occur.

14 (B) Specified periods of time during which county or medical
15 center employees affected by the establishment of the authority
16 may elect to be considered for appointment and exercise
17 reinstatement rights, if applicable, to funded, equivalent, vacant
18 county positions for which they are qualified and eligible. An
19 employee who first elects to remain with the county may
20 subsequently seek reinstatement with the authority within 30 days
21 of the election to remain with the county and shall be subject to
22 the requirements of this article.

23 (3) Acknowledgment that the authority, to the extent permitted
24 by federal and state law, shall be bound by the terms of the
25 memoranda of understanding executed between the county and its
26 exclusive employee representatives that are in effect on the date
27 the county adopts the enabling ordinance pursuant to this chapter.
28 Subsequent memoranda of understanding with exclusive employee
29 representatives shall be subject to approval only by the board of
30 governors.

31 (4) *Communication to the Board of Retirement of the Kern*
32 *County Employees' Retirement Association or other retirement*
33 *plan of any personnel transition plan, memoranda of*
34 *understanding, or other arrangements that are related to the*
35 *participation of the authority's employees or the addition of new*
36 *employees in the retirement plan.*

37 (b) Implementation of this chapter shall not be a cause for the
38 modification of the medical center or county employment benefits.
39 Upon the execution of the enabling ordinance, employees of the
40 medical center or county on the date of execution, who become

1 authority employees, shall retain their existing or equivalent
2 classifications and job descriptions upon transfer to the authority,
3 comparable pension ~~benefits~~, *benefits (if permissible pursuant to*
4 *relevant plan terms)*, and their existing salaries and other benefits
5 that include, but are not limited to, accrued and unused vacation,
6 sick leave, personal leave, health care, retiree health benefits, and
7 deferred compensation plans. The transfer of an employee from
8 the medical center or county shall not constitute a termination of
9 employment for purposes of Section 227.3 of the Labor Code, or
10 employee benefit plans and arrangements maintained by the
11 medical center or county, except as otherwise provided in the
12 enabling ordinance or personnel transition plan, nor shall it be
13 counted as a break in uninterrupted employment for purposes of
14 Section 31641 of the Government Code with respect to the Kern
15 County Employees' Retirement Association, or state service for
16 purposes of the Public Employees' Retirement System (Part 3
17 (commencing with Section 20000) of Division 5 of Title 2 of the
18 Government Code).

19 (c) Subject to applicable state law, the authority shall recognize
20 the exclusive employee representatives of those authority
21 employees who are transferred from the county or medical center
22 to the authority pursuant to this chapter.

23 (d) In order to stabilize labor and employment relations and
24 provide continuity of care and services to the people of the county,
25 and notwithstanding any other law, the authority shall do all of the
26 following for a period of 24 months after the effective date of the
27 transfer of the medical center to the authority:

28 (1) Continue to recognize each exclusive employee
29 representative of each bargaining unit.

30 (2) Continue to provide the same level of employee benefits to
31 authority employees, whether the obligation to provide those
32 benefits arise out of a memorandum of understanding, or other
33 agreements or law.

34 (3) Extend and continue to be bound by any existing memoranda
35 of understanding covering the terms and conditions of employment
36 for employees of the authority, including the level of wages and
37 benefits, and any county rules, ordinances, or policies specifically
38 identified and incorporated by reference in a memoranda of
39 understanding for 24 months or through the term of the
40 memorandum of understanding, whichever shall be the longer,

1 unless modified by mutual agreement with each of the exclusive
2 employee representatives. The authority shall continue to provide
3 those pension benefits specified in any memoranda of agreement
4 as long as doing so does not conflict with any Kern County
5 Employee Retirement Association ~~bylaws, plan provisions,~~ or
6 federal or state law including the County Employees Retirement
7 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
8 3 of Division 4 of Title 3 of the Government ~~Code~~). *Code and the*
9 *federal Internal Revenue Code*).

10 (4) Meet and confer with the exclusive employee representatives
11 to develop processes and procedures to address employee
12 disciplinary action taken against permanent employees. If the
13 authority terminates, suspends, demotes, or reduces the pay of a
14 permanent employee for disciplinary reasons, those actions shall
15 only be for cause consistent with state law, and an employee shall
16 be afforded applicable due process protections granted to public
17 employees under state law. Permanent employees laid off by the
18 authority within six months of the date the ordinance is adopted
19 shall remain on the county reemployment list for two years.
20 Inclusion on the county reemployment list is not a guarantee of
21 reemployment. For the purposes of this paragraph, the term
22 “permanent employees” excludes probationary employees,
23 temporary employees, seasonal employees, provisional employees,
24 extra help employees, and per diem employees.

25 (5) To the extent layoffs occur, and provided that all other
26 previously agreed upon factors are equal, ensure that seniority
27 shall prevail. The authority shall meet and confer with the exclusive
28 employee representatives to address layoff procedures and the
29 manner in which, and the extent to which, seniority shall be
30 measured for employees who transfer from the medical center or
31 county.

32 (e) Permanent employees of the medical center or county on
33 the effective date of the transfer of the medical center to the
34 authority, shall be deemed qualified for employment in equivalent
35 positions at the authority, and no other qualifications shall be
36 required except as otherwise required by state or federal law.
37 Probationary employees on the effective date of the transfer, as
38 set forth in this paragraph, shall retain their probationary status
39 and rights and shall not be required to serve a new probationary
40 or extend their probationary period by reason of the transfer. To

1 the extent possible, employees who transfer to equivalent positions
2 at the authority shall retain their existing classifications and job
3 descriptions, but if there is a dispute over this issue, the authority
4 agrees to meet and confer with the exclusive employee
5 representatives of the transferred employees.

6 (f) Employees who transfer from the medical center or county
7 to the authority shall retain the seniority they earned at the medical
8 center or county and any benefits or privileges based on the
9 seniority.

10 (g) Notwithstanding any other law, employees of the authority
11 may participate in the Kern County Employees' Retirement
12 Association, operated pursuant to the County Employees
13 Retirement Law of 1937 (Chapter 3 (commencing with Section
14 31450) of Part 3 of Division 4 of Title 3 of the Government ~~Code~~;
15 ~~as follows: Code) as set forth below. However, the authority and~~
16 *employees of the authority, or certain designated parts thereof,*
17 *shall not participate in the Kern County Employees' Retirement*
18 *Association if the board of retirement, in its sole discretion,*
19 *determines that their participation could jeopardize the Kern*
20 *County Employees' Retirement Association's tax-qualified or*
21 *governmental plan status under federal law, or if a contract or*
22 *related contract amendment proposed by the authority contains*
23 *any benefit provisions that are not specifically authorized by*
24 *Chapters 3 (commencing with Section 31450) and 3.9 (commencing*
25 *with Section 31899) of Part 3 of Division 4 of Title 3 of the*
26 *Government Code or Article 4 (commencing with Section 7522)*
27 *of Chapter 21 of Division 7 of Title 1 of the Government Code,*
28 *and that the board determines would adversely affect the*
29 *administration of the system. There shall not be any individual*
30 *employee elections regarding participation in the Kern County*
31 *Employees' Retirement Association or other retirement plans*
32 *except to the extent such retirement plans provide for elective*
33 *employee salary deferral contributions in accordance with federal*
34 *Internal Revenue Code rules.*

35 (1) Employees transferred from the county or medical center to
36 the authority who are subject to a memorandum of understanding
37 between the authority and an exclusive employee representative,
38 as described in paragraphs (2) and (3) of subdivision (d), and who
39 were members of the Kern County Employees' Retirement
40 Association at the time of their transfer of employment, shall

1 continue to be a member of the Kern County Employees'
2 Retirement Association, retaining service credit earned to the date
3 of transfer, to the extent provided for in the applicable
4 memorandum of understanding.

5 (2) Employees transferred from the county or medical center to
6 the authority who are subject to a memorandum of understanding
7 between the authority and an exclusive employee representative,
8 as described in paragraphs (2) and (3) of subdivision (d), and who
9 were not members of the Kern County Employees' Retirement
10 Association at the time of their transfer of employment, shall
11 subsequently become a member of the Kern County Employees'
12 Retirement Association only to the extent provided for in the
13 applicable memorandum of understanding.

14 (3) Employees transferred from the county or medical center to
15 the authority who are not subject to a memorandum of
16 understanding between the authority and an exclusive employee
17 representative, as described in paragraphs (2) and (3) of subdivision
18 (d), and who were members of the Kern County Employees'
19 Retirement Association at the time of their transfer of employment,
20 shall continue to be a member of the Kern County Employees'
21 Retirement Association, retaining service credit earned to the date
22 of transfer, as provided in the enabling ordinance or the personnel
23 transition plan.

24 (4) Employees transferred from the county or medical center to
25 the authority who are not subject to a memorandum of
26 understanding between the authority and an exclusive employee
27 representative, as described in paragraphs (2) and (3) of subdivision
28 (d), and who were not members of the Kern County Employees'
29 Retirement Association at the time of their transfer of employment,
30 shall subsequently become a member of the Kern County
31 Employees' Retirement Association only to the extent provided
32 in the enabling ordinance or the personnel transition plan.

33 (5) Employees hired by the authority on or after the effective
34 date of the enabling ordinance shall become a member of the Kern
35 County Employees' Retirement Association only to the extent
36 provided in the enabling ordinance or personnel transition plan
37 described in subdivision (a), or, if subject to a memorandum of
38 understanding between the authority and an exclusive employee
39 representative as described in paragraphs (2) and (3) of subdivision

1 (d), to the extent provided for in the applicable memorandum of
2 understanding.

3 (6) Notwithstanding any other law, for purposes of California
4 Public Employees' Pension Reform Act of 2013 (Article 4
5 (commencing with Section 7522) of Chapter 21 of Division 7 of
6 Title 1 of the Government Code), an individual who was employed
7 by the county or the medical center when it was a constituent
8 department of the county, and is a member of the Kern County
9 Employees' Retirement Association or the Public Employees'
10 Retirement System, as set forth in Part 3 (commencing with Section
11 20000) of Division 5 of Title 2 of the Government Code, prior to
12 January 1, 2013, and who transfers, directly or after a break in
13 service of less than six months, to the authority, in which the
14 individual continues to be a member of either the Kern County
15 Employees' Retirement Association or the Public Employees'
16 Retirement System, as applicable, shall not be deemed to be a new
17 employee or a new member within the meaning of Section 7522.04
18 of the Government Code, and shall continue to be subject to the
19 same defined benefit formula, as defined in Section 7522.04 of
20 the Government Code, ~~as it would have been available to members~~
21 ~~of the Kern County Employees' Retirement Association or the~~
22 ~~Public Employees' Retirement System who were first employed~~
23 ~~by the county or medical center and as a result of the employment~~
24 ~~became a member of a public retirement system, on or before~~
25 ~~December 31, 2012.~~ *to which the member was subject immediately*
26 *prior to the transfer.*

27 (h) This chapter shall not prohibit the authority from contracting
28 with the Public Employees' Retirement System, in accordance
29 with the requirements of Section 20508 and any other applicable
30 provisions of Part 3 (commencing with Section 20000) of Division
31 5 of Title 2 of the Government Code, for the purpose of providing
32 employee participation in that system, or from establishing an
33 alternative or supplemental retirement system or arrangement,
34 including, but not limited to, deferred compensation arrangements,
35 to the extent permitted by law and subject to any applicable
36 agreement between the authority and the exclusive employee
37 representatives, and as provided in the enabling ordinance or the
38 personnel transition plan. *Notwithstanding any other law, the*
39 *authority and employees of the authority shall not participate in*
40 *the Public Employees' Retirement System if the Board of*

1 *Administration of the Public Employees' Retirement System, in its*
 2 *sole discretion, determines that their participation could jeopardize*
 3 *the Public Employees' Retirement System's tax-qualified or*
 4 *governmental plan status under federal law, or if a contract or*
 5 *related contract amendment proposed by the authority contains*
 6 *any benefit provisions that are not specifically authorized by Part*
 7 *3 (commencing with Section 20000) of Division 5 of Title 2 of the*
 8 *Government Code, and that the board determines would adversely*
 9 *affect the administration of the system.*

10 (i) Provided that this is not inconsistent with anything in this
 11 chapter, this chapter does not prohibit the authority from
 12 determining the number of employees, the number of full-time
 13 equivalent positions, job descriptions, the nature and extent of
 14 classified employment positions, and salaries of employees.

15
 16 Article 3. Board of Governors
 17

18 101854. (a) The authority established pursuant to this chapter
 19 shall be governed by a board of governors that is appointed, both
 20 initially and continually, by the board of supervisors. The board
 21 of supervisors, in the enabling ordinance, shall specify the number
 22 of members and the composition of membership of the board of
 23 governors, the qualifications for individual members, the manner
 24 of appointment, selection, or removal of board of governors
 25 members, their terms of office, and all other matters that the board
 26 of supervisors deems necessary or convenient for the conduct of
 27 the board of governors. Notwithstanding any other law, at the
 28 board of supervisors' discretion and as specified in the enabling
 29 ordinance, the board of governors may consist entirely of members
 30 of the board of supervisors or may include any number of the
 31 members of the board of supervisors or county officers or
 32 employees appointed to represent the interest of the county.

33 (b) The board of supervisors, either during or after the formation
 34 of the authority, may modify the number, length of terms,
 35 qualifications, method of appointment, and provisions for all other
 36 matters pertaining to the board of governors by subsequent
 37 ordinance.

38 (c) The board of supervisors shall adopt bylaws for the authority
 39 that, among other things, shall specify the officers of the board of
 40 governors, the time, place, and conduct of meetings, and other

1 matters that the board of supervisors deems necessary or
2 appropriate to conduct the authority's activities. The bylaws shall
3 be operative upon approval by a majority vote of the board of
4 supervisors, but may be amended, from time to time, by a majority
5 vote of the board of supervisors.

6 (d) Notwithstanding any other law, a member of the board of
7 governors shall not be deemed to be interested in a contract entered
8 into by the authority within the meaning of Article 4 (commencing
9 with Section 1090) of Chapter 1 of Division 4 of Title 1 of the
10 Government Code if either of the following apply:

11 (1) The contract is between the authority and the county or an
12 agency of the county, and the member is also a member of the
13 board of supervisors, or is a county officer or employee appointed
14 to represent the interests of the county.

15 (2) All the following applies to the member:

16 (A) The member was appointed to represent the interests of
17 physicians, health care practitioners, hospitals, pharmacies, or
18 other health care organizations, or beneficiaries.

19 (B) The contract authorizes the member or the organization the
20 member represents to provide services to beneficiaries under the
21 authority's programs.

22 (C) The contract contains substantially the same terms and
23 conditions as contracts entered into with other individuals or
24 organizations that the member was appointed to represent.

25 (D) The member does not influence or attempt to influence the
26 ~~health~~ *hospital* authority or another member of the authority to
27 enter into the contract in which the member is interested.

28 (E) The member discloses the interest to the authority and
29 abstains from voting on the contract.

30 (F) The board of governors notes the member's disclosure and
31 abstention in its official records and authorizes the contract in good
32 faith by a vote of its membership sufficient for the purpose without
33 counting the vote of the interested member.

34 (e) Members of the board of governors shall not be vicariously
35 liable for injuries caused by the act or omission of the authority to
36 the extent that protection applies to members of governing boards
37 of local public entities generally under Section 820.9 of the
38 Government Code.

39 (f) The board of governors created and appointed pursuant to
40 this chapter is a duly constituted governing body as the term is

1 used in Section 1250 and defined in Section 70035 of Title 22 of
2 the California Code of Regulations.

3 (g) In the event of a change of license ownership, the board of
4 governors shall comply with the obligations of governing bodies
5 of general acute care hospitals generally as set forth in Section
6 70701 of Title 22 of the California Code of Regulations, as
7 currently written or subsequently amended, as well as the terms
8 and conditions of the license. The authority shall be the responsible
9 party with respect to compliance with these obligations, terms,
10 and conditions.

11

12 Article 4. Powers and Duties of the Authority

13

14 101855. (a) The authority, in addition to any other powers
15 granted pursuant to this chapter, shall have the following powers:

16 (1) To have the duties, privileges, immunities, rights, liabilities,
17 and limitations of a local unit of government within the state.

18 (2) To have perpetual existence, *subject to Article 5*
19 *(commencing with Section 101856).*

20 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

21 (4) To sue and be sued in the name of the authority in all actions
22 and proceedings in all courts and tribunals of competent
23 jurisdiction.

24 (5) To purchase, lease, trade, exchange, or otherwise acquire,
25 maintain, hold, improve, mortgage, lease, sell, and dispose of real
26 and personal property of any kind necessary or convenient to
27 perform its functions and fully exercise its powers.

28 (6) To appoint and employ a chief executive officer and other
29 officers and employees that may be necessary or appropriate,
30 including legal counsel, to establish their compensation, provide
31 for their health, retirement, and other employment benefits, and
32 to define the power and duties of officers and employees.

33 (7) (A) To incur indebtedness and to borrow money and issue
34 bonds evidencing the same, including the authority to issue, from
35 time to time, notes and revenue bonds in principal amounts that
36 the authority determines to be necessary to provide sufficient funds
37 for achieving any of its purposes, including, but not limited to,
38 assumption or refinancing of debt service for capital projects
39 eligible for Medi-Cal supplemental payments pursuant to Section
40 14085.5 of the Welfare and Institutions Code, or any successor or

1 modified Medi-Cal debt service reimbursement program, the
2 payment of interest on notes and bonds of the authority, the
3 establishment of reserves to secure those notes and bonds, and all
4 other expenditures of the authority incident to and necessary or
5 convenient to carry out its purposes and powers.

6 (B) Any notes, bonds, or other securities issued, and the income
7 from them, including any profit from the sale thereof, shall at all
8 times be free from taxation by the state or any agency, political
9 subdivision, or instrumentality of the state.

10 (C) Notwithstanding the provisions of subparagraph (A), for
11 any indebtedness, notes, bonds, or other securities that require
12 voter approval pursuant to state law, the prior approval of the board
13 of supervisors shall be required. Notwithstanding the required prior
14 approval of the board of supervisors, any indebtedness incurred,
15 or notes, bonds, or other securities issued pursuant to this
16 subparagraph shall be the indebtedness, notes, bonds, or securities
17 of the authority and not of the county, and the credit of the county
18 shall not be pledged or relied upon in any manner in order to incur
19 the indebtedness, or issue the notes, bonds, or other securities,
20 unless the board of supervisors explicitly authorizes the use of the
21 county's credit. The authority shall reimburse the county for all
22 costs associated with the county's consideration of the
23 indebtedness, notes, bonds, or securities, and the authority shall
24 defend, indemnify, and hold harmless the county from any and all
25 liability, costs, or expenses arising from or related to the
26 indebtedness, notes, bonds, or securities.

27 (D) Nothing in this section shall preclude the authority from
28 repayment of its debts or other liabilities, using funds that are not
29 otherwise encumbered.

30 (8) To pursue its own credit rating.

31 (9) To enter into a contract or agreement consistent with this
32 chapter or the laws of this state, including, but not limited to,
33 contracting with any public or private entity or person for
34 management or other services and personnel, and to authorize the
35 chief executive officer to enter into contracts, execute all
36 instruments, and do all things necessary or convenient in the
37 exercise of the powers granted in this chapter.

38 (10) To purchase supplies, equipment, materials, property, and
39 services.

40 (11) To establish policies relating to its purposes.

1 (12) To acquire or contract to acquire, rights-of-way, easements,
2 privileges, and property, and to construct, equip, maintain, and
3 operate any and all works or improvements wherever located that
4 are necessary, convenient, or proper to carry out any of the
5 provisions, objects, or purposes of this chapter, and to complete,
6 extend, add to, repair, or otherwise improve any works or
7 improvements acquired by it.

8 (13) To participate in, contract for, and to accept, gifts, grants,
9 and loans of funds, property, or other aid or finance opportunity
10 in any form from the federal government, the state, a state agency,
11 or other source, or combination thereof, as otherwise would be
12 available to a public, government, or private entity, and to comply,
13 subject to this chapter, with the terms and conditions thereof.

14 (14) To invest surplus money in its own treasury, manage
15 investments, and engage third-party investment managers, in
16 accordance with state law.

17 (15) To arrange for guarantees or insurance of its bonds, notes,
18 or other obligations by the federal or state government or by a
19 private insurer, and to pay the premiums thereof.

20 (16) To engage in managed care contracting, joint ventures,
21 affiliations with other health care facilities, other health care
22 providers and payers, management agreements, or to participate
23 in alliances, purchasing consortia, health insurance pools,
24 accountable care organizations, alternative delivery systems, or
25 other cooperative arrangements, with any public or private entity.

26 (17) To enter into joint powers agreements pursuant to Chapter
27 5 (commencing with Section 6500) of Division 7 of Title 1 of the
28 Government Code. Notwithstanding any other ~~provision of~~ law,
29 the authority may enter into a joint powers agreement as described
30 in Section 6523.5 of the Government Code as though that section
31 applied to hospitals and other health care facilities in the County
32 of Kern.

33 (18) To establish nonprofit, ~~for-profit~~, *for-profit*, or other entities
34 necessary to carry out the duties of the authority.

35 (19) To elect to transfer funds to the state and incur certified
36 public expenditures in support of the Medi-Cal program and other
37 programs for which federal financial participation is available.

38 (20) To use a computerized management information system,
39 including an electronic health records system, in connection with

1 its operations, including, without limitation the administration of
2 its facilities.

3 (21) To request that the board of supervisors levy a tax on behalf
4 of the authority. If the board of supervisors approves the proposal
5 to levy the tax, it shall call the election to seek voter approval and
6 place the appropriate measure on the ballot for that election. The
7 proceeds of these taxes shall be tax proceeds of the authority and
8 not of the county. The authority shall reimburse the county for all
9 costs associated with the county’s consideration of those taxes,
10 and shall defend, indemnify, and hold harmless the county from
11 any liability, costs, or expenses arising from or related to the
12 imposition of these taxes.

13 (22) Notwithstanding the provisions of this chapter relating to
14 the obligations and liabilities of the authority, or any other law, a
15 transfer of control or ownership of the medical center to the
16 authority pursuant to this chapter shall confer onto the authority
17 all the rights, privileges, and authority set forth in state law to own,
18 operate, and provide coverage and services through hospitals,
19 clinics and other health facilities, health programs, care
20 organizations, physician practice plans, delivery systems, health
21 care service plans, and other coverage mechanisms that may be
22 owned or operated by a county.

23 (23) To engage in other activities that may be in the best interests
24 of the authority and the persons served by the authority, as
25 determined by the board of governors, in order to respond to
26 changes in the health care industry.

27 (b) The authority shall conform to the following requirements:

28 (1) (A) Be a government agency that is a local unit of
29 government separate and apart for all purposes from the county
30 and any other public entity, and shall not be considered to be an
31 agency, division, or department of the county or any other public
32 entity. The authority shall not be governed by or subject to the
33 civil service requirements of the county. Except as otherwise
34 provided for in the enabling ordinance consistent with this chapter,
35 and as set forth in Section 101853.1 relating to the personnel
36 transition plan, the authority shall not be governed by, or subject
37 to, other policies or operational rules of the county, medical center,
38 or any other public entity, including, but not limited to, those
39 relating to personnel and procurement.

1 (B) The board of governors shall adopt written rules, regulations,
2 and procedures with regard to basic human resource functions not
3 inconsistent with memoranda of understanding covering employees
4 represented by employee organizations or the provisions of this
5 chapter. Until the time that the board of governors adopts its own
6 rules, regulations, or procedures with regard to these functions,
7 the existing rules, regulations, and procedures set forth in any
8 memoranda of understanding described in Section 101853.1, and
9 the rules and regulations adopted by the county and described in
10 paragraph (4), shall continue to apply.

11 (2) Be subject to state and federal taxation laws that are
12 applicable to public entities generally.

13 (3) Except as otherwise specifically provided in this chapter,
14 comply with the Meyers-Milias-Brown Act (Chapter 10
15 (commencing with Section 3500) of Division 4 of Title 1 of the
16 Government Code), the Public Records Act (Chapter 3.5
17 (commencing with Section 6250) of Division 7 of Title 1 of the
18 Government Code), and the Ralph M. Brown Act (Chapter 9
19 (commencing with Section 54950) of Part 1 of Division 2 of Title
20 5 of the Government Code).

21 (4) Be subject to the jurisdiction of the Public Employment
22 Relations Board. Until the authority adopts rules and regulations
23 pursuant to subdivision (a) of Section 3507 of the Government
24 Code, the existing rules adopted by the county and contained in
25 the county's employer-employee relations resolution, as amended,
26 shall apply, modified to account for the creation of the authority,
27 and provided further that the resolution shall not contain any
28 incorporation of the county's civil service rules or county
29 ordinances unless specifically addressed in this chapter.

30 (5) Carry professional and general liability insurance or
31 programs to the extent sufficient to cover its activities.

32 (6) Comply with the requirements of Sections 53260 and 53261
33 of the Government Code.

34 (7) Maintain financial and accounting records.

35 (8) Meet all local, state, and federal data reporting requirements.

36 (c) Subject to any restrictions applicable to public agencies, and
37 subject to any limitations or conditions set forth in the enabling
38 ordinance adopted by the board of supervisors, the authority may
39 borrow money from the county, repay debt it owes to the county,
40 and use the borrowed funds to provide for its operating and capital

1 needs. The county may lend the authority funds or issue revenue
2 anticipation notes to obtain those funds necessary to meet its
3 operating or capital needs.

4 (d) Open sessions of the authority shall constitute official
5 proceedings authorized by law within the meaning of Section 47
6 of the Civil Code. The privileges set forth in that section with
7 respect to official proceedings shall apply to open sessions of the
8 authority.

9 (e) (1) Notwithstanding any other law, the board of governors
10 may order that a meeting held solely for the purpose of discussion
11 or taking action on authority trade secrets, as defined in subdivision
12 (d) of Section 3426.1 of the Civil Code, *or to consider and take*
13 *action on matters pertaining to contracts and contract negotiations*
14 *concerning all matters related to rates of payment for health care*
15 *services arranged or provided by the authority*, shall be held in
16 closed session. Trade secrets for purposes of this chapter shall also
17 include information for which the secrecy of the information is
18 necessary for the authority to initiate a new service, program,
19 marketing strategy, business plan, or technology, or to add a benefit
20 or product, and premature disclosure of the trade secret would
21 create a substantial probability of depriving the authority of a
22 substantial economic benefit or opportunity.

23 (2) The requirements of making a public report of actions taken
24 in closed session and the vote or abstention of every member
25 present may be limited to a brief general description devoid of the
26 information constituting the trade secret *or concerning the matters*
27 *related to rates of payment*.

28 (3) Those records of the authority that reveal the authority's
29 trade secrets are exempt from disclosure pursuant to the California
30 Public Records Act (Chapter 3.5 (commencing with Section 6250)
31 of Division 7 of Title 1 of the Government Code), or any similar
32 local law requiring the disclosure of public records. This exemption
33 shall apply for a period of two years after the service, program,
34 marketing strategy, business plan, technology, benefit, or product
35 that is the subject of the trade secret is formally adopted by the
36 governing body of the authority, provided that the service, program,
37 marketing strategy, business plan, technology, benefit, or product
38 continues to be a trade secret. The board of governors may delete
39 the portion or portions containing trade secrets from any documents

1 that were finally approved in the closed session that are provided
2 to persons who have made the timely or standing request.

3 (4) This chapter shall not prevent the board of governors from
4 meeting in closed session as otherwise provided by law.

5 (f) Notwithstanding any other law, those records of the authority
6 and of the county that reveal the authority's rates of payment for
7 health care services arranged or provided by the authority or its
8 deliberative processes, strategies, discussions, communications,
9 or any other portion of the negotiations with providers of health
10 care services or Medi-Cal, health care ~~plans~~ *plans*, or other ~~payors~~
11 *payers* for rates of payment, shall not be required to be disclosed
12 pursuant to the California Public Records Act (Chapter 3.5
13 (commencing with Section 6250) of Division 7 of Title 1 of the
14 Government Code), or any similar local law requiring the
15 disclosure of public records. However, three years after a contract
16 or amendment to a contract is fully executed, the portion of the
17 contract or amendment containing the rates of payment shall be
18 open to inspection.

19 (g) The authority shall be a public agency that is a local unit of
20 government for purposes of eligibility with respect to grants and
21 other funding and loan guarantee programs. Contributions to the
22 authority shall be tax deductible to the extent permitted by state
23 and federal law. Nonproprietary income of the authority shall be
24 exempt from state income taxation.

25 (h) Unless otherwise provided by the board of supervisors by
26 way of resolution, the authority is empowered, or the board of
27 supervisors is empowered on behalf of the authority, to apply as
28 a public agency for one or more licenses for the provision of health
29 care or the operation of a health care service plan pursuant to
30 statutes and regulations governing licensing as currently written
31 or subsequently amended.

32 (i) The statutory authority of a board of supervisors to prescribe
33 rules that authorize a county hospital to integrate its services with
34 those of other providers into a system of community service that
35 offers free choice of hospitals to those requiring hospital care, as
36 set forth in Section 14000.2 of the Welfare and Institutions Code,
37 shall apply to the authority and the board of governors.

38 (j) (1) Except as otherwise provided in this chapter, provisions
39 of the Evidence Code, the Government Code, including the Public
40 Records Act (Chapter 3.5 (commencing with Section 6250) of

1 Division 7 of Title 1 of the Government Code), the Civil Code,
2 the Business and Professions Code, and other applicable law
3 pertaining to the confidentiality of peer review activities of peer
4 review bodies shall apply to the peer review activities of the
5 authority, or any peer review body, as defined in paragraph (1) of
6 subdivision (a) of Section 805 of the Business and Professions
7 Code, formed pursuant to the powers granted to the authority. The
8 laws pertaining to the confidentiality of peer review activities shall
9 be together construed as extending, to the extent permitted by law,
10 the maximum degree of protection of confidentiality.

11 (2) Notwithstanding Article 9 (commencing with Section 11120)
12 of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9
13 (commencing with Section 54950) of Part 1 of Division 2 of Title
14 5 of, the Government Code, or any other provision of law, any
15 peer review body formed pursuant to the powers granted to the
16 authority, may, at its discretion and without notice to the public,
17 meet in closed session, so long as the purpose of the meeting is
18 the peer review body's discharge of its responsibility to evaluate
19 and improve the quality of care rendered by health facilities and
20 health practitioners. The peer review body and its members shall
21 receive, to the fullest extent, all immunities, privileges, and
22 protections available to those peer review bodies, their individual
23 members, and persons or entities assisting in the peer review
24 process, including those afforded by Section 1157 of the Evidence
25 Code and Section 1370. Peer review proceedings shall constitute
26 an official proceeding authorized by law within the meaning of
27 Section 47 of the Civil Code and those privileges set forth in that
28 section with respect to official proceedings shall apply to peer
29 review proceedings of the authority.

30 (3) Notwithstanding the California Public Records Act (Chapter
31 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
32 the Government Code), or Article 9 (commencing with Section
33 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and
34 Chapter 9 (commencing with Section 54950) of Part 1 of Division
35 2 of Title 5 of, the Government Code, or any other provision of
36 state or local law requiring disclosure of public records, those
37 records of a peer review body formed pursuant to the powers
38 granted to the authority, shall not be required to be disclosed. The
39 records and proceedings of the peer review body and its individual
40 members shall receive, to the fullest extent, all immunities,

1 privileges, and protections available to those records and
2 proceedings, including those afforded by Section 1157 of the
3 Evidence Code and Section 1370 of the Health and Safety Code.

4 (4) If the authority is required by law or contractual obligation
5 to submit to the state or federal government peer review
6 information or information relevant to the credentialing of a
7 participating provider, that submission shall not constitute a waiver
8 of confidentiality.

9 (5) Notwithstanding any other law, Section 1461 shall apply to
10 hearings on reports of hospital medical audit or quality assurance
11 committees.

12 (k) Except as expressly provided by other provisions of this
13 section, all exemptions and exclusions from disclosure as public
14 records pursuant to this chapter and the California Public Records
15 Act, including, but not limited to, those pertaining to trade secrets
16 and information withheld in the public interest, shall be fully
17 applicable to the authority, and for the board of supervisors, and
18 all state and local agencies with respect to all writings that the
19 authority is required to prepare, produce, or submit, and which
20 shall not constitute a waiver of exemption from disclosure.

21 (l) The authority and the county, or any combination ~~thereof~~
22 *thereof*, may engage in marketing, advertising, and promotion of
23 the medical and health care services made available to the
24 community by the authority.

25 (m) The board of governors shall have authority over
26 procurement and contracts for the authority. The board of governors
27 shall adopt written rules, regulations, and procedures with regard
28 to these functions. Contracts by and between the authority and a
29 public agency, and contracts by and between the authority and
30 providers of health care, goods, or services, may be let on a nonbid
31 basis and shall be exempt from Chapter 2 (commencing with
32 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

33 (n) The authority may contract with the county for services and
34 personnel upon mutually agreeable terms.

35 (o) Notwithstanding Article 4.7 (commencing with Section
36 1125) of Chapter 1 of Division 4 of Title 1 of the Government
37 Code, related to incompatible activities, Section 1099 of the
38 Government Code, related to incompatible offices, or any other
39 law, a member of the authority's administrative staff shall not be
40 considered to hold an incompatible office or to be engaged in

1 activities inconsistent and incompatible with his or her duties as
 2 a result of his or her employment or affiliation with the county or
 3 an agency of the county.

4 (p) The board of governors and the officers and employees of
 5 the authority are public employees for purposes of Division 3.6
 6 (commencing with Section 810) of Title 1 of the Government
 7 Code, relating to claims and actions against public entities and
 8 public employees, and shall be protected by the immunities
 9 applicable to public entities and public employees governed by
 10 Part 2 (commencing with Section 814) of Division 3.6 of Title 1
 11 of the Government Code, except as provided by other statutes or
 12 regulations that apply expressly to the authority.

13 101855.1. (a) Transfer by the county to the authority of the
 14 maintenance, operation, and management or ownership of the
 15 medical center, whether or not the transfer includes the
 16 surrendering by the county of the existing general acute care
 17 hospital license and corresponding application for a change of
 18 ownership of the license, shall not affect the eligibility of the
 19 county to undertake, and shall authorize the authority, subject to
 20 applicable requirements, to do any of the following:

21 (1) With the written consent of the county, participate in and
 22 receive allocations pursuant to the California Health Care for
 23 Indigents Program pursuant to Chapter 5 (commencing with
 24 Section 16940) of Part 4.7 of Division 9 of the Welfare and
 25 Institutions Code, or similar programs, as may be identified or
 26 earmarked by the county for indigent health care services of the
 27 type provided by the medical center.

28 (2) With the written consent of the county, participate in and
 29 receive allocations of local revenue fund amounts provided
 30 pursuant to Chapter 6 (commencing with Section 17600) of Part
 31 5 of Division 9 of the Welfare and Institutions Code as may be
 32 identified or earmarked by the county for indigent health care
 33 services of the type provided by the medical center.

34 (3) Participate in the financing of, as applicable, and receive,
 35 Medicaid disproportionate share hospital payments available to a
 36 county hospital or designated public hospital, or any other
 37 successor or modified payment or funding that is intended to assist
 38 hospitals that serve a disproportionate share of low-income patients
 39 with special needs. The allocation of Medicaid disproportionate
 40 share hospital payments shall be made in consultation with the

1 State Department of Health Care Services and other designated
2 safety net hospitals.

3 (4) Participate in the financing of, as applicable, and receive,
4 Medi-Cal payments and supplemental reimbursements, including,
5 but not limited to, payments made pursuant to Sections 14105.96,
6 14105.965, 14166.4, 14182.15, and 14199.2 of the Welfare and
7 Institutions Code, payments described in paragraph (4) of
8 subdivision (b) of Section 14301.4 of, and Section 14301.5 of, the
9 Welfare and Institutions Code, and payments made available to a
10 county provider or designated public hospital, or governmental
11 entity with which it is affiliated, under any other successor or
12 modified Medicaid payment system.

13 (5) Participate in the financing of, as applicable, and receive,
14 safety net care pool funding, stabilization funding, delivery system
15 reform incentive pool payments, and any other funding available
16 to a county provider or designated public hospital, or governmental
17 entities with which it is affiliated under the Medicaid demonstration
18 project authorized pursuant to Article 5.2 (commencing with
19 Section 14166) and Article 5.4 (commencing with Section 14180)
20 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
21 Code, or under any other successor or modified Medicaid
22 demonstration project or Medicaid payment system. The allocation
23 of safety net care pool funds shall be made in consultation with
24 the State Department of Health Care Services and other designated
25 safety net hospitals.

26 (6) Participate in the financing, administration, and provision
27 of services under the Low Income Health Program authorized
28 pursuant to Part 3.6 (commencing with Section 15909) of Division
29 9 of the Welfare and Institutions Code, or under any other successor
30 or modified Medicaid demonstration project or Medicaid payment
31 system if the authority enters into an agreement with the county
32 concerning the provision of services by, and payment for these
33 services to, the county.

34 (7) Participate in and receive direct grant and payment
35 allocations pursuant to Article 5.230 (commencing with Section
36 14169.50) of Chapter 7 of Part 3 of Division 9 of the Welfare and
37 Institutions Code, or under any other successor or modified direct
38 grant and payment systems funded by hospital or other provider
39 fee assessments.

1 (8) Receive Medi-Cal capital supplements pursuant to Section
 2 14085.5 of the Welfare and Institutions Code, or any other
 3 successor or modified Medi-Cal debt service reimbursement
 4 program. Notwithstanding any other law, supplemental payments
 5 shall be made to the medical center under those programs for the
 6 debt service costs incurred by the county, and, if applicable, by
 7 the authority to the extent that debt service responsibility is
 8 refinanced, transferred to, or otherwise assumed by, directly or
 9 indirectly, the authority.

10 (9) Receive any other funds, or preference in the assignment of
 11 health care plan enrollees, that would otherwise be available to a
 12 county health plan, provider, or designated public hospital, or
 13 governmental entity with which it is affiliated.

14 (b) The transfer of the medical center to the authority pursuant
 15 to this chapter shall not otherwise disqualify the county or the
 16 authority from participating in any of the following:

17 (1) Local, state, and federal funding sources either specific to
 18 county or other publicly owned or operated health care service
 19 plans, hospitals, or other health care ~~providers~~ *providers*, including,
 20 but not limited to, ambulatory care clinics, health systems,
 21 practices, designated public hospitals, or ~~government~~ *governmental*
 22 entities with which they are affiliated, for which there are special
 23 provisions specific to those plans, hospitals, ambulatory care
 24 clinics, health systems, practices, other health care providers or
 25 ~~government~~ *governmental* entities with which they are affiliated.

26 (2) All funding programs in which the county, by itself or on
 27 behalf of the medical center had participated prior to the creation
 28 of the authority, or would otherwise be qualified to participate in
 29 had the authority not been created, and the maintenance, operation,
 30 and management or ownership of the medical center not been
 31 transferred to the authority pursuant to this chapter.

32

33

Article 5. Dissolution of the Authority

34

35 101856. (a) The board of supervisors may find and declare
 36 that the authority shall cease to exist. In that event, the board of
 37 supervisors shall provide for the disposition of the authority's
 38 assets, obligations, and liabilities, which may include the transfer
 39 to the county of the medical center and other operations, or
 40 specified components of the medical center and other operations,

1 through ordinance, resolution, or other action. Alternatively, the
2 board of supervisors may order the board of governors to develop
3 a plan of dissolution providing for the disposition of all of the
4 assets and liabilities of the authority, which shall be subject to
5 approval by the board of supervisors. Absent written agreement,
6 the county shall not be obligated under any law to assume the
7 authority's obligations or liabilities, or take title to, or custody or
8 control of, the authority's assets.

9 (b) Upon the disposition of the liabilities of the authority and
10 distribution of any remaining assets, as applicable, the board of
11 supervisors shall rescind the ordinance that established the
12 authority, and the authority shall cease to exist. The board of
13 supervisors shall notify the State Department of Health Care
14 Services 30 days prior to the effective date of the dissolution, and
15 include in the notice whether the county intends for either or both,
16 or specified components of, the medical center or other operations
17 to be transferred to the county upon the effective date of dissolution
18 of the authority.

19 SEC. 4. The Legislature finds and declares that Section 3 of
20 this act, which adds Chapter 5.5 (commencing with Section
21 101852) to Part 4 of Division 101 of the Health and Safety Code,
22 imposes a limitation on the public's right of access to the meetings
23 of public bodies or the writings of public officials and agencies
24 within the meaning of Section 3 of Article I of the California
25 Constitution. Pursuant to that constitutional provision, the
26 Legislature makes the following findings to demonstrate the interest
27 protected by this limitation and the need for protecting that interest:

28 In order to enable the Kern County Hospital Authority to
29 successfully operate a delivery system that increases access to
30 health care in the community and proactively improves the quality
31 of patient care services and patient experience, it is imperative that
32 the authority's discussions, deliberative processes, writings, and
33 other communications pertaining to trade secrets or other strategic
34 planning actions, its rates of payments for providing or arranging
35 for health care services, and its peer review functions by which it
36 discharges its responsibility to evaluate and improve the quality
37 of care be protected as confidential information.

38 *SEC. 5. Section 1.5 of this bill incorporates amendments to*
39 *Section 31468 of the Government Code proposed by both this bill*
40 *and Senate Bill 673. It shall only become operative if (1) both bills*

- 1 *are enacted and become effective on or before January 1, 2015,*
- 2 *(2) each bill amends Section 31468 of the Government Code, and*
- 3 *(3) this bill is enacted after Senate Bill 673, in which case Section*
- 4 *1 of this bill shall not become operative.*

O