

AMENDED IN SENATE AUGUST 22, 2014

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2557

Introduced by Assembly Member Pan
(Principal coauthors: Assembly Members Campos and Williams)
(Coauthor: Assembly Member Dickinson)
(Coauthors: Senators Beall, Hill, and Steinberg)

February 21, 2014

An act to amend Section 130060 of the Health and Safety Code, relating to health ~~facilities~~ *facilities, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2557, as amended, Pan. Hospitals: seismic safety.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973.

Existing law requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes, except that the office may grant a 5-year extension under prescribed circumstances. Existing law also allows the office to grant an additional 2-year extension in specified circumstances.

This bill would clarify that a general acute care hospital building described above may be used for purposes other than nonacute care hospital purposes if an extension of the January 1, 2008, deadline has

been granted and, before the end of the extension, a replacement building has been constructed or a retrofit has been performed, as specified. The bill would authorize a hospital located in the County of Sacramento, San Mateo, or Santa Barbara or the City of San Jose that has received the additional 2-year extension to the January 2008 deadline pursuant to specified provisions to request an additional extension until September 1, 2015, to obtain either a certificate of occupancy for a replacement building or a construction final for a building on which a retrofit has been performed.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Sacramento, San Mateo, and Santa Barbara and the City of San Jose.

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

Vote: ~~majority~~^{2/3}. 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 130060 of the Health and Safety Code
- 2 is amended to read:
- 3 130060. (a) (1) After January 1, 2008, any general acute care
- 4 hospital building that is determined to be a potential risk of collapse
- 5 or pose significant loss of life shall only be used for nonacute care
- 6 hospital purposes, unless an extension of this deadline has been
- 7 granted and either of the following occurs before the end of the
- 8 extension:
- 9 (A) A replacement building has been constructed and a
- 10 certificate of occupancy has been granted by the office for the
- 11 replacement building.
- 12 (B) A retrofit has been performed on the building and a
- 13 construction final has been obtained by the office.
- 14 (2) An extension of the deadline may be granted by the office
- 15 upon a demonstration by the owner that compliance will result in
- 16 a loss of health care capacity that may not be provided by other
- 17 general acute care hospitals within a reasonable proximity. In its
- 18 request for an extension of the deadline, a hospital shall state why
- 19 the hospital is unable to comply with the January 1, 2008, deadline
- 20 requirement.

1 (3) Prior to granting an extension of the January 1, 2008,
2 deadline pursuant to this section, the office shall do all of the
3 following:

4 (A) Provide public notice of a hospital's request for an extension
5 of the deadline. The notice, at a minimum, shall be posted on the
6 office's Internet Web site, and shall include the facility's name
7 and identification number, the status of the request, and the
8 beginning and ending dates of the comment period, and shall advise
9 the public of the opportunity to submit public comments pursuant
10 to subparagraph (C). The office shall also provide notice of all
11 requests for the deadline extension directly to interested parties
12 upon request of the interested parties.

13 (B) Provide copies of extension requests to interested parties
14 within 10 working days to allow interested parties to review and
15 provide comment within the 45-day comment period. The copies
16 shall include those records that are available to the public pursuant
17 to the California Public Records Act (Chapter 3.5 (commencing
18 with Section 6250) of Division 7 of Title 1 of the Government
19 Code).

20 (C) Allow the public to submit written comments on the
21 extension proposal for a period of not less than 45 days from the
22 date of the public notice.

23 (b) (1) It is the intent of the Legislature, in enacting this
24 subdivision, to facilitate the process of having more hospital
25 buildings in substantial compliance with this chapter and to take
26 nonconforming general acute care hospital inpatient buildings out
27 of service more quickly.

28 (2) The functional contiguous grouping of hospital buildings of
29 a general acute care hospital, each of which provides, as the
30 primary source, one or more of the hospital's eight basic services
31 as specified in subdivision (a) of Section 1250, may receive a
32 five-year extension of the January 1, 2008, deadline specified in
33 subdivision (a) of this section pursuant to this subdivision for both
34 structural and nonstructural requirements. A functional contiguous
35 grouping refers to buildings containing one or more basic hospital
36 services that are either attached or connected in a way that is
37 acceptable to the State Department of Health Care Services. These
38 buildings may be either on the existing site or a new site.

39 (3) To receive the five-year extension, a single building
40 containing all of the basic services or at least one building within

1 the contiguous grouping of hospital buildings shall have obtained
2 a building permit prior to 1973 and this building shall be evaluated
3 and classified as a nonconforming, Structural Performance
4 Category-1 (SPC-1) building. The classification shall be submitted
5 to and accepted by the Office of Statewide Health Planning and
6 Development. The identified hospital building shall be exempt
7 from the requirement in subdivision (a) until January 1, 2013, if
8 the hospital agrees that the basic service or services that were
9 provided in that building shall be provided, on or before January
10 1, 2013, as follows:

11 (A) Moved into an existing conforming Structural Performance
12 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),
13 or Structural Performance Category-5 (SPC-5) and Non-Structural
14 Performance Category-4 (NPC-4) or Non-Structural Performance
15 Category-5 (NPC-5) building.

16 (B) Relocated to a newly built compliant SPC-5 and NPC-4 or
17 NPC-5 building.

18 (C) Continued in the building if the building is retrofitted to a
19 SPC-5 and NPC-4 or NPC-5 building.

20 (4) A five-year extension is also provided to a post-1973
21 building if the hospital owner informs the Office of Statewide
22 Health Planning and Development that the building is classified
23 as SPC-1, SPC-3, or SPC-4 and will be closed to general acute
24 care inpatient service use by January 1, 2013. The basic services
25 in the building shall be relocated into a SPC-5 and NPC-4 or NPC-5
26 building by January 1, 2013.

27 (5) SPC-1 buildings, other than the building identified in
28 paragraph (3) or (4), in the contiguous grouping of hospital
29 buildings shall also be exempt from the requirement in subdivision
30 (a) until January 1, 2013. However, on or before January 1, 2013,
31 at a minimum, each of these buildings shall be retrofitted to a
32 SPC-2 and NPC-3 building, or no longer be used for general acute
33 care hospital inpatient services.

34 (c) On or before March 1, 2001, the office shall establish a
35 schedule of interim work progress deadlines that hospitals shall
36 be required to meet to be eligible for the extension specified in
37 subdivision (b). To receive this extension, the hospital building or
38 buildings shall meet the year 2002 nonstructural requirements.

39 (d) A hospital building that is eligible for an extension pursuant
40 to this section shall meet the January 1, 2030, nonstructural and

1 structural deadline requirements if the building is to be used for
2 general acute care inpatient services after January 1, 2030.

3 (e) Upon compliance with subdivision (b), the hospital shall be
4 issued a written notice of compliance by the office. The office
5 shall send a written notice of violation to hospital owners that fail
6 to comply with this section. The office shall make copies of these
7 notices available on its Internet Web site.

8 (f) (1) A hospital that has received an extension of the January
9 1, 2008, deadline pursuant to subdivision (a) or (b) may request
10 an additional extension of up to two years for a hospital building
11 that it owns or operates and that meets the criteria specified in
12 paragraph (2), (3), or (5).

13 (2) The office may grant the additional extension if the hospital
14 building subject to the extension meets all of the following criteria:

15 (A) The hospital building is under construction at the time of
16 the request for extension under this subdivision and the purpose
17 of the construction is to meet the requirements of subdivision (a)
18 to allow the use of the building as a general acute care hospital
19 building after the extension deadline granted by the office pursuant
20 to subdivision (a) or (b).

21 (B) The hospital building plans were submitted to the office
22 and were deemed ready for review by the office at least four years
23 prior to the applicable deadline for the building. The hospital shall
24 indicate, upon submission of its plans, the SPC-1 building or
25 buildings that will be retrofitted or replaced to meet the
26 requirements of this section as a result of the project.

27 (C) The hospital received a building permit for the construction
28 described in subparagraph (A) at least two years prior to the
29 applicable deadline for the building.

30 (D) The hospital submitted a construction timeline at least two
31 years prior to the applicable deadline for the building demonstrating
32 the hospital's intent to meet the applicable deadline. The timeline
33 shall include all of the following:

- 34 (i) The projected construction start date.
- 35 (ii) The projected construction completion date.
- 36 (iii) Identification of the contractor.

37 (E) The hospital is making reasonable progress toward meeting
38 the timeline set forth in subparagraph (D), but factors beyond the
39 hospital's control make it impossible for the hospital to meet the
40 deadline.

1 (3) The office may grant the additional extension if the hospital
2 building subject to the extension meets all of the following criteria:
3 (A) The hospital building is owned by a health care district that
4 has, as owner, received the extension of the January 1, 2008,
5 deadline, but where the hospital is operated by an unaffiliated
6 third-party lessee pursuant to a facility lease that extends at least
7 through December 31, 2009. The district shall file a declaration
8 with the office with a request for an extension stating that, as of
9 the date of the filing, the district has lacked, and continues to lack,
10 unrestricted access to the subject hospital building for seismic
11 planning purposes during the term of the lease, and that the district
12 is under contract with the county to maintain hospital services
13 when the hospital comes under district control. The office shall
14 not grant the extension if an unaffiliated third-party lessee will
15 operate the hospital beyond December 31, 2010.
16 (B) The hospital building plans were submitted to the office
17 and were deemed ready for review by the office at least four years
18 prior to the applicable deadline for the building. The hospital shall
19 indicate, upon submission of its plans, the SPC-1 building or
20 buildings that will be retrofitted or replaced to meet the
21 requirements of this section as a result of the project.
22 (C) The hospital received a building permit for the construction
23 described in subparagraph (B) by December 31, 2011.
24 (D) The hospital submitted, by December 31, 2011, a
25 construction timeline for the building demonstrating the hospital's
26 intent and ability to meet the deadline of December 31, 2014. The
27 timeline shall include all of the following:
28 (i) The projected construction start date.
29 (ii) The projected construction completion date.
30 (iii) Identification of the contractor.
31 (E) The hospital building is under construction at the time of
32 the request for the extension, the purpose of the construction is to
33 meet the requirements of subdivision (a) to allow the use of the
34 building as a general acute care hospital building after the extension
35 deadline granted by the office pursuant to subdivision (a) or (b),
36 and the hospital is making reasonable progress toward meeting
37 the timeline set forth in subparagraph (D).
38 (F) The hospital granted an extension pursuant to this paragraph
39 shall submit an additional status report to the office, equivalent to

1 that required by subdivision (c) of Section 130061, no later than
2 June 30, 2013.

3 (4) An extension granted pursuant to paragraph (3) shall be
4 applicable only to the health care district applicant and its affiliated
5 hospital while the hospital is operated by the district or an entity
6 under the control of the district.

7 (5) The office may grant the additional extension if the hospital
8 building subject to the extension meets all of the following criteria:

9 (A) The hospital owner submitted to the office, prior to June
10 30, 2009, a request for review using current computer modeling
11 utilized by the office and based upon software developed by the
12 Federal Emergency Management Agency (FEMA), referred to as
13 Hazards US, and the building was deemed SPC-1 after that review.

14 (B) The hospital building plans for the building are submitted
15 to the office and deemed ready for review by the office prior to
16 July 1, 2010. The hospital shall indicate, upon submission of its
17 plans, the SPC-1 building or buildings that shall be retrofitted or
18 replaced to meet the requirements of this section as a result of the
19 project.

20 (C) The hospital receives a building permit from the office for
21 the construction described in subparagraph (B) prior to January 1,
22 2012.

23 (D) The hospital submits, prior to January 1, 2012, a
24 construction timeline for the building demonstrating the hospital's
25 intent and ability to meet the applicable deadline. The timeline
26 shall include all of the following:

- 27 (i) The projected construction start date.
- 28 (ii) The projected construction completion date.
- 29 (iii) Identification of the contractor.

30 (E) The hospital building is under construction at the time of
31 the request for the extension, the purpose of the construction is to
32 meet the requirements of subdivision (a) to allow the use of the
33 building as a general acute care hospital building after the extension
34 deadline granted by the office pursuant to subdivision (a) or (b),
35 and the hospital is making reasonable progress toward meeting
36 the timeline set forth in subparagraph (D).

37 (F) The hospital owner completes construction such that the
38 hospital meets all criteria to enable the office to issue a certificate
39 of occupancy by the applicable deadline for the building.

1 (6) A hospital located in the County of Sacramento, San Mateo,
2 or Santa Barbara or the City of San Jose that has received an
3 additional extension pursuant to paragraph (2) or (5) may request
4 an additional extension until September 1, 2015, to obtain either
5 a certificate of occupancy from the office for a replacement
6 building, or a construction final from the office for a building on
7 which a retrofit has been performed.

8 (7) A hospital denied an extension pursuant to this subdivision
9 may appeal the denial to the Hospital Building Safety Board.

10 (8) The office may revoke an extension granted pursuant to this
11 subdivision for any hospital building where the work of
12 construction is abandoned or suspended for a period of at least one
13 year, unless the hospital demonstrates in a public document that
14 the abandonment or suspension was caused by factors beyond its
15 control.

16 (g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and
17 Sections 130061.5 and 130064, a hospital that has received an
18 extension of the January 1, 2008, deadline pursuant to subdivision
19 (a) or (b) also may request an additional extension of up to seven
20 years for a hospital building that it owns or operates. The office
21 may grant the extension subject to the hospital meeting the
22 milestones set forth in paragraph (2).

23 (2) The hospital building subject to the extension shall meet all
24 of the following milestones, unless the hospital building is
25 reclassified as SPC-2 or higher as a result of its Hazards US score:

26 (A) The hospital owner submits to the office, no later than
27 September 30, 2012, a letter of intent stating whether it intends to
28 rebuild, replace, or retrofit the building, or remove all general acute
29 care beds and services from the building, and the amount of time
30 necessary to complete the construction.

31 (B) The hospital owner submits to the office, no later than
32 September 30, 2012, a schedule detailing why the requested
33 extension is necessary, and specifically how the hospital intends
34 to meet the requested deadline.

35 (C) The hospital owner submits to the office, no later than
36 September 30, 2012, an application ready for review seeking
37 structural reassessment of each of its SPC-1 buildings using current
38 computer modeling based upon software developed by FEMA,
39 referred to as Hazards US.

1 (D) The hospital owner submits to the office, no later than
2 January 1, 2015, plans ready for review consistent with the letter
3 of intent submitted pursuant to subparagraph (A) and the schedule
4 submitted pursuant to subparagraph (B).

5 (E) The hospital owner submits a financial report to the office
6 at the time the plans are submitted pursuant to subparagraph (D).
7 The report shall demonstrate the hospital owner's financial capacity
8 to implement the construction plans submitted pursuant to
9 subparagraph (D).

10 (F) The hospital owner receives a building permit consistent
11 with the letter of intent submitted pursuant to subparagraph (A)
12 and the schedule submitted pursuant to subparagraph (B), no later
13 than July 1, 2018.

14 (3) To evaluate public safety and determine whether to grant
15 an extension of the deadline, the office shall consider the structural
16 integrity of the hospital's SPC-1 buildings based on its Hazards
17 US scores, community access to essential hospital services, and
18 the hospital owner's financial capacity to meet the deadline as
19 determined by either a bond rating of BBB or below or the financial
20 report on the hospital owner's financial capacity submitted pursuant
21 to subparagraph (E) of paragraph (2). The criteria contained in this
22 paragraph shall be considered by the office in its determination of
23 the length of an extension or whether an extension should be
24 granted.

25 (4) The extension or subsequent adjustments granted pursuant
26 to this subdivision may not exceed the amount of time that is
27 reasonably necessary to complete the construction specified in
28 paragraph (2).

29 (5) If the circumstances underlying the request for extension
30 submitted to the office pursuant to paragraph (2) change, the
31 hospital owner shall notify the office as soon as practicable, but
32 in no event later than six months after the hospital owner
33 discovered the change of circumstances. The office may adjust the
34 length of the extension granted pursuant to paragraphs (2) and (3)
35 as necessary, but in no event longer than the period specified in
36 paragraph (1).

37 (6) A hospital denied an extension pursuant to this subdivision
38 may appeal the denial to the Hospital Building Safety Board.

39 (7) The office may revoke an extension granted pursuant to this
40 subdivision for any hospital building when it is determined that

1 any information submitted pursuant to this section was falsified,
2 or if the hospital failed to meet a milestone set forth in paragraph
3 (2), or where the work of construction is abandoned or suspended
4 for a period of at least six months, unless the hospital demonstrates
5 in a publicly available document that the abandonment or
6 suspension was caused by factors beyond its control.

7 (8) Regulatory submissions made by the office to the California
8 Building Standards Commission to implement this section shall
9 be deemed to be emergency regulations and shall be adopted as
10 emergency regulations.

11 (9) The hospital owner that applies for an extension pursuant
12 to this subdivision shall pay the office an additional fee, to be
13 determined by the office, sufficient to cover the additional
14 reasonable costs incurred by the office for maintaining the
15 additional reporting requirements established under this section,
16 including, but not limited to, the costs of reviewing and verifying
17 the extension documentation submitted pursuant to this subdivision.
18 This additional fee shall not include any cost for review of the
19 plans or other duties related to receiving a building or occupancy
20 permit.

21 (10) This subdivision shall become operative on the date that
22 the State Department of Health Care Services receives all necessary
23 federal approvals for a 2011–12 fiscal year hospital quality
24 assurance fee program that includes three hundred twenty million
25 dollars (\$320,000,000) in fee revenue to pay for health care
26 coverage for children, which is made available as a result of the
27 legislative enactment of a 2011–12 fiscal year hospital quality
28 assurance fee program.

29 SEC. 2. The Legislature finds and declares that a special law
30 is necessary and that a general law cannot be made applicable
31 within the meaning of Section 16 of Article IV of the California
32 Constitution because of the unique circumstances facing hospitals
33 in the Counties of Sacramento, San Mateo, and Santa Barbara and
34 the City of San Jose that are working on meeting seismic safety
35 building standards.

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

1 *To prevent the loss of hospital licensure, Medicaid and Medicare*
2 *funding, and eligibility for Federal Emergency Management*
3 *Agency assistance following a disaster that would lead to hospital*
4 *closures and loss of access to health care in these communities, it*
5 *is necessary for this act to take effect immediately.*

O