

ASSEMBLY BILL

No. 81

Introduced by Assembly Member Wood
(Principal coauthor: Senator McGuire)

January 5, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 81, as introduced, Wood. 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 provides that, after January 1, 2008, a general acute care hospital building that is determined to be a potential risk of collapse or to pose significant loss of life in the event of seismic activity 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 authorize a hospital located in the City of Willits 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 City of Willits.

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

Vote: 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.

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

24 (A) Provide public notice of a hospital’s request for an extension
25 of the deadline. The notice, at a minimum, shall be posted on the
26 office’s Internet Web site, and shall include the facility’s name
27 and identification number, the status of the request, and the
28 beginning and ending dates of the comment period, and shall advise
29 the public of the opportunity to submit public comments pursuant
30 to subparagraph (C). The office shall also provide notice of all

1 requests for the deadline extension directly to interested parties
2 upon request of the interested parties.

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

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

13 (b) (1) It is the intent of the Legislature, in enacting this
14 subdivision, to facilitate the process of having more hospital
15 buildings in substantial compliance with this chapter and to take
16 nonconforming general acute care hospital inpatient buildings out
17 of service more quickly.

18 (2) The functional contiguous grouping of hospital buildings of
19 a general acute care hospital, each of which provides, as the
20 primary source, one or more of the hospital's eight basic services
21 as specified in subdivision (a) of Section 1250, may receive a
22 five-year extension of the January 1, 2008, deadline specified in
23 subdivision (a) of this section pursuant to this subdivision for both
24 structural and nonstructural requirements. A functional contiguous
25 grouping refers to buildings containing one or more basic hospital
26 services that are either attached or connected in a way that is
27 acceptable to the State Department of Health Care Services. These
28 buildings may be either on the existing site or a new site.

29 (3) To receive the five-year extension, a single building
30 containing all of the basic services or at least one building within
31 the contiguous grouping of hospital buildings shall have obtained
32 a building permit prior to 1973 and this building shall be evaluated
33 and classified as a nonconforming, Structural Performance
34 Category-1 (SPC-1) building. The classification shall be submitted
35 to and accepted by the Office of Statewide Health Planning and
36 Development. The identified hospital building shall be exempt
37 from the requirement in subdivision (a) until January 1, 2013, if
38 the hospital agrees that the basic service or services that were
39 provided in that building shall be provided, on or before January
40 1, 2013, as follows:

1 (A) Moved into an existing conforming Structural Performance
2 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),
3 or Structural Performance Category-5 (SPC-5) and Non-Structural
4 Performance Category-4 (NPC-4) or Non-Structural Performance
5 Category-5 (NPC-5) building.

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

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

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

17 (5) SPC-1 buildings, other than the building identified in
18 paragraph (3) or (4), in the contiguous grouping of hospital
19 buildings shall also be exempt from the requirement in subdivision
20 (a) until January 1, 2013. However, on or before January 1, 2013,
21 at a minimum, each of these buildings shall be retrofitted to a
22 SPC-2 and NPC-3 building, or no longer be used for general acute
23 care hospital inpatient services.

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

29 (d) A hospital building that is eligible for an extension pursuant
30 to this section shall meet the January 1, 2030, nonstructural and
31 structural deadline requirements if the building is to be used for
32 general acute care inpatient services after January 1, 2030.

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

38 (f) (1) A hospital that has received an extension of the January
39 1, 2008, deadline pursuant to subdivision (a) or (b) may request
40 an additional extension of up to two years for a hospital building

1 that it owns or operates and that meets the criteria specified in
2 paragraph (2), (3), or (5).

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

5 (A) The hospital building is under construction at the time of
6 the request for extension under this subdivision and the purpose
7 of the construction is to meet the requirements of subdivision (a)
8 to allow the use of the building as a general acute care hospital
9 building after the extension deadline granted by the office pursuant
10 to subdivision (a) or (b).

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

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

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

24 (i) The projected construction start date.

25 (ii) The projected construction completion date.

26 (iii) Identification of the contractor.

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

31 (3) The office may grant the additional extension if the hospital
32 building subject to the extension meets all of the following criteria:

33 (A) The hospital building is owned by a health care district that
34 has, as owner, received the extension of the January 1, 2008,
35 deadline, but where the hospital is operated by an unaffiliated
36 third-party lessee pursuant to a facility lease that extends at least
37 through December 31, 2009. The district shall file a declaration
38 with the office with a request for an extension stating that, as of
39 the date of the filing, the district has lacked, and continues to lack,
40 unrestricted access to the subject hospital building for seismic

1 planning purposes during the term of the lease, and that the district
2 is under contract with the county to maintain hospital services
3 when the hospital comes under district control. The office shall
4 not grant the extension if an unaffiliated third-party lessee will
5 operate the hospital beyond December 31, 2010.

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

12 (C) The hospital received a building permit for the construction
13 described in subparagraph (B) by December 31, 2011.

14 (D) The hospital submitted, by December 31, 2011, a
15 construction timeline for the building demonstrating the hospital’s
16 intent and ability to meet the deadline of December 31, 2014. The
17 timeline shall include all of the following:

- 18 (i) The projected construction start date.
- 19 (ii) The projected construction completion date.
- 20 (iii) Identification of the contractor.

21 (E) The hospital building is under construction at the time of
22 the request for the extension, the purpose of the construction is to
23 meet the requirements of subdivision (a) to allow the use of the
24 building as a general acute care hospital building after the extension
25 deadline granted by the office pursuant to subdivision (a) or (b),
26 and the hospital is making reasonable progress toward meeting
27 the timeline set forth in subparagraph (D).

28 (F) The hospital granted an extension pursuant to this paragraph
29 shall submit an additional status report to the office, equivalent to
30 that required by subdivision (c) of Section 130061, no later than
31 June 30, 2013.

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

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

38 (A) The hospital owner submitted to the office, prior to June
39 30, 2009, a request for review using current computer modeling
40 utilized by the office and based upon software developed by the

1 Federal Emergency Management Agency (FEMA), referred to as
2 Hazards US, and the building was deemed SPC-1 after that review.

3 (B) The hospital building plans for the building are submitted
4 to the office and deemed ready for review by the office prior to
5 July 1, 2010. The hospital shall indicate, upon submission of its
6 plans, the SPC-1 building or buildings that shall be retrofitted or
7 replaced to meet the requirements of this section as a result of the
8 project.

9 (C) The hospital receives a building permit from the office for
10 the construction described in subparagraph (B) prior to January 1,
11 2012.

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

- 16 (i) The projected construction start date.
- 17 (ii) The projected construction completion date.
- 18 (iii) Identification of the contractor.

19 (E) The hospital building is under construction at the time of
20 the request for the extension, the purpose of the construction is to
21 meet the requirements of subdivision (a) to allow the use of the
22 building as a general acute care hospital building after the extension
23 deadline granted by the office pursuant to subdivision (a) or (b),
24 and the hospital is making reasonable progress toward meeting
25 the timeline set forth in subparagraph (D).

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

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

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

38 (8) The office may revoke an extension granted pursuant to this
39 subdivision for any hospital building where the work of
40 construction is abandoned or suspended for a period of at least one

1 year, unless the hospital demonstrates in a public document that
2 the abandonment or suspension was caused by factors beyond its
3 control.

4 (g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and
5 Sections 130061.5 and 130064, a hospital that has received an
6 extension of the January 1, 2008, deadline pursuant to subdivision
7 (a) or (b) also may request an additional extension of up to seven
8 years for a hospital building that it owns or operates. The office
9 may grant the extension subject to the hospital meeting the
10 milestones set forth in paragraph (2).

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

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

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

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

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

32 (E) The hospital owner submits a financial report to the office
33 at the time the plans are submitted pursuant to subparagraph (D).
34 The report shall demonstrate the hospital owner's financial capacity
35 to implement the construction plans submitted pursuant to
36 subparagraph (D).

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

1 (3) To evaluate public safety and determine whether to grant
2 an extension of the deadline, the office shall consider the structural
3 integrity of the hospital's SPC-1 buildings based on its Hazards
4 US scores, community access to essential hospital services, and
5 the hospital owner's financial capacity to meet the deadline as
6 determined by either a bond rating of BBB or below or the financial
7 report on the hospital owner's financial capacity submitted pursuant
8 to subparagraph (E) of paragraph (2). The criteria contained in this
9 paragraph shall be considered by the office in its determination of
10 the length of an extension or whether an extension should be
11 granted.

12 (4) The extension or subsequent adjustments granted pursuant
13 to this subdivision may not exceed the amount of time that is
14 reasonably necessary to complete the construction specified in
15 paragraph (2).

16 (5) If the circumstances underlying the request for extension
17 submitted to the office pursuant to paragraph (2) change, the
18 hospital owner shall notify the office as soon as practicable, but
19 in no event later than six months after the hospital owner
20 discovered the change of circumstances. The office may adjust the
21 length of the extension granted pursuant to paragraphs (2) and (3)
22 as necessary, but in no event longer than the period specified in
23 paragraph (1).

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

26 (7) The office may revoke an extension granted pursuant to this
27 subdivision for any hospital building when it is determined that
28 any information submitted pursuant to this section was falsified,
29 or if the hospital failed to meet a milestone set forth in paragraph
30 (2), or where the work of construction is abandoned or suspended
31 for a period of at least six months, unless the hospital demonstrates
32 in a publicly available document that the abandonment or
33 suspension was caused by factors beyond its control.

34 (8) Regulatory submissions made by the office to the California
35 Building Standards Commission to implement this section shall
36 be deemed to be emergency regulations and shall be adopted as
37 emergency regulations.

38 (9) The hospital owner that applies for an extension pursuant
39 to this subdivision shall pay the office an additional fee, to be
40 determined by the office, sufficient to cover the additional

1 reasonable costs incurred by the office for maintaining the
2 additional reporting requirements established under this section,
3 including, but not limited to, the costs of reviewing and verifying
4 the extension documentation submitted pursuant to this subdivision.
5 This additional fee shall not include any cost for review of the
6 plans or other duties related to receiving a building or occupancy
7 permit.

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

16 SEC. 2. The Legislature finds and declares that a special law
17 is necessary and that a general law cannot be made applicable
18 within the meaning of Section 16 of Article IV of the California
19 Constitution because of the unique circumstances facing hospitals
20 in the City of Willits that are working on meeting seismic safety
21 and building standards.

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

26 To prevent the loss of hospital licensure, Medicaid and Medicare
27 funding, and eligibility for Federal Emergency Management
28 Agency assistance following a disaster that would lead to hospital
29 closures and loss of access to health care in the City of Willits, it
30 is necessary for this act to take effect immediately.