

AMENDED IN ASSEMBLY AUGUST 19, 2015

AMENDED IN SENATE MARCH 18, 2015

**SENATE BILL**

**No. 138**

**Introduced by Senator Fuller**

**(Coauthor: Senator Bates)**

**(Coauthors: Assembly Members Bigelow and Grove)**

January 26, 2015

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~~An act to amend Section 51222 of, and to add Section 51247 to, the Education Code, relating to physical education. An act to amend Section 130060 of the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 138, as amended, Fuller. ~~Physical education: exemption: high school rodeo. 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 authorizes the office to grant an additional 2-year extension in specified circumstances.*

*This bill would authorize a critical access hospital located in the City of Tehachapi to resubmit to the office its application for an extension to January 1, 2020, as specified.*

~~Existing law requires a pupil to attend the courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays unless the pupil is excused or exempted from that requirement.~~

~~This bill would authorize the governing board of a school district to exempt a 4-year or senior high school pupil from attending courses of physical education if the pupil is engaged in high school rodeo after regular school hours. The bill would also make a conforming change, correct cross-references, and make nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 is*  
2     *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

1 and identification number, the status of the request, and the  
2 beginning and ending dates of the comment period, and shall advise  
3 the public of the opportunity to submit public comments pursuant  
4 to subparagraph (C). The office shall also provide notice of all  
5 requests for the deadline extension directly to interested parties  
6 upon request of the interested parties.

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

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

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

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

33 (3) To receive the five-year extension, a single building  
34 containing all of the basic services or at least one building within  
35 the contiguous grouping of hospital buildings shall have obtained  
36 a building permit prior to 1973 and this building shall be evaluated  
37 and classified as a nonconforming, Structural Performance  
38 Category-1 (SPC-1) building. The classification shall be submitted  
39 to and accepted by the Office of Statewide Health Planning and  
40 Development. The identified hospital building shall be exempt

1 from the requirement in subdivision (a) until January 1, 2013, if  
2 the hospital agrees that the basic service or services that were  
3 provided in that building shall be provided, on or before January  
4 1, 2013, as follows:

5 (A) Moved into an existing conforming Structural Performance  
6 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),  
7 or Structural Performance Category-5 (SPC-5) and Non-Structural  
8 Performance Category-4 (NPC-4) or Non-Structural Performance  
9 Category-5 (NPC-5) building.

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

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

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

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

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

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

37 (e) Upon compliance with subdivision (b), the hospital shall be  
38 issued a written notice of compliance by the office. The office  
39 shall send a written notice of violation to hospital owners that fail

1 to comply with this section. The office shall make copies of these  
2 notices available on its Internet Web site.

3 (f) (1) A hospital that has received an extension of the January  
4 1, 2008, deadline pursuant to subdivision (a) or (b) may request  
5 an additional extension of up to two years for a hospital building  
6 that it owns or operates and that meets the criteria specified in  
7 paragraph (2), (3), or (5).

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

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

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 (A) at least two years prior to the  
24 applicable deadline for the building.

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

29 (i) The projected construction start date.

30 (ii) The projected construction completion date.

31 (iii) Identification of the contractor.

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

36 (3) 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 building is owned by a health care district that  
39 has, as owner, received the extension of the January 1, 2008,  
40 deadline, but where the hospital is operated by an unaffiliated

1 third-party lessee pursuant to a facility lease that extends at least  
2 through December 31, 2009. The district shall file a declaration  
3 with the office with a request for an extension stating that, as of  
4 the date of the filing, the district has lacked, and continues to lack,  
5 unrestricted access to the subject hospital building for seismic  
6 planning purposes during the term of the lease, and that the district  
7 is under contract with the county to maintain hospital services  
8 when the hospital comes under district control. The office shall  
9 not grant the extension if an unaffiliated third-party lessee will  
10 operate the hospital beyond December 31, 2010.

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 (B) by December 31, 2011.

19 (D) The hospital submitted, by December 31, 2011, a  
20 construction timeline for the building demonstrating the hospital's  
21 intent and ability to meet the deadline of December 31, 2014. The  
22 timeline shall include all of the following:

- 23 (i) The projected construction start date.
- 24 (ii) The projected construction completion date.
- 25 (iii) Identification of the contractor.

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

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

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

1 (5) 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 owner submitted to the office, prior to June  
4 30, 2009, a request for review using current computer modeling  
5 utilized by the office and based upon software developed by the  
6 Federal Emergency Management Agency (FEMA), referred to as  
7 Hazards US, and the building was deemed SPC-1 after that review.

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

14 (C) The hospital receives a building permit from the office for  
15 the construction described in subparagraph (B) prior to January 1,  
16 2012.

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

21 (i) The projected construction start date.

22 (ii) The projected construction completion date.

23 (iii) Identification of the contractor.

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

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

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

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

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

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

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

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

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

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

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

37 (E) The hospital owner submits a financial report to the office  
38 at the time the plans are submitted pursuant to subparagraph (D).  
39 The report shall demonstrate the hospital owner's financial capacity



1 to implement the construction plans submitted pursuant to  
2 subparagraph (D).

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

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

18 (4) The extension or subsequent adjustments granted pursuant  
19 to this subdivision may not exceed the amount of time that is  
20 reasonably necessary to complete the construction specified in  
21 paragraph (2).

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

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

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

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

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

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

*(h) Notwithstanding any other law, a critical access hospital located in the City of Tehachapi may resubmit its seismic safety extension application to the office for a Hazards US assessment to achieve SPC-2 status, if the application's original January 1, 2020, deadline to reach SPC-2 status is not extended. The resubmitted application shall include a timetable to achieve the January 1, 2020, deadline that is acceptable to the office.*

~~SECTION 1. Section 51222 of the Education Code is amended to read:~~

~~51222. (a) All pupils, except pupils excused or exempted pursuant to Section 51241, 51242, 51246, or 51247, shall be required to attend courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays. A pupil may be excused from physical education classes during one of grades 10 to 12, inclusive, for not to exceed 24 hours in order to participate in automobile driver training. A pupil who is excused from physical education classes to enroll in automobile driver~~

1 ~~training shall attend a minimum of 7,000 minutes of physical~~  
2 ~~education instruction during the school year.~~

3 ~~(b) The governing board of a school district that maintains a~~  
4 ~~high school and that elects to exempt pupils from required~~  
5 ~~attendance in physical education courses pursuant to paragraph~~  
6 ~~(1) or (2) or both of subdivision (b) of Section 51241 shall offer~~  
7 ~~those exempted pupils a variety of elective physical education~~  
8 ~~courses of not less than 400 minutes each 10 schooldays.~~

9 ~~SEC. 2. Section 51247 is added to the Education Code, to read:~~

10 ~~51247. The governing board of a school district may exempt~~  
11 ~~a four-year or senior high school pupil from attending courses of~~  
12 ~~physical education if the pupil is engaged in high school rodeo~~  
13 ~~carried on wholly or partially after regular school hours.~~