

AMENDED IN SENATE JUNE 24, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 523

Introduced by Assembly Member Huffman

February 25, 2009

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 523, as amended, Huffman. 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 authorizes the office to assess an application fee for the review of facilities design and construction, and requires that full and complete plans be submitted to the office for review and approval.

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 to the January 2008 deadline in specified circumstances.

This bill would also allow the office to grant the additional 2-year extension for a hospital building that, *among other requirements*, is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but where the hospital is operated by

an unaffiliated 3rd party lessee pursuant to a facility lease that extends at least through December 31, 2009, if the health care district requests the additional extension by March 1, 2010. This bill would require the district to file a declaration stating specified information as a condition for receiving the extension. This bill would prohibit the office from granting the extension if an unaffiliated 3rd party lessee will operate the hospital beyond December 31, 2010, and would make the extension applicable only while the hospital is operated by the district or an entity affiliated with the district.

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

Vote: $\frac{2}{3}$. 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. A delay in this deadline may be granted by the
7 office upon a demonstration by the owner that compliance will
8 result in a loss of health care capacity that may not be provided
9 by other general acute care hospitals within a reasonable proximity.
10 In its request for an extension of the deadline, a hospital shall state
11 why the hospital is unable to comply with the January 1, 2008,
12 deadline requirement.

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

16 (A) Provide public notice of a hospital's request for an extension
17 of the deadline. The notice, at a minimum, shall be posted on the
18 office's Internet Web site, and shall include the facility's name
19 and identification number, the status of the request, and the
20 beginning and ending dates of the comment period, and shall advise
21 the public of the opportunity to submit public comments pursuant
22 to subparagraph (C). The office shall also provide notice of all
23 requests for the deadline extension directly to interested parties
24 upon request of the interested parties.

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

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

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

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

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

38 (A) Moved into an existing conforming Structural Performance
39 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),
40 or Structural Performance Category-5 (SPC-5) and Non-Structural

1 Performance Category-4 (NPC-4) or Non-Structural Performance
2 Category-5 (NPC-5) building.

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

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

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

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

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

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

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

35 (f) (1) A hospital that has received an extension of the January
36 1, 2008, deadline pursuant to subdivisions (a) or (b) may request
37 an additional extension of up to two years for a hospital building
38 that it owns or operates and that meets the criteria specified in
39 paragraph (2) or (3).

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

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

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

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

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

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

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

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

(A) The hospital building is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but where the hospital is operated by an unaffiliated third party lessee pursuant to a facility lease that extends at least through December 31, 2009, and the health care district has requested an extension of the deadline by March 1, 2010. The through December 31, 2009. The district shall file a declaration with the office with this request a request for an extension stating that, as of the date of the filing, the district has lacked, and continues to lack,

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

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

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

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

19 *(i) The projected construction start date.*

20 *(ii) The projected construction completion date.*

21 *(iii) Identification of the contractor.*

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

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

33 ~~(4) Any extension granted pursuant to this paragraph~~
34 ~~(3) shall be applicable only to the health care district applicant and~~
35 ~~its affiliated hospital while the hospital is operated by the district~~
36 ~~or an entity affiliated with the district.~~

37 ~~(4)~~

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

40 ~~(5)~~

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

7 *SEC. 2. The Legislature intends the amendments to Section*
8 *130060 of the Health and Safety Code made by this act to affirm*
9 *the hospital seismic deadlines contained in Section 130060 and*
10 *provide a one-time extension of the deadlines that is designed to*
11 *address the unique needs of Marin General Hospital.*

12 ~~SEC. 2.~~

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

17 Patients will be denied access to critical health care services in
18 areas where the serving hospital is unable to meet seismic retrofit
19 guidelines and where that hospital is unable to qualify for an
20 extension of those guidelines. This measure allows safety-net
21 hospitals to continue to provide vital services in their community.