

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 24, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 523

Introduced by Assembly Member Huffman
(Principal coauthor: Senator Leno)

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~~ *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~~ *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~~ *under the control* of 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

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

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

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

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

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

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

1 provided in that building shall be provided, on or before January
2 1, 2013, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (D) The hospital submitted a construction timeline at least two
24 years prior to the applicable deadline for the building demonstrating
25 the hospital's intent 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 is making reasonable progress toward meeting
31 the timeline set forth in subparagraph (D), but factors beyond the
32 hospital's control make it impossible for the hospital to meet the
33 deadline.

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

36 (A) The hospital building is owned by a health care district that
37 has, as owner, received the extension of the January 1, 2008,
38 deadline, but where the hospital is operated by an unaffiliated ~~third~~
39 ~~party~~ *third-party* lessee pursuant to a facility lease that extends at
40 least through December 31, 2009. The district shall file a

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

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

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

18 (D) The hospital submitted ~~a construction timeline by December~~
19 ~~31, 2011,~~ *by December 31, 2011, a construction timeline* for the
20 building demonstrating the hospital's intent and ability to meet
21 the deadline of December 31, 2014. The timeline shall include all
22 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) ~~Any~~ An extension granted pursuant to paragraph (3) shall
38 be applicable only to the health care district applicant and its
39 affiliated hospital while the hospital is operated by the district or
40 an entity ~~affiliated with~~ *under the control of* the district.

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

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

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

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