

ASSEMBLY BILL

No. 2591

Introduced by Assembly Member O'Donnell

February 15, 2018

An act to amend Section 130060 of the Health and Safety Code, relating to hospitals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2591, as introduced, O'Donnell. Acute care 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 specified extension under prescribed circumstances.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
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:

1 130060. (a) (1) After January 1, 2008, a general acute care
2 hospital building that is determined to be a potential risk of collapse
3 or pose significant loss of life shall only be used for nonacute care
4 hospital purposes, unless an extension of this deadline has been
5 granted and either of the following occurs before the end of the
6 extension:

7 (A) A replacement building has been constructed and a
8 certificate of occupancy has been granted by the office for the
9 replacement building.

10 (B) A retrofit has been performed on the building and a
11 construction final has been obtained by the office.

12 (2) An extension of the deadline may be granted by the office
13 upon a demonstration by the owner that compliance will result in
14 a loss of health care capacity that may not be provided by other
15 general acute care hospitals within a reasonable proximity. In its
16 request for an extension of the deadline, a hospital shall state why
17 the hospital is unable to comply with the January 1, 2008, deadline
18 requirement.

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

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

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

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

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

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

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

29 (A) Moved into an existing conforming Structural Performance
30 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),
31 or Structural Performance Category-5 (SPC-5) and Non-Structural
32 Performance Category-4 (NPC-4) or Non-Structural Performance
33 Category-5 (NPC-5) building.

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

36 (C) Continued in the ~~building~~ *building*, if the building is
37 retrofitted to an SPC-5 and NPC-4 or NPC-5 building.

38 (4) A five-year extension is also provided to a post-1973
39 building if the hospital owner informs the Office of Statewide
40 Health Planning and Development that the building is classified

1 as SPC-1, SPC-3, or SPC-4 and will be closed to general acute
2 care inpatient service use by January 1, 2013. The basic services
3 in the building shall be relocated into an SPC-5 and NPC-4 or
4 NPC-5 building by January 1, 2013.

5 (5) SPC-1 buildings, other than the building identified in
6 paragraph (3) or (4), in the contiguous grouping of hospital
7 buildings shall also be exempt from the requirement in subdivision
8 (a) until January 1, 2013. However, on or before January 1, 2013,
9 at a minimum, each of these buildings shall be retrofitted to an
10 SPC-2 and NPC-3 building, or no longer be used for general acute
11 care hospital inpatient services.

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

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

21 (e) Upon compliance with subdivision (b), the hospital shall be
22 issued a written notice of compliance by the office. The office
23 shall send a written notice of violation to hospital owners that fail
24 to comply with this section. The office shall make ~~copies~~ a copy
25 of these notices available on its Internet Web site.

26 (f) (1) A hospital that has received an extension of the January
27 1, 2008, deadline pursuant to subdivision (a) or (b) may request
28 an additional extension of up to two years for a hospital building
29 that it owns or operates and that meets the criteria specified in
30 paragraph (2), (3), or (5).

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

39 (B) The hospital building plans were submitted to the office
40 and were deemed ready for review by the office at least four years

1 prior to the applicable deadline for the building. The hospital shall
2 indicate, upon submission of its plans, the SPC-1 building or
3 buildings that will be retrofitted or replaced to meet the
4 requirements of this section as a result of the project.

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

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

- 12 (i) The projected construction start date.
- 13 (ii) The projected construction completion date.
- 14 (iii) Identification of the contractor.

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

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

21 (A) The hospital building is owned by a health care district that
22 has, as owner, received the extension of the January 1, 2008,
23 deadline, but where the hospital is operated by an unaffiliated
24 third-party lessee pursuant to a facility lease that extends at least
25 through December 31, 2009. The district shall file a declaration
26 with the office with a request for an extension stating that, as of
27 the date of the filing, the district has lacked, and continues to lack,
28 unrestricted access to the subject hospital building for seismic
29 planning purposes during the term of the lease, and that the district
30 is under contract with the county to maintain hospital services
31 when the hospital comes under district control. The office shall
32 not grant the extension if an unaffiliated third-party lessee will
33 operate the hospital beyond December 31, 2010.

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

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

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

7 (i) The projected construction start date.
8 (ii) The projected construction completion date.
9 (iii) Identification of the contractor.

10 (E) The hospital building is under construction at the time of
11 the request for the extension, the purpose of the construction is to
12 meet the requirements of subdivision (a) to allow the use of the
13 building as a general acute care hospital building after the extension
14 deadline granted by the office pursuant to subdivision (a) or (b),
15 and the hospital is making reasonable progress toward meeting
16 the timeline set forth in subparagraph (D).

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

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

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

27 (A) The hospital owner submitted to the office, prior to June
28 30, 2009, a request for review using current computer modeling
29 utilized by the office and based upon software developed by the
30 Federal Emergency Management Agency (FEMA), referred to as
31 Hazards US, and the building was deemed SPC-1 after that review.

32 (B) The hospital building plans for the building are submitted
33 to the office and deemed ready for review by the office prior to
34 July 1, 2010. The hospital shall indicate, upon submission of its
35 plans, the SPC-1 building or buildings that shall be retrofitted or
36 replaced to meet the requirements of this section as a result of the
37 project.

38 (C) The hospital receives a building permit from the office for
39 the construction described in subparagraph (B) prior to January 1,
40 2012.

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

- 5 (i) The projected construction start date.
- 6 (ii) The projected construction completion date.
- 7 (iii) Identification of the contractor.

8 (E) The hospital building is under construction at the time of
9 the request for the extension, the purpose of the construction is to
10 meet the requirements of subdivision (a) to allow the use of the
11 building as a general acute care hospital building after the extension
12 deadline granted by the office pursuant to subdivision (a) or (b),
13 and the hospital is making reasonable progress toward meeting
14 the timeline set forth in subparagraph (D).

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

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

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

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

33 (g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and
34 Sections 130061.5 and 130064, a hospital that has received an
35 extension of the January 1, 2008, deadline pursuant to subdivision
36 (a) or (b) also may request an additional extension of up to seven
37 years for a hospital building that it owns or operates. The office
38 may grant the extension subject to the hospital meeting the
39 milestones set forth in paragraph (2).

1 (2) The hospital building subject to the extension shall meet all
2 of the following milestones, unless the hospital building is
3 reclassified as SPC-2 or higher as a result of its Hazards US score:
4 (A) The hospital owner submits to the office, no later than
5 September 30, 2012, a letter of intent stating whether it intends to
6 rebuild, replace, or retrofit the building, or remove all general acute
7 care beds and services from the building, and the amount of time
8 necessary to complete the construction.
9 (B) The hospital owner submits to the office, no later than
10 September 30, 2012, a schedule detailing why the requested
11 extension is necessary, and specifically how the hospital intends
12 to meet the requested deadline.
13 (C) The hospital owner submits to the office, no later than
14 September 30, 2012, an application ready for review seeking
15 structural reassessment of each of its SPC-1 buildings using current
16 computer modeling based upon software developed by FEMA,
17 referred to as Hazards US.
18 (D) The hospital owner submits to the office, no later than
19 January 1, 2015, plans ready for review consistent with the letter
20 of intent submitted pursuant to subparagraph (A) and the schedule
21 submitted pursuant to subparagraph (B).
22 (E) The hospital owner submits a financial report to the office
23 at the time the plans are submitted pursuant to subparagraph (D).
24 The report shall demonstrate the hospital owner’s financial capacity
25 to implement the construction plans submitted pursuant to
26 subparagraph (D).
27 (F) The hospital owner receives a building permit consistent
28 with the letter of intent submitted pursuant to subparagraph (A)
29 and the schedule submitted pursuant to subparagraph (B), no later
30 than July 1, 2018.
31 (3) To evaluate public safety and determine whether to grant
32 an extension of the deadline, the office shall consider the structural
33 integrity of the hospital’s SPC-1 buildings based on its Hazards
34 US scores, community access to essential hospital services, and
35 the hospital owner’s financial capacity to meet the deadline as
36 determined by either a bond rating of BBB or below or the financial
37 report on the hospital owner’s financial capacity submitted pursuant
38 to subparagraph (E) of paragraph (2). The criteria contained in this
39 paragraph shall be considered by the office in its determination of

1 ~~the length of an extension or whether an extension should be~~
2 ~~granted.~~ *granted and the length of the extension.*

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

7 (5) If the circumstances underlying the request for extension
8 submitted to the office pursuant to paragraph (2) change, the
9 hospital owner shall notify the office as soon as practicable, but
10 in no event later than six months after the hospital owner
11 discovered the change of circumstances. The office may adjust the
12 length of the extension granted pursuant to paragraphs (2) and (3)
13 as necessary, but in no event longer than the period specified in
14 paragraph (1).

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

17 (7) The office may revoke an extension granted pursuant to this
18 subdivision ~~for any~~ *a* hospital building when it is determined that
19 any information submitted pursuant to this section was falsified,
20 ~~or if~~ the hospital failed to meet a milestone set forth in paragraph
21 (2), or where the work of construction is abandoned or suspended
22 for a period of at least six months, unless the hospital demonstrates
23 in a publicly available document that the abandonment or
24 suspension was caused by factors beyond its control.

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

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

39 (10) This subdivision shall become operative on the date that
40 the State Department of Health Care Services receives all necessary

1 federal approvals for a 2011–12 fiscal year hospital quality
2 assurance fee program that includes three hundred twenty million
3 dollars (\$320,000,000) in fee revenue to pay for health care
4 coverage for children, which is made available as a result of the
5 legislative enactment of a 2011–12 fiscal year hospital quality
6 assurance fee program.

7 (h) A critical access hospital located in the City of Tehachapi
8 may submit a seismic safety extension application pursuant to
9 subdivision (g), notwithstanding deadlines in that subdivision that
10 are earlier than the effective date of the act that added this
11 subdivision. The submitted application shall include a timetable
12 as required pursuant to subdivision (g).

13 (i) (1) A hospital located in the Tarzana neighborhood of the
14 City of Los Angeles that has received extensions pursuant to
15 subdivisions (b) and (g) may request an additional extension for
16 a single building until October 1, 2022, in order to obtain a
17 certificate of occupancy from the office for a replacement building.

18 (2) The hospital owner seeking the extension shall submit a
19 written request that includes a timeline specifying how the hospital
20 intends to meet the new deadline, including the construction
21 document submission dates. The following timeline shall be met
22 for construction document submissions:

23 (A) No later than January 1, 2018, the hospital owner shall
24 submit construction documents, deemed ready for review, related
25 to the first final review of the second increment with information
26 including the building core and shell of the hospital. Failure to
27 submit the construction documents by January 1, 2018, shall result
28 in the assessment of a fine of five thousand dollars (\$5,000) per
29 calendar day until the documents are submitted.

30 (B) No later than March 1, 2018, the hospital owner shall submit
31 construction documents, deemed ready for review, related to the
32 first final review of the first increment with information including
33 the structural foundation, frame, and underslab utilities of the
34 hospital. Failure to submit the construction documents by March
35 1, 2018, shall result in the assessment of a fine of five thousand
36 dollars (\$5,000) per calendar day until the documents are
37 submitted.

38 (C) No later than September 1, 2018, the hospital owner shall
39 submit construction documents, deemed ready for review, related
40 to the first final review of the third increment with information on

1 the build-out of the hospital. Failure to submit the construction
2 documents by September 1, 2018, shall result in the assessment
3 of a fine of five thousand dollars (\$5,000) per calendar day until
4 the documents are submitted.

5 (D) No later than November 1, 2018, the hospital owner shall
6 submit construction documents, deemed ready for review, related
7 to the first final review of the fourth increment with information
8 on the seismic support and anchorage of the hospital. Failure to
9 submit the construction documents by November 1, 2018, shall
10 result in the assessment of a fine of five thousand dollars (\$5,000)
11 per calendar day until the documents are submitted.

12 (E) The hospital owner may submit a written request to the
13 office seeking an extension of the deadlines set forth in
14 subparagraphs (A), (B), (C), and (D). The written request shall
15 state with specificity the reason for the request and how the reason
16 preventing compliance with the deadlines was outside of the control
17 of the hospital owner. After review of the request for extension,
18 the office may grant the request for a period of time not to exceed
19 30 calendar days. If the office grants the request for an extension,
20 no fine shall accrue or be imposed during the extension period.

21 (3) Notwithstanding any other law, ~~any~~ fines assessed pursuant
22 to paragraph (2) shall be deposited into the General Fund following
23 a determination on appeal, if any. A hospital assessed a fine
24 pursuant to this subdivision may appeal the assessment to the
25 Hospital Building Safety Board, provided the hospital posts the
26 funds for any fines to be held by the office pending the resolution
27 of the appeal.

28 (4) The office shall not issue a certificate of occupancy for the
29 single replacement building until ~~such time as~~ all assessed fines
30 accrued pursuant to paragraph (2) have been paid in full, or, if an
31 appeal is pending, have been posted subject to resolution of an
32 appeal. Fines deposited by the hospital pursuant to paragraph (3)
33 shall be considered paid in full for purposes of issuing a certificate
34 of occupancy pursuant to this paragraph. This paragraph is in
35 addition to, and is not intended to supersede, any other
36 requirements that must be met by the hospital for issuance by the
37 office of a certificate of occupancy.

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