

## Office of Statewide Health Planning & Development

### BUDGET NO. 4140

### Report NO. 1

Section 2 of Chapter 642 of the Statutes of 2007

References both HSC 129890 and is HSC 130061.5. Operative section is HSC 130061.5, for which is put code text below. Ran reports on all three.

Operative section from bill: SB 306 from 2007: SEC. 2: The Office of Statewide Health Planning and Development shall prepare and provide a report to the Legislature prior to April 1, 2008, that details how the field review and approval process referenced in Section 129890 of the Health and Safety Code will be implemented without undue delay. The Office of Statewide Health Planning and Development shall prepare and provide a report to the Legislature prior to April 1, 2008, that details how the field review and approval process referenced in Section 129890 of the Health and Safety Code will be implemented without undue delay.

## HEALTH AND SAFETY CODE

### DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT [127000. - 130070.]

*( Division 107 added by Stats. 1995, Ch. 415, Sec. 9. )*

### PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675. - 130070.]

*( Part 7 added by Stats. 1995, Ch. 415, Sec. 9. )*

### CHAPTER 1. Health Facilities [129675. - 130070.]

*( Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9. )*

### ARTICLE 9. Hospital Owner Responsibilities [130050. - 130070.]

*( Article 9 added by Stats. 1995, Ch. 415, Sec. 9. )*

### 130061.5.

(a) The Legislature finds and declares the following:

(1) By enacting this section, the Legislature reinforces its commitment to ensuring the seismic safety of hospitals in California. In order to meet that commitment, this section provides a mechanism for hospitals that lack the financial capacity to retrofit Structural Performance Category-1 (SPC-1) buildings by 2013 to, instead, redirect available capital and borrowing capacity to replace those building by 2020. The mechanism is intended to allow these hospitals to meet the seismic requirements, and provide state agencies and the public with more timely and detailed information about the progress these hospitals are making toward seismic safety compliance.

(2) This section requires hospitals seeking this assistance to demonstrate that their financial condition does not allow them to retrofit these buildings by 2013, and requires them to meet specified benchmarks in order to be eligible for the extended timelines set forth in this section. Failure to meet any of these benchmarks shall result in the hospital being noncompliant and subject the hospital to loss of licensure.

(3) It is the intent of the Legislature to ensure the continuation of services in medically underserved communities in which the closure of the hospital would have significant negative impacts on access to health care services in the community.

(4) It is also the intent of the Legislature that this section be implemented very narrowly to target only facilities that are essential providers in underserved communities and that lack the financial capacity to retrofit SPC-1 buildings by 2013.

(b) A hospital owner may meet the requirements of subdivision (a) of Section 130060 by replacing all of its buildings subject to that subdivision by January 1, 2020, if it meets all of the following conditions:

(1) The hospital owner has requested an extension of the deadline described in subdivision (a) or (b) of Section 130060.

(2) (A) The office certifies that the hospital owner lacks the financial capacity to meet the requirements of subdivision (a) of Section 130060 for that building. In order to receive the certification, the hospital owner shall file with the office by January 1, 2009, financial information as required by the office. This information shall include a schedule demonstrating that, as of the end of the hospital owner's most recent fiscal year for which the hospital owner has filed its annual financial data with the office by July 1, 2007, the hospital owner's annual financial data for that fiscal year show that the hospital owner meets all of the following financial conditions:

(i) The owner's net long-term debt to capitalization ratio, as measured by the ratio of net long-term debt to net long-term debt plus equity, was above 60 percent.

(ii) The owner's debt service coverage, as measured by the ratio of net income plus depreciation expense plus interest expense to current maturities on long-term debt plus interest expense, was below 4.5.

(iii) The owner's cash-to-debt ratio, as measured by the ratio of cash plus marketable securities plus limited use cash plus limited use investments to current maturities on long-term debt plus net long-term debt, was below 90 percent.

(B) The office shall certify that a hospital owner applying for relief under this subdivision meets each of these financial conditions. For the purposes of this subdivision, a hospital owner shall be eligible for certification only if the annual financial data required by this paragraph for the hospital owners and all of its hospital affiliates, considered in total, meets all of these financial conditions. For purposes of this section, "hospital affiliate" means any hospital owned by an entity that controls, is controlled by, or is under the common control of, directly or through intermediate entity, the entity that owns the specified hospital. The applicant hospital owner shall bear all costs for review, but not to exceed the costs of review, of its financial information.

(3) The hospital owner files with the office, by January 1, 2009, a declaration that the hospital for which the hospital owner is seeking relief under this subdivision shall satisfy all of the following conditions:

(A) The hospital shall maintain a contract with the California Medical Assistance Commission (CMAC) under the selective provider contracting program, unless in an open area as established by CMAC.

(B) The hospital shall maintain at least basic emergency medical services if the hospital provided emergency medical services at the basic or higher level as of July 1, 2007.

(C) The hospital meets any of the following criteria:

(i) The hospital is located within a Medically Underserved Area or a Health Professions Shortage Area designated by the federal government pursuant to Sections 330 and 332 of the federal Public Health Service Act (42 U.S.C. Secs. 254b and 254e).

(ii) The office determines, by means of a health impact assessment, that removal of the building or buildings from service may diminish significantly the availability or accessibility of health care services to an underserved community.

(iii) The CMAC determines that the hospital is essential to providing and maintaining Medi-Cal services in the hospital's service area.

(iv) The hospital demonstrates that, based on annual utilization data submitted to the office for 2006 or later, the hospital had in one year over 30 percent of all discharges for either Medi-Cal or indigent patients in the county in which the hospital is located.

(4) The hospital owner submits, by January 1, 2010, a facility master plan for all the buildings that are subject to subdivision (a) of Section 130060 that the hospital intends to replace by January 1, 2020. The facility master plan shall identify at least all of the following:

(A) Each building that is subject to subdivision (a) of Section 130060.

(B) The plan to replace each building with buildings that would be in compliance with subdivision (a) of Section 130065.

(C) The building or buildings to be removed from acute care service and the projected date or dates of that action.

(D) The location for any new building or buildings, including, but not limited to, whether the owner has received a permit for that location. The replacement buildings shall be planned within the same service area as the buildings to be removed from service.

(E) A copy of the preliminary design for the new building or buildings.

(F) The number of beds available for acute care use in each new building.

(G) The timeline for completed plan submission.

(H) The proposed construction timeline.

(I) The proposed cost at the time of submission.

(J) A copy of any records indicating the hospital governing board's approval of the facility plan.

(5) By January 1, 2013, the hospital owner submits to the office a building plan that is deemed ready for review by the office, for each building.

(6) By January 1, 2015, the hospital owner receives a building permit to begin construction, for each building that the owner intends to replace pursuant to the master plan.

(7) Within six months of receipt of the building permit, the hospital owner submits a construction timeline that identifies at least all of the following:

(A) Each building that is subject to subdivision (a) of Section 130060.

(B) The project number or numbers for replacement of each building.

(C) The projected construction start date or dates and projected construction completion date or dates.

(D) The building or buildings to be removed from acute care.

(E) The estimated cost of construction.

(F) The name of the contractor.

(8) Every six months thereafter, the hospital owner reports to the office on the status of the project, including any delays or circumstances that could materially affect the estimated completion date.

(9) The hospital owner pays to the office an additional fee, to be determined by the office, sufficient to cover the additional cost incurred by the office for maintaining all reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the financial information submitted pursuant to paragraph (2). This additional fee

shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(c) The office may also approve an extension of the deadline described in subdivision (a) or (b) of Section 130060 for a general acute care hospital building that is classified as a nonconforming SPC-1 building and is owned or operated by a county, city, or county and city that has requested an extension of this deadline by June 30, 2009, if the owner files a declaration with the office stating that as of the date of that filing the owner lacks the ability to meet the requirements of subdivision (a) of Section 130060 for that building pursuant to subdivision (b) of that section. The declaration shall state the commitment of the hospital to replace those buildings by January 1, 2020, with other buildings that meet the requirements of Section 130065 and shall meet the requirements of paragraphs (4) to (9), inclusive, of subdivision (b).

(d) A hospital filing a declaration pursuant to this section but failing to meet any of the deadlines set forth in this section shall be deemed in violation of this section and Section 130060, and shall be subject to loss of licensure.

*(Added by Stats. 2007, Ch. 642, first Sec. 2. Effective January 1, 2008.)*

Bill	Lead Authors	SUBJECT	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
SB-306	Ducheny	Health facilities: seismic safety.	Chaptered 10/13/2007	10/13/2007 - Chaptered by Secretary of State. Chapter 642, Statutes of 2007.	Secretary of State-Chaptered	Yes	Majority

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
SB-1360	Committee on Health and Human Services	Reorganization of the Health and Safety Code: public health.	Chaptered 08/11/1995		-		
SB-1852	Committee on Judiciary	Maintenance of the codes.	Chaptered 09/28/2006	09/28/2006 - Chaptered by Secretary of State. Chapter 538, Statutes of 2006. 09/28/2006 - Approved by Governor.	-	No	Majority

#### **COMMENTS/RECOMMENDATIONS:**

According to OSHPD, the reporting requirement has been completed.

## **REPORT NO. 2**

### **HEALTH AND SAFETY CODE**

#### **DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT [127000. - 130070.]**

*( Division 107 added by Stats. 1995, Ch. 415, Sec. 9. )*

#### **PART 4. HEALTH CARE DEMONSTRATION PROJECTS [128600. - 128605.]**

*( Part 4 heading added by Stats. 1996, Ch. 1023, Sec. 367. )*

#### **CHAPTER 2. Postsurgical Care Demonstration Project [128600. - 128605.]**

*( Chapter 2 added by Stats. 1995, Ch. 415, Sec. 9. )*

#### **128600.**

The Legislature finds and declares that the oversight and reporting requirements of the demonstration project established in this section are equal to, or exceed similar licensing standards for other health facilities.

(a) The Office of Statewide Health Planning and Development shall conduct a demonstration project to evaluate the accommodation of postsurgical care patients for periods not exceeding two days, except that the attending physician and surgeon may require that the stay be extended to no more than three days.

(b) (1) The demonstration project shall operate for a period not to exceed six years, for no more than 12 project sites, one of which shall be located in Fresno County. However, the demonstration project shall be extended an additional six years, to September 30, 2000, only for those project sites that were approved by the Office of Statewide Health Planning and Development and operational prior to January 1, 1994.

(2) Any of the 12 project sites may be distinct parts of health facilities, or any of those sites may be physically freestanding from health facilities. None of the project sites that are designated as distinct parts of health facilities, shall be located in the service area of any one of the six freestanding project sites. None of the project sites that are designated as distinct parts of health facilities shall have a service area that overlaps with any one or more service areas of the freestanding pilot sites. For the purposes of this section, service area shall be defined by the office.

(c) (1) The office shall establish standards for participation, commensurate with the needs of postsurgical care patients requiring temporary nursing services following outpatient surgical procedures.

(2) In preparing the standards for participation, the office may, as appropriate, consult with the State Department of Health Services and a technical advisory committee that may be appointed by the Director of the Office of Statewide Health Planning and Development. The committee shall have no more than eight members, all of whom shall be experts in health care, as determined by the director of the office. One of the members of the committee shall, as determined by the director of the office, have specific expertise in the area of pediatric surgery and recovery care.

(3) If a technical advisory committee is established by the director of the office, members of the committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(d) Not later than six months prior to the conclusion of the demonstration project, the office shall submit an evaluation of the demonstration project to the Legislature on the effectiveness and safety of the demonstration project in providing recovery services to patients receiving

outpatient surgical services. The office, as part of the evaluation, shall include recommendations regarding the establishment of a new license category or amendment of existing licensing standards.

(e) The office shall establish and administer the demonstration project in facilities with no more than 20 beds that continuously meet the standards of skilled nursing facilities licensed under subdivision (c) of Section 1250, except that the office may, as appropriate and unless a danger to patients would be created, eliminate or modify the standards. This section shall not prohibit general acute care hospitals from participating in the demonstration project. The office may waive those building standards applicable to a project site that is a distinct part of a health facility that are inappropriate, as determined by the office, to the demonstration project. Notwithstanding health facility licensing regulations contained in Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations, a project site that is a distinct part of a health facility shall comply with all standards for participation established by the office and with all regulations adopted by the office to implement this section. A project site that is a distinct part of a health facility shall not, for the duration of the pilot project, be subject to Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations which conflict, as determined by the office, with the demonstration project standards or regulations.

(f) The office shall issue a facility identification number to each facility selected for participation in the demonstration project.

(g) Persons who wish to establish recovery care programs shall make application to the office for inclusion in the pilot program. Applications shall be made on forms provided by the office and shall contain sufficient information determined as necessary by the office.

(h) As a condition of participation in the pilot program, each applicant shall agree to provide statistical data and patient information that the office deems necessary for effective evaluation. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information and shall only disclose patient information, including name identification, as is necessary pursuant to this section or any other law.

(i) Any authorized officer, employee, or agent of the office may, upon presentation of proper identification, enter and inspect any building or premises and any records, including patient records, of a pilot project participant at any reasonable time to review compliance with, or to prevent any violation of, this section or the regulations and standards adopted thereunder.

(j) The office may suspend or withdraw approval of any or all pilot projects with notice, but without hearing if it determines that patient safety is being jeopardized.

(k) The office may charge applicants and participants in the program a reasonable fee to cover its actual cost of administering the pilot program and the cost of any committee established by this section. The facilities participating in the pilot project shall pay fees that equal the amount of any increase in fiscal costs incurred by the state as a result of the extension of the pilot project until September 30, 2000, pursuant to subdivision (b).

(l) The office may contract with a medical consultant or other advisers as necessary, as determined by the office. Due to the necessity to expedite the demonstration project and its extremely specialized nature, the contracts shall be exempt from Section 10373 of the Public Contract Code, and shall be considered sole-source contracts.

(m) The office may adopt emergency regulations to implement this section in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the

requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed an emergency for the purposes of Section 11346.1.

Applications to establish any of the four project sites authorized by the amendments made to this section during the 1987–88 Regular Session of the California Legislature shall be considered by the office from among the applications submitted to it in response to its initial request for proposal process.

(n) Any administrative opinion, decision, waiver, permit, or finding issued by the office prior to July 1, 1990, with respect to any of the demonstration projects approved by the office prior to July 1, 1990, shall automatically be extended by the office to remain fully effective as long as the demonstration projects are required to operate pursuant to this section.

(o) The office shall not grant approval to a postsurgical recovery care facility, as defined in Section 97500.111 of Title 22 of the California Code of Regulations, that is freestanding, as defined in Section 97500.49 of Title 22 of the California Code of Regulations, to begin operation as a participating demonstration project if it is located in the County of Solano.

(p) Participants in the demonstration program for postsurgical recovery facilities shall not be precluded from receiving reimbursement from, or conducting good faith negotiations with, a third-party payor solely on the basis that the participant is engaged in a demonstration program and accordingly is not licensed.

[\(Added by renumbering Section 1250.9 \(as amended by Stats. 1995, Ch. 511\) by Stats. 1996, Ch. 1023, Sec. 154. Effective September 29, 1996.\)](#)

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
SB-1360	Committee on Health and Human Services	Reorganization of the Health and Safety Code: public health.	Chaptered 08/11/1995		-		

**COMMENTS/RECOMMENDATIONS:**

OSHPD recommends deleting this report. The reporting requirement was completed.

## Report NO. 3

### SB 1838 (CHAPTER 693)

An act to amend Section 129856 of, to add Section 129880 to, and to add and repeal Section 129881 of, the Health and Safety Code, relating to health facilities.

[ Approved by Governor September 29, 2006. Filed Secretary of State September 29, 2006. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1838, Perata. Health facilities: construction plans.

The existing Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 requires design and construction standards for hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves. Existing law also requires that those standards specify that hospitals must be reasonably capable of providing services to the public after a disaster. Existing law requires the Office of Statewide Health Planning and Development (OSHPD) to approve or reject all plans for the construction or alteration of a hospital building. Existing law specifically requires the office, contingent upon an appropriation in the annual Budget Act, to establish a program for training fire and life safety officers to facilitate the timely performance of the office's duties and responsibilities relating to the review of plans and specifications pertaining to the design and observation of construction of hospital buildings, as specified.

This bill, in addition, would authorize the office to establish other training programs as necessary to ensure that a sufficient number of qualified persons are available to facilitate the timely performance of the office's duties and responsibilities, as specified.

The bill would authorize the office to exempt from its plan review process construction or alteration projects for hospital buildings and certain other buildings with estimated construction costs of \$50,000 or less if specified criteria are met. The bill would require a presubmittal meeting between the office and the design professionals for construction or alteration projects for those buildings with estimated construction costs of \$20,000,000 or more.

This bill would require the department to submit comprehensive reports on the training program, and would, until January 1, 2012, also require the office to assess processing time for plan review and to provide an update of this assessment to the Legislature no later than February 1, 2007, and no later than February 1 of each year thereafter.

#### Section 129881 of the (Code section does not exist)

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
SB-1838	Perata, Florez	Health facilities: construction plans.	Chaptered 09/29/2006	09/29/2006 - Chaptered by Secretary of State. Chapter 693, Statutes of 2006. 09/29/2006 - Approved by Governor.	-	Yes	Majority

#### COMMENTS/ RECOMMENDATIONS:

OSHPD recommends deleting this report. The one-time report requirement was completed on January 1, 2012.