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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.*)

PART 4. SPECIAL HEALTH AUTHORITIES [101525 - 101881] (*Part 4 added by Stats. 1995, Ch. 415, Sec. 3.*)

CHAPTER 2.5. Central Coast Hospital Authority [101655 - 101662] (*Chapter 2.5 added by Stats. 2012, Ch. 686, Sec. 1.*)

ARTICLE 2. Establishment of the Central Coast Hospital Authority [101658 - 101659] (*Article 2 added by Stats. 2012, Ch. 686, Sec. 1.*)

101658. (a) Pursuant to this chapter, the board of supervisors may establish, subject to the limitations of paragraph (1) of subdivision (c), the Central Coast Hospital Authority, which shall, for all purposes, be a public entity separate and apart from the county and any other public entity. The authority established pursuant to this chapter shall file the statement required by Section 53051 of the Government Code, and shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(b) (1) The purpose of the authority shall be to do all of the following:

(A) Provide management, administration, and other controls, consistent with this chapter, for the medical center to continue to serve as a designated public hospital and ensure the viability of the health care safety net in the county in a manner consistent with the county's requirements under Section 17000 of the Welfare and Institutions Code.

(B) Provide management, administration, and other controls for the continued operation of one or more other health care facilities that may be affiliated or consolidated with the medical center pursuant to this chapter.

(2) Subject to the requirements of this chapter, the authority shall be charged with the management, administration, and control of the medical center, other health care facilities, and related services and facilities.

(c) (1) Except as specifically set forth in this chapter, the authority shall not be established, transact business, exercise powers, or undertake duties and responsibilities pursuant to this chapter until an agreement is reached to affiliate or consolidate the medical center with at least one other health care facility as set forth in this subdivision. In order for the authority to be established, transact any business, exercise its powers, or undertake its duties and responsibilities, the board of supervisors and at least one governing board shall reach agreement, on terms and conditions satisfactory to the parties, regarding the affiliation or consolidation. This agreement may include, but is not limited to, a transfer of the following:

(A) Real and personal property, and assets and liabilities from the county and the other health care facility to the authority.

(B) Employees from the county and the other health care facility to the authority.

(C) Maintenance, operation, and management or ownership of the medical center, in accordance with Section 14000.2 of the Welfare and Institutions Code.

(D) Maintenance, operation, and management or ownership of the other health care facility.

(E) Other matters that the board of supervisors and the governing board deem necessary or appropriate.

(2) If the board of supervisors and the governing board reach agreement on the matters set forth in this subdivision, the terms and conditions of the agreement shall be binding upon the authority. After the agreement is reached, the board of supervisors shall adopt an ordinance to establish the authority and authorize the authority to exercise the powers and duties pursuant to this chapter, and the board of supervisors and the governing board shall appoint a board of trustees as set forth in Section 101659.

The agreement set forth in this section may be amended from time to time upon the mutual consent of the authority and the governing board or the board of supervisors, or both, as appropriate.

(3) (A) The agreement shall provide that upon the effective date of the establishment ordinance described in paragraph (2), the authority shall do all of the following:

(i) Take title to all assets associated with the medical center, including, but not limited to, all real and personal property, funded pension assets, and accounts receivable.

(ii) Assume, or immediately extinguish, defease, or satisfy, all obligations and liabilities directly or indirectly associated with the medical center, including, but not limited to, related or associated debt, accounts payable, accrued liabilities, unfunded pension liabilities, or financial or contractual obligations of any kind.

(iii) Take any other actions necessary so that the county has no continuing financial obligation or responsibility with respect to the authority or its operations.

(B) A contract between the authority and the Public Employees' Retirement System shall be a separate contract and not a joint contract with the county.

(C) The authority's funds shall not remain or be kept on deposit with the county, or otherwise be in the custody or control of the county, and the authority shall not be permitted to deposit funds with the county, including within the county's treasury investment pool.

(D) The contractual provisions described in this paragraph are mandatory.

(d) An agreement concerning the transfer of personnel shall include a transition plan that requires all the following:

(1) Ongoing communication to employees and recognized employee organizations regarding the impact of the transition on existing medical center and other health care facility employees and employee classifications.

(2) Meeting and conferring by the county and the other health care facility with affected employee bargaining units on both of the following issues:

(A) The timeframe for which the transfer of personnel shall occur.

(B) A specified period of time during which employees of the county affected by the establishment of the authority may elect to be considered for appointment to vacant positions, and exercise reinstatement rights, for which they are qualified and eligible. An employee who first elects to remain with the county, but who subsequently seeks employment with the authority within 30 days of this election, shall be subject to the requirements of this article.

(3) Acknowledgment that the authority, to the extent permitted by federal law, shall be bound by the terms of the memoranda of understanding executed between the county and its exclusive employee representatives that are or will be in effect as of the date the county adopts the ordinance pursuant to this article. Subsequent memoranda of understanding shall be subject to approval only by the authority.

(e) (1) Notwithstanding any other provision of this chapter, and whether or not accompanied by a change in licensing, an agreement for the maintenance, operation, and management or ownership of the medical center shall not relieve the county of the ultimate responsibility for indigent care pursuant to Section 14000.2 of the Welfare and Institutions Code.

(2) An agreement for the maintenance, operation, and management or ownership of the medical center shall conform to the following requirements:

(A) Shall comply with Section 14000.2 of the Welfare and Institutions Code.

(B) May be made upon the terms and conditions that the board of supervisors and governing board may mutually agree, including those terms and conditions found necessary by the board of supervisors to ensure that the transfer of the medical center shall constitute an ongoing benefit to the county and its residents.

(C) Shall provide that the county shall ensure that any applicable requirements of Section 1442.5 are met.

(3) An agreement for the maintenance, operation, and management or ownership of the other health care facility may be made upon the terms and conditions that the board of supervisors and the governing board may mutually agree, including those terms and conditions found necessary by the governing board to ensure that the transfer shall constitute an ongoing benefit to the other health care facility and its constituents.

(f) The authority shall not be subject to the jurisdiction of a local agency formation commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), or any successor statute.

(Added by Stats. 2012, Ch. 686, Sec. 1. (AB 276) Effective January 1, 2013.)

101659. (a) Permanent employees of the medical center on the effective date of affiliation shall be deemed qualified for employment or retention and no other qualifications shall be required. Probationary employees on the effective date of affiliation shall retain their probationary status and rights and shall not be deemed to have transferred so as to require serving a new probationary period.

(b) Employment seniority of an employee of the medical center on the effective date of affiliation shall be counted toward seniority in the authority. The authority shall provide for the maintenance of benefits that accompany seniority, including, but not limited to, preference in vacations and scheduling, when applicable. All time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(c) The implementation of this chapter shall not be a cause for the modification of the level of medical center employment benefits. Upon consolidation or affiliation of the medical center with at least one other health care facility, employees who serve or work for the medical center immediately prior to the implementation of this chapter shall retain their existing or equivalent classifications and job descriptions upon transfer to the authority, comparable pension benefits, and at least their existing salaries and other benefits that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health care, retiree health benefits, and deferred compensation plans.

(d) Subject to subdivision (h), and to the extent permitted by federal law, the authority shall contract with the Public Employees' Retirement System, consistent with the requirements of Section 20508 and other applicable provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, for the purpose of providing membership in the Public Employees' Retirement System for authority employees. If the authority contracts with the Public Employees' Retirement System, the authority, to the extent permitted by federal law, shall provide for the continued membership of medical center employees in the Public Employees' Retirement System. If permitted under federal law, the authority and the employees' exclusive representatives may mutually agree to terminate any contract that the authority enters into with the Public Employees' Retirement System, and mutually agree to an alternative pension plan.

(e) Any transfer of functions from county employee classifications to authority employees established pursuant to this article shall result in the recognition by the hospital authority of the exclusive representative of the classifications performing those functions at the time of transfer.

(f) In order to stabilize labor and employment relations and provide continuity of care and services to the people of the county, and notwithstanding any other provision of law, the authority shall do all of the following for 24 months after the term end date of any medical center memorandum of understanding in existence when the county establishes the authority:

(1) Continue to recognize each exclusive representative of each bargaining unit.

(2) Continue to provide at least the same level of employee benefits to authority employees, who were medical center employees, that had been provided to these employees, whether these benefits arise out of a memorandum of understanding or other agreement or law.

(3) Roll over and continue to be bound by any existing medical center memorandum of understanding or agreement covering the terms and conditions, including the level of wages and benefits, of those employees for 24 months after the term end date of any memorandum of agreement, unless modified by mutual agreement with each of the exclusive representatives, and only to the extent that continuing to provide those pension benefits specified in any memorandum of understanding does not conflict with any Public Employees' Retirement System regulation or federal law. Any conflicts in the existing agreements as to wages and other terms and conditions of employment shall be resolved only by mutual agreement between the authority and each of the exclusive representatives.

(g) Except as provided in the transfer agreement described in subdivision (d) of Section 101658, subdivision (m) of Section 101661, and this section, nothing in this chapter shall be construed as prohibiting the authority from determining the number of employees, the number of full-time equivalent positions, job descriptions, the nature and extent of classified employment positions, and salaries of employees.

(h) Notwithstanding any other law, the authority and employees of the authority shall not participate in the Public Employees' Retirement System if the Board of Administration of the Public Employees' Retirement System, in its sole discretion, determines that their participation could jeopardize the Public Employees' Retirement System's tax-qualified or governmental plan status under federal law.

(Added by Stats. 2012, Ch. 686, Sec. 1. (AB 276) Effective January 1, 2013.)

