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AB-2190 Hospitals: seismic safety. (2017-2018)

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Assembly Bill No. 2190

CHAPTER 673

An act to add Sections 130062 and 130066 to the Health and Safety Code, relating to hospitals.

[Approved by Governor September 22, 2018. Filed with Secretary of State September 22, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2190, Reyes. 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. A violation of any provision of the act is a misdemeanor.

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 5-year and 2-year extensions under prescribed circumstances, except as specified. Existing law requires an owner of a general acute care hospital building that is classified as nonconforming to submit a report to the office no later than November 1, 2010, describing the status of each building in complying with the extension provisions, and to annually update the office with any changes or adjustments. Existing law authorizes certain hospital owners who do not have the financial capacity or other reasons to bring certain buildings into compliance by the January 1, 2013, deadline to instead replace those buildings or take other action by January 1, 2020, as specified.

This bill would require all hospitals with buildings subject to the January 1, 2020, deadline described above and that are seeking an extension for their buildings to submit an application to the Office of Statewide Health Planning and Development by April 1, 2019, that specifies the seismic compliance method each building will use, as specified. The bill would require the office to grant an additional extension of time to an owner who is subject to the January 1, 2020, deadline if specified conditions are met. The bill would authorize the additional extension to be until July 1, 2022, if the compliance plan is based upon replacement or retrofit, as defined, or up to 5 years if the compliance plan is for a rebuild, as defined. The bill would require the office, before June 1, 2019, to provide the Legislature with a specified inventory of the hospital buildings. The bill would authorize the office to promulgate emergency regulations as necessary to implement these provisions.

Existing law requires, no later than January 1, 2030, the owner of an acute care inpatient hospital to either demolish, replace, or change to nonacute care use a hospital building that is not in substantial compliance with certain seismic safety regulations and standards developed by the office, or to seismically retrofit the building so that it is in substantial compliance.

This bill would require, before January 1, 2020, the owner of an acute care inpatient hospital whose building does not substantially comply with the above-described seismic safety regulations or standards to submit to the office an attestation that the board of directors of that hospital is aware that the hospital building is required to meet the January 1, 2030, deadline for substantial compliance with those regulations and standards.

By imposing new requirements under the act for owners of hospitals with regard to extension applications and the above-described attestation, this bill would expand the scope of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 130062 is added to the Health and Safety Code, to read:

130062. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Rebuild plan" means a plan to meet seismic standards primarily by constructing a new conforming SPC-5 building for use in lieu of an SPC-1 building.

(2) "Removal plan" means a plan to meet seismic standards primarily by removing acute care services or beds from the hospital's license.

(3) "Replacement plan" means a plan to meet seismic standards primarily by relocating acute care services or beds from nonconforming buildings into a conforming building.

(4) "Retrofit plan" means a plan to meet seismic standards primarily by modifying the building in a manner that brings the building up to SPC-2, SPC-4D, or SPC-5 standards.

(b) All hospitals seeking an extension for their SPC-1 buildings shall submit to the office an application, in a manner acceptable to the office, by April 1, 2019. At a minimum, the application shall state which of the seismic compliance methods described in subdivision (a) will be used for each SPC-1 building.

(c) A hospital owner that has been granted an extension pursuant to subdivision (g) of Section 130060 or subdivision (b) of Section 130061.5 may request, and the office shall grant, an additional extension of time as set forth in this section.

(d) (1) For a hospital that seeks an extension for compliance based on a replacement plan or retrofit plan, the owner shall submit a construction schedule, obtain a building permit, and begin construction by April 1, 2020.

(2) Using the construction schedule submitted pursuant to paragraph (1), the hospital and the office shall identify at least two major milestones relating to the compliance plan that will be used as the basis for determining whether the hospital is making adequate progress toward meeting the seismic compliance deadline.

(3) Failure to comply with the requirements described in paragraph (1) or (2), or to meet any milestone agreed to pursuant to paragraph (2), shall result in the assessment of a fine of five thousand dollars (\$5,000) per calendar day until the requirements or milestones, respectively, are met.

(4) Final seismic compliance shall be achieved by July 1, 2022.

(e) (1) For a hospital that seeks an extension for compliance based on a rebuild plan, the office shall grant an extension of up to five years. The owner shall submit, in a manner acceptable to the office, no later than July 1, 2020, the rebuild plan, deemed ready for review, and shall submit a construction schedule, obtain a building permit, and begin construction no later than January 1, 2022.

(2) The hospital and the office shall identify at least two major milestones, agreed upon by the hospital and the office, that will be used as the basis for determining whether the hospital is making adequate progress toward meeting the seismic compliance deadline.

(3) Failure to comply with the requirements described in paragraph (1) or (4), or to meet any milestone agreed to pursuant to paragraph (2) or (4), shall result in the assessment of a fine of five thousand dollars (\$5,000) per calendar day until the requirements or milestones, respectively, are met.

(4) For a hospital that has previously submitted to the office a rebuild project under construction, the office may accept certification from the hospital that it has obtained appropriate building permits consistent with an approved incremental plan review and that construction thereunder has commenced and is continuing. The previously approved construction schedule shall be amended to reflect the extension being requested, and at least two new major milestones shall be identified. The

owner shall not be required to resubmit construction plans previously submitted to the office, and the office may not impose new or different requirements for any increment already approved or building permit already issued by the office as a condition for granting an extension.

(5) Final seismic compliance shall be achieved, and a certificate of occupancy shall be obtained, by January 1, 2025.

(f) The office may grant an adjustment to the requirements described in paragraph (1) or (2) of subdivision (d) or paragraph (1) or (4) of subdivision (e), or the milestones agreed to pursuant to paragraph (2) of subdivision (d) or paragraph (2) or (4) of subdivision (e), as necessary to deal with contractor, labor, or material delays, or with acts of God, or with governmental entitlements, experienced by the hospital. If that adjustment is granted, the hospital shall submit a revised construction schedule, and the hospital and the office shall identify at least two new major milestones consistent with the adjustment. Failure to comply with the revised construction schedule or meet any of the major milestones shall result in penalties as specified in paragraph (3) of subdivision (d) and paragraph (3) of subdivision (e). The adjustment shall not exceed the corresponding final seismic compliance date specified in paragraph (4) of subdivision (d) or paragraph (5) of subdivision (e).

(g) The duration of an extension granted by the office pursuant to this section shall not exceed the maximums permitted by this section. Moreover, within that limit, the office shall not grant an extension that exceeds the amount of time needed by the owner to come into compliance. The determination by the office regarding the length of the extension to be granted shall be based upon a showing by the owner of the facts necessitating the additional time. It shall include a review of the plan and all the documentation submitted in the application for the extension, and shall permit only that additional time necessary to allow the owner to deal with compliance plan issues that cannot be fully met without the extension.

(h) No extension shall be granted pursuant to this section for SPC-1 buildings unless the owner has submitted to the office, by January 1, 2018, a seismic compliance plan.

(i) An extension shall not be granted pursuant to this section for seismic compliance based upon a removal plan.

(j) In lieu of the reporting requirements described in Section 130061, a hospital granted an extension pursuant to this section shall provide a quarterly status report to the office, with the first report due on July 1, 2019, and every October 1, January 1, April 1, and July 1 thereafter, until seismic compliance is achieved. The office shall post the status reports on its Internet Web site.

(k) Before June 1, 2019, the office shall provide the Legislature with an inventory of the SPC category of each hospital building. A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(l) (1) The office may revoke an extension granted pursuant to this section for a hospital building where the assessment for a penalty exceeds 60 days.

(2) Notwithstanding any other law, any penalties assessed pursuant to this section shall be deposited into the General Fund within 45 days of assessment or within 45 days following a determination on appeal, if any. A hospital assessed a penalty pursuant to this section may appeal the assessment to the Hospital Building Safety Board, provided the hospital posts the funds for any penalties with the office, to be held pending the resolution of the appeal.

(3) The office shall not issue a construction final or certificate of occupancy for the building until all assessed penalties accrued pursuant to this section have been paid in full or, if an appeal is pending, have been posted subject to resolution of the appeal. Penalties deposited by the hospital pursuant to paragraph (2) shall be considered paid in full for purposes of issuing a construction final or certificate of occupancy. This paragraph is in addition to, and is not intended to supersede, any other requirements that must be met by the hospital for issuance of a construction final or certificate of occupancy.

(m) The office may promulgate emergency regulations as necessary to implement this section.

SEC. 2. Section 130066 is added to the Health and Safety Code, to read:

130066. Before January 1, 2020, the owner of an acute care inpatient hospital whose building does not substantially comply with the seismic safety regulations or standards described in Section 130065 shall submit to the office an attestation that the board of directors of that hospital is aware that the hospital building is required to meet the January 1, 2030, deadline for substantial compliance with those regulations and standards.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.