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SB-687 Health facilities: emergency services: Attorney General. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 687

Introduced by Senator Skinner

February 17, 2017

An act to amend Sections 5914 and 5920 of, and to add Chapter 9.2 (commencing with Section 5940) to Part 2 of Division 2 of Title 1 of, the Corporations Code, and to amend Sections 1254 and 1255.1 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 687, Skinner. Health facilities: emergency services: Attorney General.

Existing law requires any nonprofit corporation, as defined, that operates or controls a health facility or operates or controls a facility that provides similar health care, to provide written notice to, and obtain the written consent of, the Attorney General prior to agreeing to sell or otherwise dispose of a material amount of its assets to a for-profit corporation or entity, a mutual benefit corporation or entity, or another nonprofit corporation or entity. Existing law authorizes the Attorney General to consider, before consenting to an agreement to sell or dispose of assets to these corporations or entities, whether the terms and conditions of the agreement or transaction are fair and reasonable to the corporation, and whether the agreement or transaction is at a fair market value, as specified.

This bill would apply the above notice and consent requirements to such a nonprofit corporation, without regard to whether it is currently operating or providing health care services or has a suspended license, prior to agreeing to sell, transfer, lease, exchange, option, convey, or otherwise dispose of the assets resulting from the reduction or elimination of emergency medical services provided at a licensed emergency center after the Attorney General gives a specified consent or conditional consent. The bill would require the Attorney General to review and consent to the sale, transfer, lease, exchange, option, conveyance, or disposal of any assets resulting from a qualifying nonprofit corporation's reduction or elimination of emergency medical services that occurred on or after January 1, 2016, if the Attorney General did not already consent to the transfer, lease, exchange, option, conveyance, or disposal of those assets pursuant to specified law and those assets remain under the control of the qualifying nonprofit corporation and notwithstanding the fact that the Attorney General did not review or consent to the closure or reduction.

The bill also would require any nonprofit corporation, as defined, that operates or controls a health facility or operates or controls a facility that provides similar health care and that provides emergency medical services at a licensed emergency center to provide written notice to, and obtain written consent of, the Attorney General prior to a reduction of the level of emergency medical services provided or the elimination of those services. This bill would require the written notice to contain the information that the Attorney General determines is required to make a decision in the public interest. The bill would require the written notice be provided to the Attorney General as soon as possible, but in no case later than 135 days before the planned reduction or elimination. The bill would require the Attorney General to notify the nonprofit corporation of the decision to provide consent or conditional consent or withhold consent to the reduction in or elimination of emergency medical services within specified periods of time. The bill, among other things, would require the Attorney General to conduct one or more public hearings after providing public notice, as specified, before issuing the written notice.

Existing law requires emergency services and care to be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any licensed health facility that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care. Existing law authorizes the Attorney General to bring a civil action against the responsible hospital or administrative or medical personnel to enjoin the violation of various provisions of existing law regarding the provision of emergency services at a licensed health facility.

Existing law requires the State Department of Public Health, except as provided, to inspect and license health facilities, as specified. Existing law requires a hospital that provides emergency medical services to, as soon as possible, but not later than 90 days prior to a planned reduction or elimination of the level of emergency medical services, provide notice of the intended change to the State Department of Public Health, among other entities. Violation of these requirements is a crime.

This bill would prohibit the State Department of Public Health from licensing a stand-alone emergency room, freestanding emergency department, or freestanding emergency center that is not part of a general acute care hospital facility providing 24-hour inpatient care with basic services. The bill would require the above-described notice to also be given to the agency in charge of the provision of health services. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Sections 5914 and 5920 of the Corporations Code proposed by AB 651 to be operative only if this bill and AB 651 are enacted and this bill is enacted last.

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 5914 of the Corporations Code is amended to read:

5914. (a) (1) Any nonprofit corporation that is defined in Section 5046 and operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do any of the following:

(A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to a for-profit corporation or entity or to a mutual benefit corporation or entity when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

(B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the nonprofit corporation to any for-profit corporation or entity or to any mutual benefit corporation or entity.

(C) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of the assets resulting from the reduction or elimination of emergency medical services provided at an emergency center licensed pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code to a for-profit corporation or entity or to a mutual benefit corporation or entity after the Attorney General gives, pursuant to Section 5940, consent or conditional consent to the reduction or elimination of emergency medical services.

(2) The substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the nonprofit corporation shall be deemed a transfer for purposes of this article. The substitution of one or more members of the governing body, or any arrangement, written or oral, that would transfer voting control of the members of the governing body, shall also be deemed a transfer for purposes of this article.

(b) The notice to the Attorney General provided for in this section shall include and contain the information the Attorney General determines is required. The notice, including any other information provided to the Attorney General under this article, and that is in the public file, shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General.

(c) (1) This section shall not apply to a nonprofit corporation if the agreement or transaction is in the usual and regular course of its activities or if the Attorney General has given the corporation a written waiver of this section as to the proposed agreement or transaction, except that this subdivision shall not apply to subparagraph (C) of paragraph (1) of subdivision (a).

(2) The Attorney General shall review and consent to the sale, transfer, lease, exchange, option, conveyance, or disposal of any assets resulting from a qualifying nonprofit corporation's reduction or elimination of emergency medical services that occurred on or after January 1, 2016, provided the Attorney General did not already consent to the transfer, lease, exchange, option, conveyance, or disposal of those assets pursuant to either this section or Section 5920 and those assets remain under the control of the qualifying nonprofit corporation as of the effective date of the act adding this paragraph, notwithstanding the fact that the Attorney General did not review or consent to the closure or reduction pursuant to Section 5940.

(d) This section shall apply to any foreign nonprofit corporation that operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or a facility that provides similar health care, regardless of whether it is operating or providing health care services or has a suspended license.

(e) This section shall not be construed to allow the Attorney General to authorize emergency medical services to be provided by a facility that does not meet the requirements of Section 1798.175 of the Health and Safety Code or is not licensed to provide emergency medical services pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code or to authorize a nonprofit general acute care hospital to reduce operations to provide emergency medical services without providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. This section shall not be construed to authorize, allow for, or permit operation of an emergency department that does not meet the definition in Section 128700 of the Health and Safety Code. This section shall not be construed to authorize, allow for, or permit emergency medical services to be provided that do not meet the requirements for standby, basic, or comprehensive emergency medical services, as defined in Article 6 (commencing with Section 70401) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations.

SEC. 1.5. Section 5914 of the Corporations Code is amended to read:

5914. (a) (1) Any nonprofit corporation that is defined in Section 5046 and operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do any of the following:

(A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to a for-profit corporation or entity or to a mutual benefit corporation or entity when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

(B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the nonprofit corporation to any for-profit corporation or entity or to any mutual benefit corporation or entity.

(C) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of the assets resulting from the reduction or elimination of emergency medical services provided at an emergency center licensed pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code to a for-profit corporation or entity or to a mutual benefit corporation or entity after the

Attorney General gives, pursuant to Section 5940, consent or conditional consent to the reduction or elimination of emergency medical services.

(2) The substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the nonprofit corporation shall be deemed a transfer for purposes of this article. The substitution of one or more members of the governing body, or any arrangement, written or oral, that would transfer voting control of the members of the governing body, shall also be deemed a transfer for purposes of this article.

(b) The notice to the Attorney General provided for in this section shall include and contain the information the Attorney General determines is required. The notice, including any other information provided to the Attorney General under this article, and that is in the public file, shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General. The notice shall include a list of the primary languages spoken at the facility and the threshold languages for Medi-Cal beneficiaries, as determined by the State Department of Health Care Services for the county in which the facility is located. The Attorney General may require the nonprofit corporation to provide certain components of the notice in any of these languages.

(c) (1) This section shall not apply to a nonprofit corporation if the agreement or transaction is in the usual and regular course of its activities or if the Attorney General has given the corporation a written waiver of this section as to the proposed agreement or transaction, except that this subdivision shall not apply to subparagraph (C) of paragraph (1) of subdivision (a).

(2) The Attorney General shall review and consent to the sale, transfer, lease, exchange, option, conveyance, or disposal of any assets resulting from a qualifying nonprofit corporation's reduction or elimination of emergency medical services that occurred on or after January 1, 2016, provided the Attorney General did not already consent to the transfer, lease, exchange, option, conveyance, or disposal of those assets pursuant to either this section or Section 5920 and those assets remain under the control of the qualifying nonprofit corporation as of the effective date of the act adding this paragraph, notwithstanding the fact that the Attorney General did not review or consent to the closure or reduction pursuant to Section 5940.

(d) This section shall apply to any foreign nonprofit corporation that operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license.

(e) This section shall not be construed to allow the Attorney General to authorize emergency medical services to be provided by a facility that does not meet the requirements of Section 1798.175 of the Health and Safety Code or is not licensed to provide emergency medical services pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code or to authorize a nonprofit general acute care hospital to reduce operations to provide emergency medical services without providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. This section shall not be construed to authorize, allow for, or permit operation of an emergency department that does not meet the definition in Section 128700 of the Health and Safety Code. This section shall not be construed to authorize, allow for, or permit emergency medical services to be provided that do not meet the requirements for standby, basic, or comprehensive emergency medical services, as defined in Article 6 (commencing with Section 70401) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations.

SEC. 2. Section 5920 of the Corporations Code is amended to read:

5920. (a) (1) Any nonprofit corporation that is defined in Section 5046 and operates or controls a health care facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do any of the following:

(A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to another nonprofit corporation or entity when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

(B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the nonprofit corporation to another nonprofit corporation or entity.

(C) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of the assets resulting from the reduction or elimination of emergency medical services provided at an emergency center licensed pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code to another nonprofit corporation or entity after the Attorney General gives, pursuant to Section 5940, consent or conditional consent to the reduction or elimination of emergency medical services.

(2) The substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the nonprofit corporation, the substitution of one or more members of the governing body that would transfer voting control of the

members of the governing body, or any arrangement, written or oral, that would transfer voting control of the entity shall be deemed a transfer for purposes of this article.

(b) The notice to the Attorney General provided for in this section shall contain the information the Attorney General determines is required. The notice, including any other information provided to the Attorney General under this article, and that is the public file, shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General.

(c) (1) This section shall not apply to a nonprofit corporation if the agreement or transaction is in the usual and regular course of its activities or if the Attorney General has given the corporation a written waiver of this section as to the proposed agreement or transaction, except that this subdivision shall not apply to subparagraph (C) of paragraph (1) of subdivision (a).

(2) The Attorney General shall review and consent to the sale, transfer, lease, exchange, option, conveyance, or disposal of any assets resulting from a qualifying nonprofit corporation's reduction or elimination of emergency medical services that occurred on or after January 1, 2016, provided the Attorney General did not already consent to the transfer, lease, exchange, option, conveyance, or disposal of those assets pursuant to either this section or Section 5914 and those assets remain under the control of the qualifying nonprofit corporation as of the effective date of the act adding this paragraph, notwithstanding the fact that the Attorney General did not review or consent to the closure or reduction pursuant to Section 5940.

(d) This section shall apply to any foreign nonprofit corporation that operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or a facility that provides similar health care, regardless of whether it is operating or providing health care services or has a suspended license.

(e) This section shall not apply to an agreement or transaction if the other party to the agreement or transaction is an affiliate, as defined in Section 5031, of the transferring nonprofit corporation or entity, and the corporation or entity has given the Attorney General 20 days advance notice of the agreement or transaction.

(f) This section shall not be construed to allow the Attorney General to authorize emergency medical services to be provided by a facility that does not meet the requirements of Section 1798.175 of the Health and Safety Code or is not licensed to provide emergency medical services pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code or to authorize a nonprofit general acute care hospital to reduce operations to provide emergency medical services without providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. This section shall not be construed to authorize, allow for, or permit operation of an emergency department that does not meet the definition in Section 128700 of the Health and Safety Code. This section shall not be construed to authorize, allow for, or permit emergency medical services to be provided that do not meet the requirements for standby, basic, or comprehensive emergency medical services, as defined in Article 6 (commencing with Section 70401) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations.

SEC. 2.5. Section 5920 of the Corporations Code is amended to read:

5920. (a) (1) Any nonprofit corporation that is defined in Section 5046 and operates or controls a health care facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do any of the following:

(A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to another nonprofit corporation or entity when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

(B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the nonprofit corporation to another nonprofit corporation or entity.

(C) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of the assets resulting from the reduction or elimination of emergency medical services provided at an emergency center licensed pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code to another nonprofit corporation or entity after the Attorney General gives, pursuant to Section 5940, consent or conditional consent to the reduction or elimination of emergency medical services.

(2) The substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the nonprofit corporation, the substitution of one or more members of the governing body that would transfer voting control of the members of the governing body, or any arrangement, written or oral, that would transfer voting control of the entity shall be deemed a transfer for purposes of this article.

(b) The notice to the Attorney General provided for in this section shall contain the information the Attorney General determines is required. The notice, including any other information provided to the Attorney General under this article, and that is the public file,

shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General. The notice to the Attorney General shall include a list of the primary languages spoken at the facility and the threshold languages for Medi-Cal beneficiaries as determined by the State Department of Health Care Services for the county in which the facility is located. The Attorney General may require the nonprofit corporation to provide certain components of the notice in any of those languages.

(c) (1) This section shall not apply to a nonprofit corporation if the agreement or transaction is in the usual and regular course of its activities or if the Attorney General has given the corporation a written waiver of this section as to the proposed agreement or transaction, except that this subdivision shall not apply to subparagraph (C) of paragraph (1) of subdivision (a).

(2) The Attorney General shall review and consent to the sale, transfer, lease, exchange, option, conveyance, or disposal of any assets resulting from a qualifying nonprofit corporation's reduction or elimination of emergency medical services that occurred on or after January 1, 2016, provided the Attorney General did not already consent to the transfer, lease, exchange, option, conveyance, or disposal of those assets pursuant to either this section or Section 5914 and those assets remain under the control of the qualifying nonprofit corporation as of the effective date of the act adding this paragraph, notwithstanding the fact that the Attorney General did not review or consent to the closure or reduction pursuant to Section 5940.

(d) This section shall apply to any foreign nonprofit corporation that operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license.

(e) This section shall not apply to an agreement or transaction if the other party to the agreement or transaction is an affiliate, as defined in Section 5031, of the transferring nonprofit corporation or entity, and the corporation or entity has given the Attorney General 20 days advance notice of the agreement or transaction.

(f) This section shall not be construed to allow the Attorney General to authorize emergency medical services to be provided by a facility that does not meet the requirements of Section 1798.175 of the Health and Safety Code or is not licensed to provide emergency medical services pursuant to Sections 1254, 1255, and 1277 of the Health and Safety Code or to authorize a nonprofit general acute care hospital to reduce operations to provide emergency medical services without providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. This section shall not be construed to authorize, allow for, or permit operation of an emergency department that does not meet the definition in Section 128700 of the Health and Safety Code. This section shall not be construed to authorize, allow for, or permit emergency medical services to be provided that do not meet the requirements for standby, basic, or comprehensive emergency medical services, as defined in Article 6 (commencing with Section 70401) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations.

SEC. 3. Chapter 9.2 (commencing with Section 5940) is added to Part 2 of Division 2 of Title 1 of the Corporations Code, to read:

CHAPTER 9.2. Emergency Center Services

5940. (a) A nonprofit corporation that operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, and that provides emergency medical services at an emergency center licensed under Sections 1254, 1255, and 1277 of the Health and Safety Code, shall provide written notice to, and to obtain the written consent of, the Attorney General prior to a planned reduction in the level of emergency medical services provided or elimination of those services. The written notice required by this section shall be provided to the Attorney General as soon as possible, but in no case later than 135 days before the planned reduction in the level of emergency medical services provided or elimination of those services.

(b) Except as provided in subdivision (j), this section shall not apply to a nonprofit corporation if the Attorney General has given the corporation a written waiver of this section as to the planned elimination or reduction of the level of emergency medical services.

(c) The notice to the Attorney General described in subdivision (a) shall include and contain the information the Attorney General determines is required to make a decision in the public interest pursuant to this section. The notice, including any other information provided to the Attorney General under this section, and that is in the public file, shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General.

(d) Within 90 days of the receipt of the written notice described in subdivision (a), the Attorney General shall notify the nonprofit corporation in writing of the decision to consent to, give conditional consent to, or not consent to the reduction or elimination in emergency medical services. The Attorney General may extend this period for one additional 45-day period if either of the following conditions is satisfied:

(1) The extension is necessary to obtain information to make a determination pursuant to paragraph (1) of subdivision (f).

(2) The plan to reduce or eliminate emergency medical services is substantially modified after the first public meeting conducted by the Attorney General in accordance with subdivision (e).

(e) Prior to issuing any written decision referred to in subdivision (a), the Attorney General shall conduct one or more public meetings, one of which shall be in the county in which the facility is located, to hear comments from interested parties. At least 14 days before conducting the public meeting, the Attorney General shall provide written notice of the time and place of the meeting through publication in one or more newspapers of general circulation in the affected community and to the board of supervisors of the county in which the facility is located. If a substantive change in the plan to eliminate or reduce emergency medical services is submitted to the Attorney General after the initial public meeting, the Attorney General may conduct an additional public meeting to hear comments from interested parties with respect to that change.

(f) The Attorney General shall have discretion to consent to, give conditional consent to, or not consent to any elimination or reduction of emergency medical services described in subdivision (a). In making the determination, the Attorney General shall consider any factors that the Attorney General deems relevant, including, but not limited to, whether any of the following apply:

(1) The planned elimination or reduction in the level of emergency medical services is consistent with the charitable trust on which the assets are held by the health facility or by the affiliated nonprofit health system.

(2) The planned elimination or reduction involves or constitutes any breach of trust.

(3) The Attorney General has been provided, pursuant to Section 5250, with sufficient information and data by the nonprofit corporation to evaluate adequately the reduction or elimination of emergency medical services, or the effects thereof on the public.

(4) The reduction or elimination of emergency medical services may create a significant effect on the availability or accessibility of health care services to the affected community.

(5) The proposed reduction or elimination of emergency medical services is in the public interest.

(g) If the Attorney General gives consent or conditional consent to the reduction or elimination of emergency medical services pursuant to this section, and the assets resulting from the reduction or elimination are sold, transferred, leased, exchanged, optioned, conveyed, or otherwise disposed of, the disposal of those assets shall be subject to Sections 5914 or 5920.

(h) (1) Within the time periods designated in subdivision (d) and relating to those factors specified in subdivision (f), the Attorney General may do the following:

(A) Contract with, consult, and receive advice from any state agency on those terms and conditions that the Attorney General deems appropriate.

(B) In his or her sole discretion, contract with experts or consultants to assist in reviewing the proposed changes to the level of emergency services provided.

(2) Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and evaluation. Any contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. The nonprofit corporation, upon request, shall pay the Attorney General promptly for all contract costs.

(3) The Attorney General shall be entitled to reimbursement from the nonprofit corporation for all actual, reasonable, direct costs incurred in reviewing, evaluating, and making the determination referred to in this chapter, including administrative costs. The nonprofit corporation shall promptly pay the Attorney General, upon request, for all of those costs.

(4) In order to monitor effectively ongoing compliance with any terms and conditions that the Attorney General may impose pursuant to this section, including, but not limited to, the ongoing use of the charitable assets in a manner consistent with the trust pursuant to which they are held, the Attorney General may, in his or her sole discretion, contract with experts and consultants to assist in this regard. Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and evaluation. Any contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. The nonprofit corporation shall pay the Attorney General promptly for all contract costs. The Attorney General shall be entitled to reimbursement from the corporation for all actual, reasonable, and direct costs incurred in monitoring ongoing compliance with the terms and conditions of the reduction or elimination of emergency medical services, including contract and administrative costs. The nonprofit corporation, upon request, shall pay the Attorney General promptly for all contract costs.

(i) The Attorney General may adopt regulations implementing this section.

(j) This section shall not be construed to allow the Attorney General to authorize emergency medical services to be provided by a facility that does not meet the requirements of Section 1798.175 of the Health and Safety Code, or is not licensed to provide emergency medical services pursuant to Section 1254, 1255, and 1277 of the Health and Safety Code, or to authorize a nonprofit general acute care hospital to reduce operations to provide emergency medical services without providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anaesthesia, laboratory, radiology, pharmacy, and dietary services. This section shall not be construed to authorize, allow for, or permit operation of an emergency department that does not meet the definition in Section 128700 of the Health and Safety Code. This section shall not be construed to authorize, allow for, or permit emergency medical services to be provided that do not meet the requirements for standby, basic, or comprehensive emergency medical services, as defined in Article 6 (commencing with Section 70401) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations.

(k) For purposes of this section, "nonprofit corporation" means a corporation that is defined in Section 5046 or a foreign corporation that is defined in Section 5053.

SEC. 4. Section 1254 of the Health and Safety Code is amended to read:

1254. (a) Except as provided in subdivision (e), the state department shall inspect and license health facilities. The state department shall license health facilities to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall not license a stand-alone emergency room, freestanding emergency department, or freestanding emergency center that is not part of a general acute care hospital facility providing 24-hour inpatient care with basic services, including, but not limited to, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. The state department shall develop and adopt regulations to implement the provisions contained in this section.

(b) Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility, whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services, as defined in subdivision (c) or (d) of Section 1250, by any acute care hospital on or after January 1, 1984.

(c) (1) Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from the requirements of subdivision (b).

(2) All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from the requirements of subdivision (b) irrespective of the date of original licensure of the beds, or the licensed category of the beds.

(3) All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from the requirements of subdivision (b).

(4) All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from the requirements of subdivision (b), except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(5) All beds licensed to an acute care hospital which meet the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and published by the California Health Facilities Commission, and all beds in hospitals which have fewer than 76 licensed acute care beds and which are located in a census designation place of 15,000 or less population, are exempt from the requirements of subdivision (b), except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(6) All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from the requirements of subdivision (b).

(7) All beds licensed to an acute care hospital are exempt from the requirements of subdivision (b), if reimbursement from the Medi-Cal program for beds licensed for the provision of services enumerated in subdivision (c) or (d) of Section 1250 and not otherwise exempt does not exceed the reimbursement which would be received if the beds were in a separately licensed facility.

(d) Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement subdivisions (a) to (d), inclusive, of this section.

(e) The State Department of Health Care Services shall inspect and license psychiatric health facilities. The State Department of Health Care Services shall license psychiatric health facilities to provide their basic services specified in Section 1250.2. The State Department of Health Care Services shall develop, adopt, or amend regulations to implement this subdivision.

SEC. 5. Section 1255.1 of the Health and Safety Code is amended to read:

1255.1. (a) Any hospital that provides emergency medical services under Section 1255 shall, as soon as possible, but not later than 90 days prior to a planned reduction or elimination of the level of emergency medical services, provide notice of the intended change to the state department, the local government entity, and the agency in charge of the provision of health services, and all health care service plans or other entities under contract with the hospital to provide services to enrollees of the plan or other entity.

(b) In addition to the notice required by subdivision (a), the hospital shall, within the time limits specified in subdivision (a), provide public notice of the intended change in a manner that is likely to reach a significant number of residents of the community serviced by that facility.

(c) A hospital shall not be subject to this section or Section 1255.2 if the state department does either of the following:

(1) Determines that the use of resources to keep the emergency center open substantially threatens the stability of the hospital as a whole.

(2) Cites the emergency center for unsafe staffing practices.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 5914 of the Corporations Code proposed by both this bill and Assembly Bill 651. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 5914 of the Corporations Code, and (3) this bill is enacted after Assembly Bill 651, in which case Section 1 of this bill shall not become operative.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 5920 of the Corporations Code proposed by both this bill and Assembly Bill 651. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 5920 of the Corporations Code, and (3) this bill is enacted after Assembly Bill 651, in which case Section 2 of this bill shall not become operative.

SEC. 8. 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.