

Date of Hearing: April 20, 2021

ASSEMBLY COMMITTEE ON HEALTH  
Jim Wood, Chair  
AB 1527 (Ting) – As Introduced February 19, 2021

**SUBJECT:** Seton Medical Center: seismic safety.

**SUMMARY:** Authorizes the Office of Statewide Health Planning and Development (OSHPD) to waive requirements for the Seaton Medical Center (SMC) in Daly City to comply with seismic safety requirements. Specifically, **this bill:**

- 1) Authorizes OSHPD to waive requirements for the SMC to comply with seismic safety requirements, in whole or in part, if both of the following occur:
  - a) SMC submits a plan to OSHPD on or before January 15, 2022, that proposes compliance with applicable seismic safety standards and regulations on or before July 1, 2023; and,
  - b) OSHPD accepts the plan submitted by SMC as feasible to complete and promoting public safety.
- 2) Requires SMC, if OSHPD accepts the plan described in 1) above, to report to OSHPD, in the manner required by OSHPD, on its progress to timely complete the plan, on or before all of the following dates:
  - a) April 1, 2022;
  - b) July 1, 2022;
  - c) October 1, 2022;
  - d) January 1, 2023, and,
  - e) April 1, 2023.
- 3) Authorizes OSHPD to revoke its waiver, in whole or in part, of the seismic safety requirements if SMC fails to timely report progress that the office deems is sufficient to complete the plan.

**EXISTING LAW:**

- 1) Establishes the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Alquist Act), to ensure that hospital buildings are designed and constructed to resist the forces generated by earthquakes and requires OSHPD to propose building standards for earthquake resistance and to provide independent review of the design and construction of hospital buildings.
- 2) Establishes timelines for hospital compliance with seismic safety standards, including a requirement that buildings posing a significant risk of collapse and a danger to the public (referred to as Structural Performance Category 1 [SPC]-1 buildings) be rebuilt or retrofitted to be capable of withstanding an earthquake, or removed from acute care service, by January 1, 2008, and a requirement that hospital buildings be capable of remaining intact after an earthquake, and capable of continued operation by January 1, 2030.

- 3) Permits OSHPD to grant an extension of up to five years from the 2008 deadline, which would be January 1, 2013, for hospitals for which compliance will result in a loss of health care capacity, as defined. Allows OSHPD to grant further extensions beyond this, including up to seven years, or until January 1, 2020, in part based on the loss of essential hospital services to the community if the hospital closed, and financial hardship.
- 4) Permits a hospital to continue operating under a deadline extension if either of the following occurs before the end of the extension:
  - a) A replacement building has been constructed and a certificate of occupancy has been granted by OSHPD for the replacement building; or,
  - b) A retrofit has been performed on the building and a construction final has been obtained by OSHPD.
- 5) Permits OSHPD to revoke an extension for any hospital building when it is determined that any information submitted was falsified, or if the hospital failed to meet a milestone, or where the work of construction is abandoned or suspended for a period of at least six months.
- 6) Requires all hospitals with SPC-1 buildings to submit a binding application to OSHPD by July 1, 2019 that states which seismic compliance method: rebuild; remove; replace; or, retrofit, as defined, will be used for each SPC-1 building. Requires OSHPD to grant extensions to the seismic safety compliance requirements in the case of rebuilds, replacements, or retrofits, as specified.

**FISCAL EFFECT:** Unknown. This bill has not been analyzed by a fiscal committee.

**COMMENTS:**

- 1) **PURPOSE OF THIS BILL.** According to the author, this bill authorizes OSHPD to grant SMC a waiver, of up to one year, to achieve compliance with seismic retrofit requirements. This waiver is urgently needed in order to allow SMC additional time to comply with these requirements after years of financial uncertainty as to whether this hospital would close. SMC provides much-needed emergency services for roughly 27,000 people in the Bay Area, and 80% of those are Medi-Cal or Medicare patients. The author concludes that the waiver would allow the hospital to continue providing critical community care and acute medical services to a significant population of individuals in the Bay Area and allow for continued medical resources and services to remain available to help further combat the ongoing coronavirus pandemic
- 2) **BACKGROUND.**
  - a) **Hospital seismic safety requirements.** Following the 1971 San Fernando Valley earthquake, California enacted the Alquist Act, which mandated that all new hospital construction meet stringent seismic safety standards. In 1994, after the Northridge earthquake, the Legislature passed and the Governor signed SB 1953 (Alquist), Chapter 740, Statutes of 1994, which required OSHPD to establish earthquake performance categories for hospitals, and established a January 1, 2008, deadline by which general acute care hospitals must be retrofitted or replaced so that they do not pose a risk of collapse in the event of an earthquake; and a January 1, 2030, deadline by which they must be capable of remaining operational following an earthquake. Subsequent

legislation allowed most hospitals to qualify for an extension of the January 1, 2008 deadline to January 1, 2013.

OSHPD categorizes hospitals into five SPCs. SPC-1 is the category of buildings at most risk of collapse in an earthquake, and it is these hospitals that were originally required to be taken out of service or retrofitted by January 1, 2008, which has since been extended for some hospitals to January 1, 2020. Buildings in SPC-2, 3, 4, and 5 are generally categorized based on when they were built and the building code regulations in effect at that time. Hospital buildings in any of these categories may be used up until January 1, 2030, at which time hospitals must either meet SPC-5 requirements, or under recently adopted regulations, the new category of SPC-4D. SPC-5 generally requires new construction for any building constructed before 1989, while SPC-4D allows for some older buildings to be retrofitted and still be compliant with January 1, 2030 standards.

In addition to the original five-year extension to January 1, 2013, the Legislature has passed additional bills allowing hospitals to extend the deadlines for retrofitting SPC 1 buildings beyond the 2013 deadline. SB 306 (Ducheny), Chapter 642, Statutes of 2007, permitted a hospital owner to comply with seismic safety deadlines and requirements in current law by replacing all of its buildings subject to seismic retrofit by January 1, 2020, rather than retrofitting by 2013 and replacing them by 2030, if the hospital meets several conditions and OSHPD certifies that the hospital owner lacks the financial capacity to meet seismic standards, as defined. SB 90 (Steinberg), Chapter 19, Statutes of 2011, allowed a hospital to seek an extension for seismic compliance for its SPC-1 buildings of up to seven years (no later than January 1, 2020) based on the following elements: the structural integrity of the building, the loss of essential hospital services to the community if the hospital closed, and financial hardship.

Most recently, the Legislature passed AB 2190 (Reyes), Chapter 673, Statutes of 2018, which provides for an extension of the January 1, 2020 hospital seismic safety deadline of up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to at least the 2020 standard of SPC-2, and up to five years (January 1, 2025) for hospitals that plan to rebuild to SPC-4D or SPC-5 standards that meet 2030 standards.

- b) **SMC.** SMC is a 357 bed facility in Daly City, California. On August 13, 2020, the Attorney General approved the sale of SMC to Advanced Healthcare Management Corporation (AHMC). The conditions of the sale require the hospital to stay open for at least five and a half years. They also require AHMC to completely cover the cost of care for patients who earn less than 250% of the federal poverty level and partially cover the cost of care for other low-income patients. According to information provided by the author, approximately 27,000 people in southern San Francisco and northern San Mateo County rely on SMC's provision of emergency services, and approximately 80% of those individuals are Medi-Cal and Medicare patients.

Due to the ownership change and prior financial uncertainty, SMC is behind on complying with existing seismic retrofit requirements. San Mateo County is committing \$10 million for a seismic retrofit of the hospital, and the Health Plan of San Mateo, a local healthcare non-profit, is also contributing \$10 million for the retrofit. AHMC believes that they will require a minimum of an additional six months to comply with July 1, 2022 deadline. This bill would allow OSHPD to grant a waiver of up to one year

for SMC to comply with seismic planning/reporting requirements and an additional extension of time from the current deadline of July 1, 2022 (as stipulated in AB 2190) to complete construction and achieve compliance with seismic requirements (i.e., upgrading the SPC-1 Buildings to SPC-2 standards).

According to OSHPD, the proposed new deadline for SMC should be achievable. OSHPD notes that SMC has made considerable use of OSHPD resources as they look to simplify and expedite their project and they are on track to meet the requirements of this bill.

- 3) **SUPPORT.** The cities of Daly City and South San Francisco and the National Union of Healthcare Workers all support this bill, and state that SMC plays a pivotal role in providing health care for the community, and is also the largest employer in Daly City, with 1,500 employees. The supporters note that this bill will ensure SMC can continue to provide care during the lingering coronavirus pandemic, while complying with seismic retrofit requirements in a timely manner.
- 4) **RELATED LEGISLATION.** AB 1464 (Arambula) requires the owner of an acute care inpatient hospital whose building does not substantially comply with the seismic safety regulations or standards, to report to OSHPD what services are provided in each building of the hospital. AB 1464 is pending in the Assembly Health Committee.
- 5) **PREVIOUS LEGISLATION.**
  - a) AB 2190 provides for an extension of the January 1, 2020 hospital seismic safety deadline of up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to at least the 2020 standard of SPC-2, and up to five years (January 1, 2025) for hospitals that plan to rebuild to SPC-4D or SPC-5 standards that meet 2030 standards.
  - b) AB 908 (Dababneh), Chapter 350, Statutes of 2017, authorizes Providence Tarzana Medical Center in Los Angeles to request an additional extension, until October 1, 2022, of the seismic safety requirement that hospital buildings must be rebuilt or retrofitted in order to be capable of withstanding an earthquake.
  - c) AB 81 (Wood), Chapter 63, Statutes of 2015, permitted a hospital in the City of Willits to request an eight-month deadline extension of a seismic safety requirement that hospitals be rebuilt or retrofitted to be capable of withstanding an earthquake, which it is currently required to meet by January 1, 2015, so that this hospital could have until September 1, 2015, to meet this seismic safety requirement.
  - d) AB 2557 (Pan), Chapter 821, Statutes of 2014, permitted a hospital located in the Counties of Sacramento, San Mateo, or Santa Barbara or the City of San Jose, that had received an additional extension of the January 1, 2008, seismic safety requirements under specified provisions of existing law to January 1, 2015, to request an additional extension until September 1, 2015, in order to obtain either a certificate of occupancy or a construction final from the OSHPD.
  - e) SB 90 allowed a hospital to seek an extension for seismic compliance for its SPC-1 buildings of up to seven years based on the following elements: the structural integrity of

the building, the loss of essential hospital services to the community if the hospital closed, and financial hardship.

- f) SB 499 (Ducheny), Chapter 601, Statutes of 2009, required all general acute care hospitals that have SPC-1 buildings to report to OSHPD by November 1, 2010, and annually thereafter, on the status of their compliance with the seismic safety deadlines.
- g) SB 306 amended the Alquist Act to permit hospitals to delay compliance with the July 1, 2008 seismic retro deadline, and the 2013 extension, to the year 2020, by filing a declaration with OSHPD that the owner lacks financial capacity to comply with the law.
- h) SB 1661 (Cox), Chapter 679, Statutes of 2006, authorized an extension of up to an additional two years for hospitals that had already received extensions of the January 1, 2008 seismic safety compliance deadline if specified criteria were met, and required specified hospital reports to be posted on the OSHPD Website.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Juslyn C. Manalo, Mayor, City of Daly City  
National Union of Healthcare Workers (NUHW)  
South San Francisco; City of  
Town of Colma

**Opposition**

None on file.

**Analysis Prepared by:** Lara Flynn / HEALTH / (916) 319-2097