
CONSENT

Bill No: AB 1527
Author: Ting (D), et al.
Introduced: 2/19/21
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio,
Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: Seton Medical Center: seismic safety

SOURCE: AHMC Health System

DIGEST: This bill permits the Office of Statewide Planning and Development to extend the seismic retrofit requirements for Seton Medical Center until July 1, 2023.

ANALYSIS:

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 the Office of Statewide Health Planning and Development (OSHPD) to propose building standards for earthquake resistance and to provide independent review of the design and construction of hospital buildings. [HSC §129675, et seq.]
- 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 SPC -1 buildings) be rebuilt or retrofitted to be capable of withstanding an earthquake, or removed from acute care service, by January 1, 2008 (which has since been extended for various hospitals to various dates), and a requirement that hospital must also be capable of continued operation by January 1, 2030. [HSC §130060, §130065]

- 3) Permits OSHPD to grant an extension of up to five years to 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 various further extensions beyond this, including up to seven years to January 1, 2020, in part based on the loss of essential hospital services to the community if the hospital closed, and financial hardship. [HSC §130060, §130061.5]
- 4) Permits OSHPD, under legislation enacted in 2018, to provide for an extension of the January 1, 2020 deadline in 3) above, for up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to meet the 2020 standard, and up to five years (January 1, 2025) for hospitals that plan to rebuild to a standard that meets the 2030 requirement. [HSC §130062]

This bill:

- 1) Permits OSHPD, notwithstanding any other law, to waive the requirements for the Seton Medical Center in Daly City to comply with the seismic requirements of existing law, in whole or in part, if both of the following occur:
 - a) Seton Medical Center submits a plan to OSHPD, on or before January 15, 2022, that proposes compliance with the applicable seismic safety standards in existing law on or before July 1, 2023; and,
 - b) OSHPD accepts the plan submitted by Seton Medical Center as feasible to complete and promoting public safety.
- 2) Requires Seton Medical Center, if OSHPD accepts the plan pursuant to 1) above, to report to 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) Permits OSHPD to revoke its waiver, in whole or in part, if Seton Medical Center fails to timely report progress that OSHPD deems is sufficient to complete the plan.
- 4) States legislative findings and declarations that a special statute is necessary and that a general statute cannot be made applicable because of the unique financial challenges Seton medical Center is resolving while providing medical and care services during the COVID-19 pandemic to underserved and vulnerable populations.

Comments

- 1) *Author's statement.* According to the author, this bill authorizes OSHPD to grant Seton Medical Center in Daly City a waiver, of up to one year, to achieve compliance with seismic retrofit requirements. This waiver is urgently needed in order to allow Seton Medical Center additional time to comply with these requirements after years of financial uncertainty as to whether this hospital would close. Seton Medical Center provides much-needed emergency services for roughly 27,000 people in the Bay Area, and 80% of those are MediCal or Medicare patients. 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) *Overview of hospital seismic 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, SB 1953 (Alquist, Chapter 740, Statutes of 1994) 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 Structural Performance Categories (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

multiple times. 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 more recently constructed 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.

- 3) *Seismic deadline extensions passed in 2018 were intended to allow last stragglers to comply.* In 2018, the Legislature passed AB 2190 (Reyes, Chapter 673, Statutes of 2018) which was intended to allow the last remaining hospitals that had not yet met the SPC 2 standard, to meet the mandate without fear of closure should they have a construction or financing delay. AB 2190 provided two paths: a 30 month extension (to July 1, 2022) for hospitals that submitted a retrofit plan or a “replacement plan” (relocating acute care services or beds from nonconforming buildings into a conforming building); or alternatively, a five year extension (to January 1, 2025) for hospitals that submitted a rebuild plan to construct a new building that would meet the 2030 standard. This bill only applies to extensions to July 1, 2022 granted under retrofit or replacement plans.

In order to receive the extension to July 1, 2022 for a retrofit or replacement plan, the hospital and OSHPD were required to identify at least two major milestones relating to the compliance plan to be used as a basis for determining

whether the hospital is making adequate progress toward meeting the new seismic compliance deadline. The hospital needed to start construction by April 1, 2020, and meet any agreed upon milestone, or be subject to a \$5,000 fine per calendar day until the requirements or milestones are met. Similarly, hospitals seeking an extension to January 1, 2025 for a rebuild plan had to work with OSHPD to identify major milestones, begin construction by January 1, 2022, and are also subject to the daily \$5,000 fine for failure to meet requirements or agreed upon milestones. AB 2190 permitted OSHPD to grant adjustments to the deadlines to meet milestones or other requirements as necessary to deal with specified delays, but OSHPD was prohibited from extending the final seismic compliance dates of July 1, 2022 for replacement or retrofit plans, and January 1, 2025 for rebuild plans. Hospitals granted extensions under AB 2190 are required to provide a quarterly status report to OSHPD until seismic compliance is achieved.

- 4) *Background on Seton Medical Center and its seismic compliance status.* Seton Medical Center, located in Daly City, is licensed for 357 beds, and until 2015 was part of the Daughters of Charity Health System. In 2015, Daughters of Charity sought to sell their hospitals, and after a failed deal with Prime Healthcare Services, management of the hospitals was turned over to a new management company which became Verity Health Systems. In 2018, Verity Health Systems declared bankruptcy, and after a planned sale to KPC group fell through, in March of 2020 Verity Health Systems announced plans to close Seton Medical Center. After the San Mateo County Board of Supervisors stepped in with a commitment of funds to keep its doors open, AHMC Healthcare agreed to purchase the hospital. The sale was approved by the Attorney General in July of 2020, subject to a commitment to keep the hospital open for at least five and a half years, and to completely cover the cost of care for people who earn at or less than 250% of the federal poverty level, and to partially cover the cost of care for other low-income patients. According to an August 14, 2020 article in the San Jose Mercury News, San Mateo County committed \$10 million towards the seismic retrofit of the hospital, and the Health Plan of San Mateo contributed an additional \$10 million for the retrofit.

According to OSHPD, of the seven buildings that comprise Seton Medical Center, there is a one-story front wing building attached to an 11-story tower, both completed in 1963, that are still categorized as SPC-1 and are the subject of a retrofit plan. According to OSHPD, they have been engaged with the new owner of Seton Medical Center, and have found a way forward with the retrofit that is quicker than the plan submitted by the previous owner. The hospital recently awarded a construction contract based on the new plan, and a Notice to

Proceed has been issued. OSHPD believes the project will be completed by January 1, 2023.

- 5) *Current status of SPC 1 seismic compliance in California.* According to OSHPD, there are a total of 3146 buildings at 419 licensed hospital facilities that are subject to the seismic safety standards. All have achieved at least the SPC 2 standard that allows them to remain in service until 2030 except for 123 buildings spread across 51 hospital facilities. In some cases, there are no plans to retrofit or rebuild, and the hospital has either already taken them out of service but it is not reflected in the data yet, or there are plans to take them out of service prior to the July 1, 2022 deadline. It is unclear at this time how many of the remaining out of compliance buildings are expected to remain in service but are in jeopardy of missing the July 1, 2022 deadline for retrofit or replacement projects, or the January 1, 2025 for rebuild projects.

Related/Prior Legislation

AB 2190 (Reyes, Chapter 673, Statutes of 2018) provided 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.

AB 908 (Dababneh, Chapter 350, Statutes of 2017) permitted Providence Tarzana Medical Center in Los Angeles to request an additional extension, until October 1, 2022, of the seismic safety requirement that hospital buildings be rebuilt or retrofitted in order to be capable of withstanding an earthquake.

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.

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.

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 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.

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.

SB 306 (Ducheny, Chapter 642, Statutes of 2007) 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.

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 Web site.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 6/22/21)

AHMC Health System (source)
California Hospital Association
City of South San Francisco
Daly City
National Union of Healthcare Workers
San Mateo County Board of Supervisors
Town of Colma

OPPOSITION: (Verified 6/22/21)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by AHMC Health System, which states that Seton Medical Center is behind on complying with seismic

retrofit requirements due to uncertainty that it would remain open due to bankruptcy and multiple potential ownership changes prior to being acquired by AHMC. According to AHMC, the Attorney General approved its purchase of Seton Medical Center in July 2020, and the sale was consummated in August. The conditions of the sale require the hospital to stay open for at least five and a half years, and to cover the cost of care for patients who earn less than 250% of the federal poverty level, among other requirements. AHMC states that Seton Medical Center is also the largest employer in Daly City, with approximately 1,500 employees, and this bill will ensure that the hospital can continue providing critical community patient care while complying with seismic retrofit requirements in a timely manner. The National Union of Healthcare Workers (NUHW) states in support that it represents 700 healthcare workers at Seton Medical Center, who have weathered several challenging years of bankruptcy, during which the previous operator suspended the seismic retrofit. NUHW supports giving the new operator up to a one-year extension, provided that the state ensures the AHMC is making progress towards fulfilling the seismic requirement.

ASSEMBLY FLOOR: 77-0, 5/6/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Mullin

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/21 16:27:07

**** END ****