Date of Hearing: April 26, 2022

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 2904 (Mia Bonta) – As Amended March 24, 2022

SUBJECT: Alameda Hospital: seismic safety compliance deadline: extension.

SUMMARY: Requires the Department of Health Care Access and Information (HCAI) to grant Alameda hospital a seven-year extension of the 2030 seismic safety deadline for buildings housing specified service. Specifically, **this bill**:

1) Requires HCAI, regardless of any other law, to grant an extension of the 2030 deadline to comply with structural and nonstructural requirements of the seismic safety requirements, to 2037, to Alameda Hospital, for buildings housing acute care service, emergency department, diagnostics, and surgery, to Structural Performance Category-3 (SPC-3) or above compliance, as well as full compliance with 2030 Non-Structural Performance Category (NPC) standards.

2) Requires Alameda Hospital, commencing in January 2024, to annually report to HCAI on its progress toward meeting the 2037 seismic compliance requirements as described in 1) above.

3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique financial challenges facing Alameda Hospital and the disruption of patient services that would occur without an extension of the 2030 compliance deadline. States that Alameda Hospital is the sole emergency department and acute care facility on the island of Alameda, California, with a population of over 70,000.

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 HCAI 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 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 requires that hospital buildings be capable of remaining intact after an earthquake, and capable of continued operation by January 1, 2030.

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

COMMENTS:

1) **PURPOSE OF THIS BILL.** According to the author, Alameda Hospital is a public hospital and the sole acute care facility on the island of Alameda. This hospital is the only safety net hospital on the island that has a population of over 70,000 residents. Having recently finished

compliance with the 2020 seismic safety standards, Alameda Hospital estimates complying with the 2030 seismic safety standards by 2030 will cost the hospital over $200 million and require closing the hospital for several years. The author states that this bill is a district bill that acknowledges the unique challenges facing Alameda Hospital in complying with the 2030 seismic safety standards, and concludes that in doing so, this bill provides the hospital with additional time and accommodations in upgrading the hospital facilities.

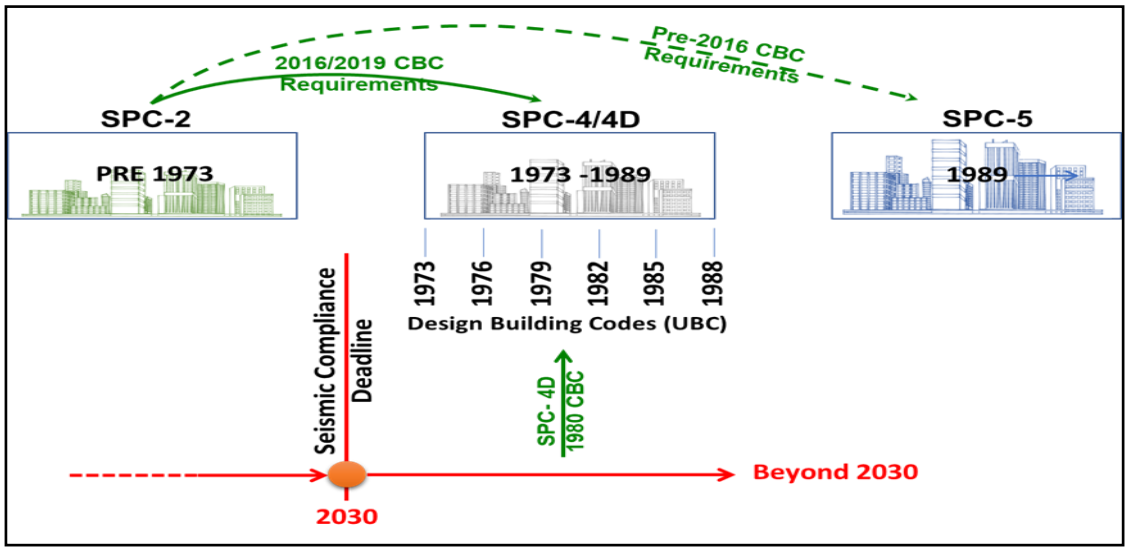
2) **BACKGROUND.** In the early morning hours of February 9, 1971, California experienced the San Fernando Valley (also known as Sylmar) earthquake. Collapsed buildings at the Veteran's Administration Hospital caused 47 of the more than 60 deaths attributed to the earthquake. Olive View Medical Center also experienced heavy damage, causing three deaths – one death caused by a collapsing structure, and two others as a result of the loss of power to their life support systems. Several other hospitals were impacted and had to evacuate. As a result, in 1973, the Legislature passed the Alquist Act, which required all new hospital construction to meet stringent seismic safety standards. The original Alquist Act did not apply to existing buildings, partly because of the expectation that older hospital buildings would be replaced with conforming buildings over time. However, by the time the 1994 Northridge earthquake occurred more than 20 years later, 80% of hospital beds were still in pre-1973 non-conforming buildings. The Northridge earthquake caused significant structural damage to a number of hospitals, with one hospital evacuated because of severe diagonal cracking, and another evacuated because of a potential loss of vertical support. From a structural standpoint, hospitals constructed after the Alquist Act withstood the earthquake relatively well. Comparisons of hospital buildings constructed before and after the 1973 standards showed that the Alquist Act was very important in limiting structural damage. However, the Northridge earthquake revealed that for health care providers and emergency services planners, nonstructural damage is a serious threat to patient safety and a hospital's capacity to function. In two cases, nonstructural damage was so severe that hospitals were forced to close. In other facilities, damage to heating and ventilation systems and sprinklers forced major evacuations, even though there was no significant structural damage to the buildings.

   The Northridge earthquake experience prompted the Legislature to update the Alquist Act in 1994 to bring older hospital buildings into compliance with structural requirements by 2008 (which was subsequently delayed through various bills over the years), and to adopt additional requirements that would ensure hospitals, by January 1, 2030, would not only remain standing, but would also remain operational following a major earthquake (referred to as "2030 compliance").

   a) **Seismic safety requirements.** The bill that updated the Alquist Act following the Northridge earthquake was SB 1953 (Alquist), Chapter 740, Statutes of 1994. SB 1953 required the Office of Statewide Health Planning and Development (OSHPD now HCAI) to create seismic performance categories for hospitals depending on the risk of collapse, and the ability to remain operable following an earthquake. Specifically, SB 1953 required HCAI to create SPCs, as well as nonstructural performance categories (NPCs) for "nonstructural systems that are critical to providing basic services to hospital inpatients and the public after a disaster." Each hospital building receives both an SPC and an NPC rating. According to HCAI, the SPC requirements can be thought of as protecting the skeleton, while NPC requirements ensure the organs and other tissues that are necessary for a human body to function will remain safely attached to the skeleton. It

is important to note that a licensed facility, or hospital, is often made up of several buildings on its campus. Many hospitals may have one or more buildings that are 2030 compliant, while other buildings still need to be retrofitted or replaced.

The illustration below shows the SPC level a hospital can achieve to be 2030 compliant based on the year the hospital was constructed:



The SPC standards are as follows:

i) **SPC 1.** These are pre-1973 buildings (built prior to the adoption of the Seismic Safety Act standards) that are at significant risk of collapse and that represent a danger to the public. These buildings were originally required to be brought up to SPC 2 level or removed from service by 2008, but there have been a number of extensions. AB 2190 (Reyes), Chapter 673, Statutes of 2018, provided for an extension until July 1, 2022 for hospitals that plan to replace or retrofit to SPC 2, and up to January 1, 2025 for hospitals that plan to retrofit to SPC 4D or replace with a new SPC 5 building.

ii) **SPC 2.** These are also pre-1973 buildings, but were in substantial compliance with pre-1973 California Building Standards Codes, and while they may not be repairable or functional following an earthquake, they will not significantly jeopardize life. These buildings are permitted to remain in service only until January 1, 2030, at which point they need to have been replaced by an SPC 5 building, have the acute care services relocated to a conforming building (SPC 3, 4, or 5), or be retrofitted to SPC 4D.

The following categories are 2030 compliant, and can continue operating indefinitely:

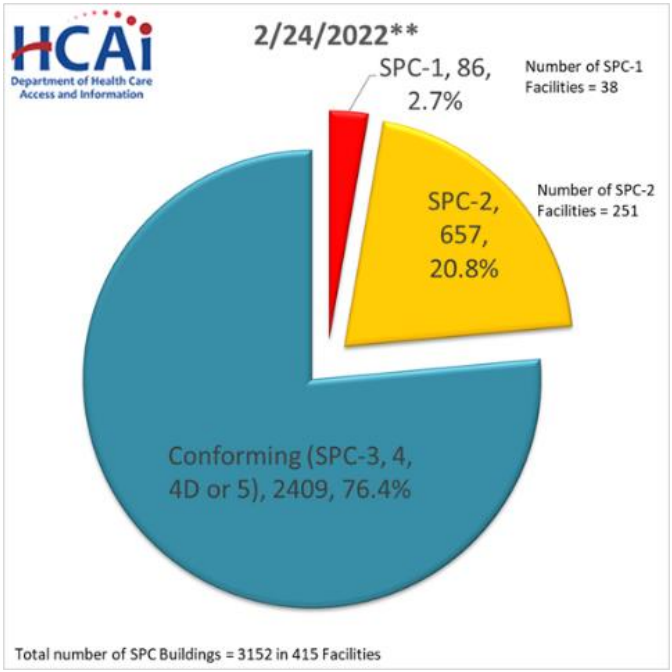
iii) **SPC 3**. These buildings are in compliance with the original 1973 Seismic Safety Act, but were constructed under a permit issued prior to October 25, 1994, and utilized steel moment-resisting frames. These buildings may experience structural damage during an earthquake which does not significantly jeopardize life, but may not be repairable or functional following strong ground motion.

iv) SPC 4. These are buildings constructed in compliance with the Seismic Safety Act under building permits issued between 1973 and 1989, but may experience structural damage which may inhibit the ability to provide services to the public following strong ground motion.

v) SPC 4D. This is a new category created to allow SPC 2 buildings to be retrofitted to a standard that is 2030 compliant. Because SPC 2 buildings were constructed prior to 1973, they can never reach SPC 3, 4 or 5, since these categories required construction to have started after the adoption of the 1973 standards. SPC 4D became effective on January 1, 2017.

vi) SPC 5. These are buildings constructed after 1989, and are considered reasonably capable of providing services to the public following strong ground motion.

The chart below shows the status of SPC compliance of hospital buildings as of February 24, 2022. It is important to note that this chart shows the compliance level of individual buildings, not hospitals. For example, the chart shows 657 buildings, or 20.8% of all buildings, are still SPC 2 and therefore not yet 2030 compliant. However, these buildings are spread across 251 licensed facilities, which is well over half of the 415 licensed facilities in California:



The NPC requirements, unlike SPC requirements, are cumulative, and not different options. For example, a hospital is first required to achieve NPC 2, which ensures that the nonstructural components that are necessary for a safe evacuation are braced and anchored. Next, a hospital is required to achieve NPC 3 status, which ensures that at least the critical care areas are able to continue to function following an earthquake, and so on. The NPC standards are as follows:

i) NPC 1. The building does not meet any bracing and anchorage requirements.

ii) **NPC 2**. The following systems in the building are braced or anchored according to the California Building Standards Code: communications systems, emergency power supply, bulk medical gas systems, fire alarm systems, and emergency lighting equipment, and signs in the means of egress. **Hospitals had to meet at least the NPC 2 standard by January 1, 2002.**

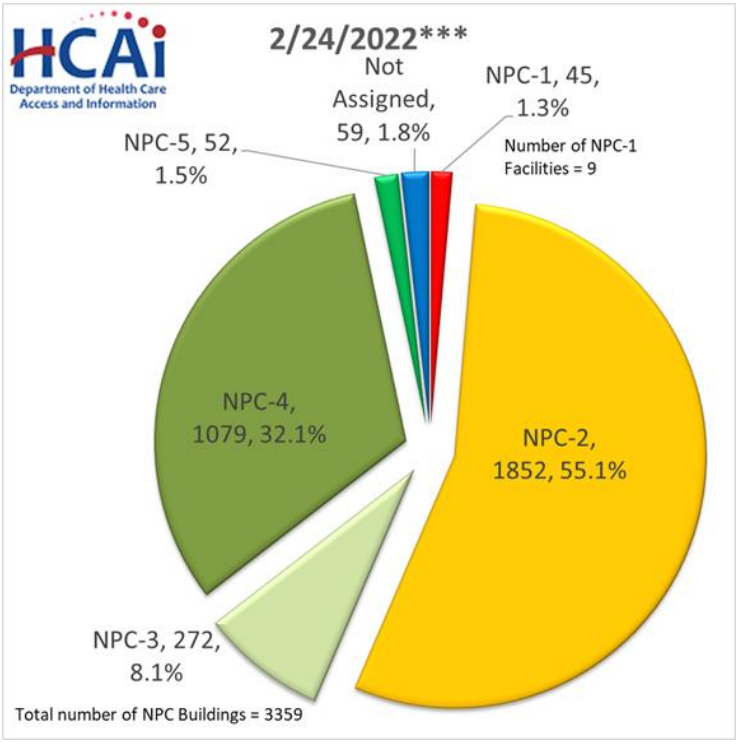
iii) **NPC 3**. This standard requires NPC 2 compliance, plus specified additional bracing and anchorage requirements in critical care areas, clinical laboratory services spaces, pharmaceutical service spaces, radiological service spaces, and central and sterile supply areas**. Hospitals had to meet this standard by January 1, 2008, unless an extension or exemption was approved. Extensions generally tracked the extensions given to SPC 1 buildings, so some buildings are not required to achieve NPC 3 until January 1, 2024.**

iv) **NPC 4**. This standard requires NPC 3 compliance, plus all architectural, mechanical, electrical systems, components and equipment, and hospital equipment to meet bracing and anchorage requirements. **Hospitals are required to meet this standard by January 1, 2024 or 2030 depending on the building's seismic risk category and extension request requirements.**

v) **NPC 4D**. This is a new category assigned to existing hospital buildings that are in compliance with NPC 3 requirements, and have additionally achieved one of three levels with regards to emergency preparedness. Level 1 specifies all systems and equipment are in compliance with NPC-3; Level 2 requires all services and utilities from the source to Level 1 areas must be anchored and braced; and Level 3 requires all systems and equipment to be anchored and braced so that additional services, as determined by the hospital in its Operational Plan, are functional and available to the public after a seismic event. NPC 4D became effective on January 1, 2017. **Hospitals are required to meet this standard by January 1, 2030.**

vi) **NPC 5**. This final standard requires the hospital building to meet NPC 4 or NPC 4D, plus have onsite supplies of water and holding tanks for sewage and liquid waste, sufficient to support 72 hours of emergency operations, which are required to be integrated into the plumbing systems. Additionally, an onsite emergency system, as defined in the California Electrical Code, must be incorporated in the building electrical system for critical care areas, and the system is required to provide for radiological service and onsite fuel supply for 72 hours of acute care operation. **Hospitals are required to meet this standard by January 1, 2030.**

The chart below shows the status of NPC compliance of hospital buildings as of February 24, 2022. Compared to the SPC compliance chart, the vast majority of buildings have not yet met 2030 standards. However, because NPC requirements generally do not involve decisions on whether to rebuild or replace, hospitals are more able to delay compliance with NPC requirements until closer to the deadline.



As the data from HCAI reveal, there are very few remaining buildings that are at risk of collapse in an earthquake. With regard to the 2030 requirement to remain operational, 75% of hospital buildings are already 2030 compliant with regard to the more expensive SPC requirements. However, the remaining SPC 1 and 2 buildings, which must be taken out of service by 2030 or rebuilt to the SPC 4D standard, are spread across more than 250 hospital campuses.

3) **SUPPORT.** The City of Alameda Health Care District (CAHCD) is the sponsor of this bill and states that their hospital recently achieved total compliance with the 2020 seismic retrofit requirement. CAHCD notes that the hospital has served Alameda and neighboring communities for over one hundred years and is the only acute care facility on the island of over 70,000 residents. The hospital has spent the last two years planning an approach to comply with the 2030 standards, only to find estimates may cost as much as $200 million; an amount that a hospital the size of Alameda (66 beds) cannot afford, especially in the wake of the pandemic which has caused widespread financial hardship for hospitals like theirs. CAHCD states that this bill would allow for an extension of time to allow the hospital to continue planning for the retrofit, while also arranging the all-important plan of financing construction.

4) **RELATED LEGISLATION.**

a) AB 1881 (Robert Rivas) changes the one-time requirement for an acute care inpatient hospital (hospital) to submit to HCAI 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, to an annual requirement, until each of the hospital buildings owned by that hospital is compliant. Adds additional reporting and notice requirements for hospitals that are not seismically compliant.

b) SB 1339 (Pan) makes non-substantive changes to the Alquist Act. SB 1339 is pending a hearing in the Senate Health Committee.

c) SB 1388 (Umberg) authorizes HCAI to waive, in whole or in part, any requirement of the Alquist Act, for Southern California Hospital at Culver City, if HCAI accepts a plan, submitted on or before April 1, 2022, for Southern California Hospital at Culver City to comply with applicable seismic safety standards on or before January 1, 2024. SB 1338 is pending hearing in the Senate Judiciary Committee.

5) PREVIOUS LEGISLATION.

a) AB 1464 (Arambula) of 2021 would have required the owner of an acute care inpatient hospital whose building does not substantially comply with the 2030 seismic safety regulations or standards, to report to HCAI what services are provided in each building of the acute care inpatient hospital. AB 1464 was not heard in Assembly Health Committee.

b) AB 1527 (Ting), Chapter 65, Statutes of 2021 authorizes HCAI to waive requirements for the Seaton Medical Center in Daly City to comply with seismic safety requirements.

c) 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.

d) 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.

e) 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.

f) 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.

g) 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.

h) SB 499 (Ducheny), Chapter 601, Statutes of 2009, required all general acute care hospitals that have SPC-1 buildings to report to HCAI by November 1, 2010, and annually thereafter, on the status of their compliance with the seismic safety deadlines.

i) 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 HCAI that the owner lacks financial capacity to comply with the law.

j) 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 HCAI website.

6) **SUGGESTED AMENDMENT.** As currently drafted, this bill provides Alameda hospital a seven-year extension of the 2030 seismic safety requirement. Given that the 2030 requirement is eight years away, an additional seven-year extension does not seem necessary. The Committee may wish to amend this bill to grant Alameda hospital an additional two-year extension, to 2032.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Alameda Health Care District (sponsor)
Alameda Chamber and Economic Alliance
Alameda Hospital Foundation
Alameda Hospital Medical Executive Committee
Association of California Healthcare Districts
City of Alameda
City of Alameda Fire Department

Opposition

None on file.

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