

AMENDED IN SENATE MAY 3, 2017
AMENDED IN SENATE APRIL 6, 2017

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 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, as amended, Skinner. Health facilities: emergency centers: Attorney General.

Existing law requires any nonprofit ~~public benefit corporation~~ 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 ~~nonprofit public benefit~~ corporation, and whether the agreement or transaction is at a fair market value, as specified.

This ~~bill, on and after January 1, 2015,~~ bill would apply the above notice and consent requirements to a nonprofit ~~public benefit corporation~~ corporation, as defined, 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 apply these provisions to a nonprofit corporations' reduction or elimination of emergency medical services that occurred between January 1, 2016, and the effective date of this bill, provided that 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, if those assets are no longer in the control of the qualifying nonprofit corporation but were sold, transferred, leased, optioned, conveyed, or disposed of between January 1, 2017, and the effective date of this bill, would require the qualifying nonprofit corporation to notify the Attorney General of the details of the transaction, and would require the Attorney General to review whether the transaction, in whole or in part, was intended to avoid application of the notice requirement and, if the Attorney General makes that determination, would authorize the Attorney General to assess a civil penalty on the qualifying nonprofit corporation.*

~~This bill, except as specified, bill~~ also would require any nonprofit ~~public benefit corporation~~ 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 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 their elimination. 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 ~~public benefit~~ 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~~ *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.

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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5914 of the Corporations Code is
2 amended to read:
3 5914. (a) (1) Any nonprofit corporation that is defined in
4 Section 5046 and operates or controls a health facility, as defined
5 in Section 1250 of the Health and Safety Code, or operates or
6 controls a facility that provides similar health care, shall be required
7 to provide written notice to, and to obtain the written consent of,

1 the Attorney General prior to entering into any agreement or
2 transaction to do any of the following:

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

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

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

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

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

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

1 (2) *The changes made to this section by the act adding this*
2 *paragraph shall apply to the sale, transfer, lease, exchange, option,*
3 *conveyance, or disposal of any assets resulting from a qualifying*
4 *nonprofit corporation's reduction or elimination of emergency*
5 *medical services that occurred between January 1, 2016, and the*
6 *effective date of the act adding this paragraph, provided those*
7 *assets remain under the control of the qualifying nonprofit*
8 *corporation as of the effective date of the act adding this*
9 *paragraph, notwithstanding the fact that the Attorney General did*
10 *not review or consent to the closure or reduction pursuant to*
11 *Section 5940. If those assets no longer remain in the control of*
12 *the qualifying nonprofit corporation, but were sold transferred,*
13 *leased, optioned, conveyed, or disposed of between January 1,*
14 *2017, and the effective date of the act adding this paragraph, the*
15 *qualifying nonprofit corporation shall notify the Attorney General*
16 *of the details of the transaction and the Attorney General shall*
17 *review whether the transaction, in whole or in part, was intended*
18 *to avoid the application of this section. If the Attorney General*
19 *makes a determination that the transaction was intended to avoid*
20 *application of this section, the Attorney General may assess a civil*
21 *penalty upon the qualifying nonprofit corporation in an amount*
22 *not to exceed the value of such assets.*

23 (d) This section shall apply to any foreign nonprofit corporation
24 that operates or controls a health facility, as defined in Section
25 1250 of the Health and Safety Code, or a facility that provides
26 similar health care.

27 ~~(e) The changes made to this section by the act adding this~~
28 ~~subdivision shall apply on and after January 1, 2015.~~

29 (e) *This section shall not be construed to allow the Attorney*
30 *General to authorize emergency medical services to be provided*
31 *by a facility that does not meet the requirements of Section*
32 *1798.175 of the Health and Safety Code or is not licensed to*
33 *provide emergency medical services pursuant to Sections 1254,*
34 *1255, and 1277 of the Health and Safety Code or to authorize a*
35 *nonprofit general acute care hospital to reduce operations to*
36 *provide emergency medical services without providing 24-hour*
37 *inpatient care with basic services, including, but not limited to,*
38 *medical, nursing, surgical, anesthesia, laboratory, radiology,*
39 *pharmacy, and dietary services. This section shall not be construed*
40 *to authorize, allow for, or permit operation of a stand-alone*

1 *emergency room or freestanding emergency center, except as*
2 *provided in subdivision (b) of Section 1798.101 of the Health and*
3 *Safety Code.*

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

6 5920. (a) (1) Any nonprofit corporation that is defined in
7 Section 5046 and operates or controls a health care facility, as
8 defined in Section 1250 of the Health and Safety Code, or operates
9 or controls a facility that provides similar health care, shall be
10 required to provide written notice to, and to obtain the written
11 consent of, the Attorney General prior to entering into any
12 agreement or transaction to do any of the following:

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

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

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

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

35 (b) The notice to the Attorney General provided for in this
36 section shall contain the information the Attorney General
37 determines is required. The notice, including any other information
38 provided to the Attorney General under this article, and that is the
39 public file, shall be made available by the Attorney General to the

1 public in written form, as soon as is practicable after it is received
2 by the Attorney General.

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

9 (2) *The changes made to this section by the act adding this*
10 *paragraph shall apply to the sale, transfer, lease, exchange, option,*
11 *conveyance, or disposal of any assets resulting from a qualifying*
12 *nonprofit corporation's reduction or elimination of emergency*
13 *medical services that occurred between January 1, 2016, and the*
14 *effective date of the act adding this paragraph, provided those*
15 *assets remain under the control of the qualifying nonprofit*
16 *corporation as of the effective date of the act adding this*
17 *paragraph, notwithstanding the fact that the Attorney General did*
18 *not review or consent to the closure or reduction pursuant to*
19 *Section 5940. If those assets no longer remain in the control of*
20 *the qualifying nonprofit corporation, but were sold transferred,*
21 *leased, optioned, conveyed, or disposed of between January 1,*
22 *2017, and the effective date of the act adding this paragraph, the*
23 *qualifying nonprofit corporation shall notify the Attorney General*
24 *of the details of the transaction and the Attorney General shall*
25 *review whether the transaction, in whole or in part, was intended*
26 *to avoid the application of this section. If the Attorney General*
27 *makes a determination that the transaction was intended to avoid*
28 *the application of this section, the Attorney General may assess a*
29 *civil penalty upon the qualifying nonprofit corporation in an*
30 *amount not to exceed the value of such assets.*

31 (d) This section shall apply to any foreign nonprofit corporation
32 that operates or controls a health facility, as defined in Section
33 1250 of the Health and Safety Code, or a facility that provides
34 similar health care.

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

1 ~~(f) The changes made to this section by the act adding this~~
 2 ~~subdivision shall apply on and after January 1, 2015.~~

3 *(f) This section shall not be construed to allow the Attorney*
 4 *General to authorize emergency medical services to be provided*
 5 *by a facility that does not meet the requirements of Section*
 6 *1798.175 of the Health and Safety Code or is not licensed to*
 7 *provide emergency medical services pursuant to Sections 1254,*
 8 *1255, and 1277 of the Health and Safety Code or to authorize a*
 9 *nonprofit general acute care hospital to reduce operations to*
 10 *provide emergency medical services without providing 24-hour*
 11 *inpatient care with basic services, including, but not limited to,*
 12 *medical, nursing, surgical, anesthesia, laboratory, radiology,*
 13 *pharmacy, and dietary services. This section shall not be construed*
 14 *to authorize, allow for, or permit operation of a stand-alone*
 15 *emergency room or freestanding emergency center, except as*
 16 *provided in subdivision (b) of Section 1798.101 of the Health and*
 17 *Safety Code.*

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

20
 21 CHAPTER 9.2. EMERGENCY CENTER SERVICES

22
 23 5940. (a) ~~Except as provided in subdivision (b), a~~ A nonprofit
 24 corporation that operates or controls a health facility, as defined
 25 in Section 1250 of the Health and Safety Code, or operates or
 26 controls a facility that provides similar health care, and that
 27 provides emergency medical services at an emergency center
 28 licensed under Sections ~~1255~~ 1254, 1255, and 1277 of the Health
 29 and Safety Code, shall provide written notice to, and to obtain the
 30 written consent of, the Attorney General prior to a planned
 31 reduction in the level of emergency medical services provided or
 32 elimination of those services. *The written notice required by this*
 33 *section shall be provided to the Attorney General as soon as*
 34 *possible, but in no case later than 135 days before the planned*
 35 *reduction in the level of emergency medical services provided or*
 36 *elimination of those services.*

37 ~~(b) (1) This section shall not apply to a nonprofit corporation~~
 38 ~~if the Attorney General has given the corporation a written waiver~~
 39 ~~of this section as to the planned elimination or reduction of the~~
 40 ~~level of emergency medical services.~~

1 ~~(2) A health facility shall not be subject to this section if,~~
2 ~~pursuant to subdivision (e) of Section 1255.1 of the Health and~~
3 ~~Safety Code, the State Department of Public Health determines~~
4 ~~that the use of resources to keep the emergency center open~~
5 ~~substantially threatens the stability of the hospital as a whole, or~~
6 ~~cites the emergency center for unsafe staffing practices.~~

7 ~~(e)~~

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

16 ~~(d)~~

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

24 (1) The extension is necessary to obtain information to make a
25 determination pursuant to paragraph (1) of subdivision ~~(f)~~: (e).

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

29 ~~(e)~~

30 (d) Prior to issuing any written decision referred to in
31 subdivision (a), the Attorney General shall conduct one or more
32 public meetings, one of which shall be in the county in which the
33 facility is located, to hear comments from interested parties. At
34 least 14 days before conducting the public meeting, the Attorney
35 General shall provide written notice of the time and place of the
36 meeting through publication in one or more newspapers of general
37 circulation in the affected community and to the board of
38 supervisors of the county in which the facility is located. If a
39 substantive change in the plan to eliminate or reduce emergency
40 medical services is submitted to the Attorney General after the

1 initial public meeting, the Attorney General may conduct an
2 additional public meeting to hear comments from interested parties
3 with respect to that change.

4 ~~(f)~~

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

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

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

17 (3) The Attorney General has been provided, pursuant to Section
18 5250, with sufficient information and data by the nonprofit
19 corporation to evaluate adequately the reduction or elimination of
20 emergency medical services, or the effects thereof on the public.

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

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

26 ~~(g)~~

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

33 ~~(h)~~

34 (g) (1) Within the time periods designated in subdivision ~~(d)~~
35 (c) and relating to those factors specified in subdivision ~~(f)~~, (e),
36 the Attorney General may do the following:

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

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

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

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

17 (4) In order to monitor effectively ongoing compliance with
18 any terms and conditions that the Attorney General may impose
19 pursuant to this section, including, but not limited to, the ongoing
20 use of the charitable assets in a manner consistent with the trust
21 pursuant to which they are held, the Attorney General may, in his
22 or her sole discretion, contract with experts and consultants to
23 assist in this regard. Contract costs shall not exceed an amount
24 that is reasonable and necessary to conduct the review and
25 evaluation. Any contract entered into under this section shall be
26 on a noncompetitive bid basis and shall be exempt from Chapter
27 2 (commencing with Section 10290) of Part 2 of Division 2 of the
28 Public Contract Code. The nonprofit corporation shall pay the
29 Attorney General promptly for all contract costs. The Attorney
30 General shall be entitled to reimbursement from the corporation
31 for all actual, reasonable, and direct costs incurred in monitoring
32 ongoing compliance with the terms and conditions of the reduction
33 or elimination of emergency medical services, including contract
34 and administrative costs. The nonprofit corporation, upon request,
35 shall pay the Attorney General promptly for all contract costs.

36 (i)

37 (h) The Attorney General may adopt regulations implementing
38 this section.

39 (j)

1 (i) This section shall not be construed to allow the Attorney
2 General to authorize emergency medical services to be provided
3 by a facility that does not meet the requirements of Section
4 1798.175 of the Health and Safety Code, ~~or is not licensed~~
5 *to provide emergency medical services pursuant to Section 1254,*
6 *1255, and 1277 of the Health and Safety Code,* or to authorize a
7 nonprofit general acute care hospital to reduce operations to provide
8 emergency medical services without providing 24-hour inpatient
9 care with basic services, including, but not limited to, medical,
10 nursing, surgical, anaesthesia, laboratory, radiology, pharmacy,
11 and dietary services. This section shall not be construed to
12 authorize, allow for, or permit operation of a stand-alone
13 emergency-room room, *freestanding emergency department,* or
14 freestanding emergency center, except as provided in subdivision
15 (b) of Section 1798.101 of the Health and Safety Code.

16 ~~(k)~~

17 (j) For purposes of this section, “nonprofit corporation” means
18 a corporation that is defined in Section 5046 or a foreign
19 corporation that is defined in Section 5053.

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

22 1254. (a) Except as provided in subdivision (e), the state
23 department shall inspect and license health facilities. The state
24 department shall license health facilities to provide their respective
25 basic services specified in Section 1250. Except as provided in
26 Section 1253, the state department shall inspect and approve a
27 general acute care hospital to provide special services as specified
28 in Section 1255. The state department shall not license a
29 stand-alone emergency-room room, *freestanding emergency*
30 *department,* or freestanding emergency center that is not part of a
31 general acute care hospital facility providing 24-hour inpatient
32 care with basic services, including, but not limited to, medical,
33 nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and
34 dietary services. The state department shall develop and adopt
35 regulations to implement the provisions contained in this section.

36 (b) Upon approval, the state department shall issue a separate
37 license for the provision of the basic services enumerated in
38 subdivision (c) or (d) of Section 1250 whenever these basic services
39 are to be provided by an acute care hospital, as defined in
40 subdivision (a), (b), or (f) of that section, where the services

1 enumerated in subdivision (c) or (d) of Section 1250 are to be
2 provided in any separate freestanding facility, whether or not the
3 location of the separate freestanding facility is contiguous to the
4 acute care hospital. The same requirement shall apply to any new
5 freestanding facility constructed for the purpose of providing basic
6 services, as defined in subdivision (c) or (d) of Section 1250, by
7 any acute care hospital on or after January 1, 1984.

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

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

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

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

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

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

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

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

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

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

24 1255.1. (a) Any hospital that provides emergency medical
25 services under Section 1255 shall, as soon as possible, but not later
26 than 90 days prior to a planned reduction or elimination of the
27 level of emergency medical services, provide notice of the intended
28 change to the state department, the local government entity, and
29 the agency in charge of the provision of health services, and all
30 health care service plans or other entities under contract with the
31 hospital to provide services to enrollees of the plan or other entity.

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

37 (c) A hospital shall not be subject to this section or Section
38 1255.2 if the state department does either of the following:

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

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

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