

File No. 130344

Committee Item No. _____

Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date _____

Board of Supervisors Meeting

Date APRIL 23, 2013

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OTHER (Use back side if additional space is needed)

- AB 900
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Completed by: Wanne Howe Date: 4/18/13
 Completed by: _____ Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
 The complete document can be found in the file.



**City and County of San Francisco
Master Report**

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130344 **File Type:** Resolution **Status:** For Immediate Adoption

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Board of Supervisors

File Name: Urging the California State Legislature to Pass Assembly Bill 900 **Date Introduced:** 04/16/2013

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Resolution urging the California State Legislature to pass Assembly Bill 900 to eliminate the reduction in Medi-Cal rates for distinct part nursing facilities included in the State budget for FY2011-2012.

Sponsor: Chiu

History of Legislative File 130344

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	04/16/2013	REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING	Board of Supervisors		

1 [Urging the California State Legislature to Pass Assembly Bill 900]

2
3 **Resolution urging the California State Legislature to pass Assembly Bill 900 to**
4 **eliminate the reduction in Medi-Cal rates for distinct part nursing facilities included in**
5 **the State budget for FY2011-2012.**

6
7 WHEREAS, Laguna Honda Hospital and Rehabilitation Center, a division of the San
8 Francisco Department of Public Health, and the Jewish Home of San Francisco, a 501(c)3
9 private not-for profit charitable organization, are five-star skilled nursing facilities, and are
10 ranked in the top one percent of skilled nursing facilities in State of California; and

11 WHEREAS, These organizations are integral to the successful delivery of health care
12 services for the direct benefit of residents in San Francisco, as well as those living in
13 surrounding counties because they provide critically necessary and outstanding post-acute
14 care and community reintegration services for patients and residents who have been
15 discharged from the city's acute care hospitals and who may have nowhere else to go; and

16 WHEREAS, As distinct part nursing facilities (DP/NFs), these organizations primarily
17 rely upon reimbursement from Medi-Cal to cover their operating expenses; and

18 WHEREAS, The fiscal year 2011-12 California state budget through Assembly Bill 97
19 (AB 97) reduced the Medi-Cal reimbursement rate for DP/NFs to 90 percent of 2008 levels
20 effective June 1, 2011, endangering skilled nursing services statewide; and

21 WHEREAS, In October 2011, the federal Centers for Medicare and Medicaid Services
22 (CMS) approved California's plan to reduce Medi-Cal rates pursuant to AB 97; and

23 WHEREAS, Although the United States District Court, Northern District of California
24 granted a preliminary injunction (California Medical Association v. Douglas) in January 2012
25 blocking the implementation of the AB 97 Medi-Cal rate reductions on the basis they would

1 cause irreparable harm to Medi-Cal providers and beneficiaries, on December 13, 2013, a
2 three-judge panel of the Ninth Circuit Court of Appeals lifted the injunction stating that the U.S.
3 Secretary of Health and Human Services has the authority to decide whether California and
4 other states can reduce Medicaid (Medi-Cal) rates while still adhering to program
5 requirements; and

6 WHEREAS, As a result of the Ninth Circuit Court of Appeals decision, Governor
7 Brown's administration has indicated its intent to move forward with the AB 97 Medi-Cal rate
8 reductions retroactive to June 1, 2011; and

9 WHEREAS, The AB 97 Medi-Cal rate reduction represents an approximate 25 percent
10 cut from current reimbursement levels, and the cost of the reduction to Laguna Honda
11 Hospital alone would result in a \$41 million loss in revenue this year plus \$25 million in each
12 subsequent year; and

13 WHEREAS, The cost of the rate reduction to the Jewish Home alone would result in an
14 approximate \$31 million cash impact this year plus an approximate \$12 million cash impact in
15 each subsequent year threatening the survival of the Jewish Home, causing the organization
16 to strongly consider bankruptcy, and producing a shortage of acute care beds as post-acute
17 patients linger in the system; and

18 WHEREAS, Smaller DP/NFs throughout the state would have to close if the rate
19 reductions take effect, in many cases depriving less populous counties of desperately needed
20 healthcare services; and

21 WHEREAS, On February 22, 2013, Assembly Member Luis Alejo introduced Assembly
22 Bill 900 (AB 900), which would rescind the AB 97 Medi-Cal rate reductions for DP/NFs
23 retroactive to June 1, 2011 and maintain rates at their current levels; and

24 WHEREAS, The California State Legislature is now considering passage of AB 900;
25 now, therefore be it

1 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
2 hereby urges the California State Legislature to pass AB 900 during the 2013 legislative year
3 in order to protect some of the most vital and successful healthcare services in the state.
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ASSEMBLY BILL

No. 900

Introduced by Assembly Member Alejo

February 22, 2013

An act to add Section 14105.194 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 900, as introduced, Alejo. Medi-Cal: reimbursement: distinct part nursing facilities.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires, except as otherwise provided, Medi-Cal provider payments to be reduced by 1% or 5%, and provider payments for specified non-Medi-Cal programs to be reduced by 1%, for dates of service on and after March 1, 2009, and until June 1, 2011. Existing law requires, except as otherwise provided, Medi-Cal provider payments and payments for specified non-Medi-Cal programs to be reduced by 10% for dates of service on and after June 1, 2011.

This bill would instead require that this payment reduction not apply to skilled nursing facilities that are a distinct part of a general acute care hospital for dates of service on or after June 1, 2011.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 14105.194 is added to the Welfare and
2 Institutions Code, to read:

3 14105.194. (a) Notwithstanding Sections 14105.191 and
4 14105.192, reimbursement for services provided by skilled nursing
5 facilities that are distinct parts of general acute care hospitals shall
6 be determined, for dates of service on or after June 1, 2011, without
7 application of the reductions set forth in Sections 14105.191 and
8 14105.192.

9 (b) The director shall do all of the following in the event that
10 he or she is prevented from implementing subdivision (a) for any
11 dates of service on or after June 1, 2011:

12 (1) Implement subdivision (a) to the maximum extent permitted
13 by law and for the maximum time period for which the director
14 obtains necessary federal approval.

15 (2) Increase payments to facilities described in subdivision (a)
16 for services provided on or after June 1, 2011, or on or after the
17 first date of service permitted by law and for which federal financial
18 participation is available, until the date the total amount of
19 Medi-Cal payments to those facilities for services provided on or
20 after June 1, 2011, is not less than the payments the facilities would
21 have received if the reductions in Sections 14105.191 and
22 14105.192 had not been imposed for dates of service on or after
23 June 1, 2011. The director shall increase payments under this
24 paragraph for the shortest period of time possible.

25 (c) The director shall promptly seek all necessary federal
26 approvals to implement this section.

27 (d) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 the department may implement this section by means of provider
30 bulletins or notices, policy letters, or other similar instructions,
31 without taking regulatory action.

32 SEC. 2. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

- 1 In order to ensure and maintain access to medically necessary
- 2 care for the patients and residents needing skilled nursing services,
- 3 it is necessary that this act take effect immediately.

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

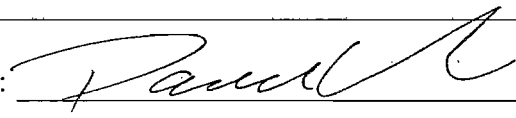
Supervisor David Chiu

Subject:

Urging the California State Legislature to Pass Assembly Bill 900 to reverse previous reductions in Medi-Cal rates for certain nursing facilities

The text is listed below or attached:

Resolution urging the California State Legislature to pass Assembly Bill 900 to eliminate the reduction in Medi-Cal rates for distinct part nursing facilities included in the state budget for Fiscal Year 2011-12.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

