

Assembly Bill No. 69

CHAPTER 13

An act to add and repeal Sections 8571.5 and 8571.6 of the Government Code, relating to public health emergency conditions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2001. Filed with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 69, Bogh. Public health emergency conditions.

Existing law authorizes the Governor to take various actions in accordance with the State Emergency Plan and programs for the mitigation of the effects of an emergency in the state.

Existing law provides for the Office of Statewide Health Planning and Development, which is charged with enforcement of various provisions of law relating to health facilities, including long-term health care facilities.

This bill would authorize the Governor, by executive order, or the Director of the Office of Statewide Health Planning and Development, to suspend the enforcement of laws and regulations related to the construction or renovation of existing long-term health care facilities when an extraordinary situation exists within the state relating to an inadequate supply of energy that has a strong potential for causing harm to residents of long-term health care facilities.

This bill would require the Office of Statewide Health Planning and Development, in consultation with the office of the State Fire Marshal, to establish specific exemptions of laws and regulations that may be included in an executive order issued pursuant to the bill.

These provisions would remain in effect only until January 1, 2003. This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Businesses and citizens of the state are experiencing the effects of an energy crisis that are widespread and unprecedented.

(b) These effects include a lack of an adequate supply of electricity to sustain normal day-to-day, and hour-to-hour demand, coupled with the economic reality of the laws of supply and demand.



(c) The lack of an adequate supply of electricity has resulted in the requirement for utilities and related energy exchange managers to implement interruptible load programs designed to limit power through rotating outages (blackouts) to customers during those periods when electricity is in short supply.

(d) These outages are a vital tool in protecting the state from widespread electrical system collapse when demand for electricity exceeds supply.

(e) This summer, California is facing the possibility of frequent rotating electrical outages.

(f) Skilled nursing facilities are licensed health care facilities that care for the state's most fragile and vulnerable citizens.

(g) The physical infrastructure and related systems of these licensed health facilities are governed by building and fire and life safety code requirements regulated by the office of Statewide Health Planning and Development and the office of the State Fire Marshal.

(h) This regulation includes all systems powered by or related to electricity.

(i) Licensed health facilities also have specific requirements with respect to an Essential Electrical System.

(j) In addition to the Essential Electrical System requirements, care of patients requires the use of technical medical equipment such as ventilators, intravenous pumps, and other medical devices that are designed to sustain residents' vital functions and require electrical power in order to operate.

(k) Licensed health facilities are located throughout all areas of California with diverse differences in climate which are subject to extreme heat or cold depending on the season of the year.

(l) The environmental climate infrastructure within these licensed health facilities is aging and energy inefficient.

(m) Licensed health facilities are required to have emergency power requirements to sustain the Essential Electrical System and related systems during loss of electrical power. However, these emergency power requirements are designed for infrequent interruption and may not be sustainable during frequent interruption and backup requirements.

(n) The older emergency power sources of licensed health facilities are not designed or equipped to power more modern energy efficient systems.

(o) Licensed health care facilities under normal business conditions are required to go through a building application and plan check process under the jurisdiction of the Office of Statewide Health Planning and Development.



(p) This process is bureaucratically efficient, but is subject to inherent delays impacting timely approvals of projects.

(q) Only certain utility customers such as hospitals, fire and police stations, and air traffic control facilities are classified as essential customers and are exempt from rotating outages.

(r) Many other customers, including skilled nursing facilities, have requested and petitioned the Public Utilities Commission (PUC) to be classified as essential, therefore, exempt from the possibility of frequent rotating blackouts during the summer of 2001.

(s) The number of customers that can be exempted is severely limited due to the necessity of maintaining a reasonable pool of customers from which to draw for rotating outages.

(t) On May 21, 2001, the Public Utilities Commission rendered an order in the matter of these requests by establishing a process for application to be used for a new category entitled essential customer normally exempt from rotating outages.

(u) Although skilled nursing facilities will be allowed to apply under this new classification, the process is onerous and timing may be problematic, thus subjecting skilled nursing facilities to the pool of customers subject to such required outages.

(v) The summer of 2001 holds great potential for harm to the health and safety of the residents of skilled nursing facilities unless rotating outages can either be eliminated, or facilities are allowed to immediately move forward with implementing preventive measures such as improving environmental systems, such as heating and air-conditioning and improving emergency power requirements.

SEC. 2. Section 8571.5 is added to the Government Code, to read:

8571.5. (a) When extraordinary conditions exist within the state relating to an inadequate supply of energy that has a strong potential for causing harm to the health and safety of residents of long-term health care facilities, as that term is used in Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code, the Governor by executive order, or the Director of the Office of Statewide Health Planning and Development, may suspend enforcement of laws and regulations related to construction or renovation of existing long-term health care facilities. This section does not permit the suspension of the implementation of any provision of the Labor Code.

(b) The suspension authority provided under this section shall extend only to projects designed to cope with an energy shortage or enhance energy conservation. Any suspension implemented pursuant to subdivision (a), shall only remain in effect for the duration of the condition necessitating the need for the suspension or until the potential



for harm caused by the condition creating the emergency situation no longer exists.

(c) A listing of the specific laws and regulations suspended and the specific conditions not subject to the suspension referenced in subdivision (d), shall be defined by the Director of the Office of Statewide Health Planning and Development no later than 15 days after the issuance of the executive order pursuant to subdivision (a).

(d) This section shall not permit the suspension of the life safety requirements of the Office of Statewide Health Planning and Development and the office of the State Fire Marshal where the suspension would pose a greater danger than the situation caused by the extraordinary condition and the proposed action the licensee seeks to use to mitigate the potential harm or danger caused by the extraordinary condition.

(e) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 8571.6 is added to the Government Code, to read:

8571.6. (a) The Office of Statewide Health Planning and Development, in consultation with the office of the State Fire Marshal, shall establish specific laws and regulations from which exemptions may be granted pursuant to Section 8571.5 to long-term health care facilities, as that term is used in Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code.

(b) The establishment of a list of exemptions pursuant to subdivision (a) shall not preclude the Governor or the Director of the Office of Statewide Health Planning and Development from adopting additional exemptions pursuant to an executive order issued pursuant to Section 8571.5.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately protect the elderly and disabled residents who reside in the state's 1,200 skilled nursing facilities and who are dependent on the facilities' ability to provide quality care in a safe, low stress environment, and to maintain temperature control, lighting,



infection control, and the use of technologically advanced medical equipment, it is necessary that this act take effect immediately.

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