

AMENDED IN SENATE MAY 23, 2002

**SENATE BILL**

**No. 2098**

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**Introduced by Committee on Health and Human Services  
(Senators Ortiz (Chair), Chesbro, Escutia, Figueroa, Kuehl,  
Polanco, and Vasconcellos)**

April 1, 2002

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An act to amend Sections 20, 26140, 26142, 26143, 26145, and 38081.1 of, and to add Section 1797.98h to, the Health and Safety Code, relating to health services.

LEGISLATIVE COUNSEL'S DIGEST

SB 2098, as amended, Committee on Health and Human Services. Health.

(1) Existing law authorizes each county to establish an emergency medical services fund to be available in each county for reimbursement of prescribed costs relating to emergency medical services pursuant to a formula. Under existing law, the formula requires, in part, that 17% of the fund, after administrative costs, be distributed for other emergency medical services purposes as determined by the county including, but not limited to, the funding of regional poison control centers.

Existing law, until January 1, 2000, notwithstanding these provisions and if certain conditions were met, authorized the county board of supervisors for prescribed counties, by a  $\frac{4}{5}$  vote, and upon a finding by the board that prior year unexpended and unencumbered funds, as defined, exist within the fund, to authorize expenditure of those prior year unexpended and unencumbered funds for poison control without regard to the formula.

~~This bill would reenact these repealed provisions and would include the County of Colusa among those counties authorized to expend funds pursuant to these provisions.~~

~~(2)~~ Existing law, the Toxic Mold Protection Act of 2001, imposes various disclosure requirements on landlords, sellers, renters, transferors, and tenants of commercial or industrial real property with respect to the existence of mold conditions. Existing law requires the State Department of Health Services to adopt standards and develop guidelines regarding exposure limits and remediation of toxic mold.

This bill would provide that these disclosure requirements shall not apply until the January 1 or July 1 that occurs at least 6 months after the department adopts the standards and develops the guidelines.

~~(3)~~

(2) Existing law, the State Department of Health Services Cooperative Agreement Act, provides for the establishment of cooperative agreements between the department and other public and private entities for the purposes of, among other things, simplifying the administration of public health programs by the department. The act requires cooperative agreements to be subject to review and approval by the Department of General Services with certain exceptions. These exceptions include, for allowable cost agreements, changes in line item budgets of up to 10% of the annual total, not to exceed \$50,000, so long as the contract does not increase or decrease.

This bill would increase the amount of changes permissible with respect to these line item budgets to 15% of the annual total, not to exceed \$100,000. It would also require that this maximum amount be assessed annually and automatically adjusted in accordance with cost-of-living indexes.

~~(4)~~

(3) This bill, in addition, would also make various technical, nonsubstantive changes.

Vote: majority. 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 20 of the Health and Safety Code is
- 2 amended to read:
- 3 20. “State department” or “department” means State
- 4 Department of Health Services.



1 ~~SEC. 2.—Section 1797.98h is added to the Health and Safety~~  
2 ~~Code, to read:~~

3 ~~1797.98h. (a) Notwithstanding Section 1797.98a, upon a~~  
4 ~~finding by the county board of supervisors of the Counties of~~  
5 ~~Colusa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, or~~  
6 ~~Yuba, that prior year unexpended and unencumbered funds exist~~  
7 ~~within the county’s emergency medical services fund, the board of~~  
8 ~~supervisors may without regard to the formula in Section~~  
9 ~~1797.98a, by four fifths vote, authorize expenditure of those prior~~  
10 ~~year unexpended and unencumbered funds for the purposes of~~  
11 ~~funding the county’s share of the regional poison control centers.~~  
12 ~~Expenditures of the prior year unexpended and unencumbered~~  
13 ~~funds for purposes other than poison control shall only be made~~  
14 ~~pursuant to a written agreement as specified pursuant to~~  
15 ~~subdivision (c). A county board of supervisors may make this~~  
16 ~~finding only if the county has done all of the following:~~

- 17 ~~(1) Established an emergency medical services fund.~~
- 18 ~~(2) Established a reasonable mechanism for physicians and~~  
19 ~~surgeons and hospitals to receive reimbursements.~~
- 20 ~~(3) Reimbursed physicians and surgeons and hospitals at a~~  
21 ~~level equal to or greater than the level of reimbursement in effect~~  
22 ~~as of July 1, 1994.~~

23 ~~(b) For the purposes of this section, “prior year unexpended~~  
24 ~~and unencumbered funds” means any funds that exist within the~~  
25 ~~county’s emergency medical services fund at the end of the fiscal~~  
26 ~~year after subtracting both of the following:~~

- 27 ~~(1) Any claims for services provided in the prior fiscal year that~~  
28 ~~are submitted to the fund within 60 days of the end of the prior~~  
29 ~~fiscal year.~~
- 30 ~~(2) An amount encumbered to pay for estimated claims~~  
31 ~~incurred during the prior fiscal year, but for which no claim for~~  
32 ~~reimbursement has been submitted within 60 days of the end of the~~  
33 ~~prior fiscal year.~~

34 ~~(c) Any prior year unexpended and unencumbered funds~~  
35 ~~authorized for expenditure pursuant to this section for purposes~~  
36 ~~other than poison control may be expended only pursuant to a~~  
37 ~~written agreement among the county, the principal medical society~~  
38 ~~representing physicians and surgeons in the county, and the~~  
39 ~~principal association representing hospitals in the county. The~~  
40 ~~written agreement shall specify the amount of prior year~~



1 ~~unexpended and unencumbered funds to be expended for purposes~~  
2 ~~other than poison control and the emergency medical services~~  
3 ~~purposes for which the funds are to be expended.~~

4 ~~SEC. 3.—~~

5 *SEC. 2.* Section 26140 of the Health and Safety Code is  
6 amended to read:

7 26140. (a) Subject to subdivisions (b), (c), and (d), a seller or  
8 transferor of commercial or industrial real property shall provide  
9 written disclosure to prospective buyers as soon as practicable  
10 before the transfer of title when the seller or transferor knows of  
11 the presence of mold, both visible and invisible or hidden, that  
12 affects the unit or building and the mold either exceeds permissible  
13 exposure limits to molds established by subdivisions (a), (b), and  
14 (c) of Section 26103 or poses a health threat, according to the  
15 department’s guidelines as developed pursuant to Section 26105.

16 (b) A seller or transferor of commercial or industrial real  
17 property shall be exempt from providing written disclosure  
18 pursuant to this subdivision if the presence of mold was  
19 remediated according to the mold remediation guidelines  
20 developed by the department pursuant to Section 26130.

21 (c) A commercial or industrial real property seller shall not be  
22 required to conduct air or surface tests of units or buildings to  
23 determine whether the presence of molds exceeds the permissible  
24 exposure limits to molds established by subdivisions (a) and (b) of  
25 Section 26103.

26 (d) The requirements of this section shall not apply until the  
27 first January 1 or July 1 that occurs at least six months after the  
28 department adopts standards pursuant to Sections 26103 and  
29 26105 and develops guidelines pursuant to Section 26130.

30 ~~SEC. 4.—~~

31 *SEC. 3.* Section 26142 of the Health and Safety Code is  
32 amended to read:

33 26142. (a) Any tenant of a commercial or industrial real  
34 property who knows that mold is present in the building, heating  
35 system, ventilating or air-conditioning system, or appurtenant  
36 structures, or that there is a condition of chronic water intrusion or  
37 flood, shall inform the landlord of this knowledge in writing  
38 within a reasonable period of time. The tenant shall make the  
39 property available to the landlord or his or her agents for  
40 appropriate assessment or remedial action as soon as is reasonably



1 practicable if the landlord is responsible for maintenance of the  
2 property. Nothing in this section is intended to any way affect  
3 existing duties and obligations of residential tenants and landlords.

4 (b) The requirements of this section shall not apply until the  
5 first January 1 or July 1 that occurs at least six months after the  
6 department adopts standards pursuant to Sections 26103 and  
7 26105 and develops guidelines pursuant to Section 26130.

8 ~~SEC. 5.—~~

9 *SEC. 4.* Section 26143 of the Health and Safety Code is  
10 amended to read:

11 26143. (a) Commercial and industrial landlords, who know  
12 or have notice that mold is present in the building, heating system,  
13 ventilating or air-conditioning system, or appurtenant structures,  
14 or that there is a condition of chronic water intrusion or flood, have  
15 an affirmative duty, within a reasonable period of time, to assess  
16 the presence of mold or condition likely to result in the presence  
17 of mold and conduct any necessary remedial action.

18 (b) The requirements of this section shall not apply until the  
19 first January 1 or July 1 that occurs at least six months after the  
20 department adopts standards pursuant to Sections 26103 and  
21 26105 and develops guidelines pursuant to Section 26130.

22 ~~SEC. 6.—~~

23 *SEC. 5.* Section 26145 of the Health and Safety Code is  
24 amended to read:

25 26145. (a) Any tenant of a commercial or industrial real  
26 property who knows or is informed that mold is present in the  
27 building, heating system, ventilating or air-conditioning system,  
28 or appurtenant structures, or that there is a condition of chronic  
29 water intrusion or flood, and is responsible for maintenance of the  
30 property shall inform the landlord in writing of that knowledge as  
31 soon as is reasonably practicable and shall correct the condition in  
32 compliance with the terms of the contract with the landlord.

33 (b) The requirements of this section shall not apply until the  
34 first January 1 or July 1 that occurs at least six months after the  
35 department adopts standards pursuant to Sections 26103 and  
36 26105 and develops guidelines pursuant to Section 26130.

37 ~~SEC. 7.—~~

38 *SEC. 6.* Section 38081.1 of the Health and Safety Code is  
39 amended to read:



1 38081.1. (a) Cooperative agreements shall be subject to  
2 review and approval by the Department of General Services  
3 pursuant to Chapter 2 (commencing with Section 10290) of Part  
4 2 of Division 2 of the Public Contract Code, except as follows:  
5 (1) Changes in the scope of work approved under paragraph (2)  
6 of subdivision (b) of Section 38077.  
7 (2) For allowable cost agreements, changes in line item budgets  
8 of up to 15 percent of the annual total, not to exceed one hundred  
9 thousand dollars (\$100,000), so long as the contract total does not  
10 increase or decrease. This maximum amount shall be assessed  
11 annually and automatically adjusted in accordance with  
12 cost-of-living indexes.  
13 (3) Agreements, and amendments to those agreements, under  
14 programs expressly exempted from the review and approval of the  
15 Department of General Services pursuant to statute, including, but  
16 not limited to, those exemptions granted prior to January 1, 1994.  
17 (b) (1) A nonprofit organization or governmental agency that  
18 is awarded a cooperative agreement shall not be subject to the  
19 minority and women business and disabled veterans participation  
20 goals set forth in Article 1.5 (commencing with Section 10115 of  
21 Chapter 1 of Part 2 of Division 2 of the Public Contract Code with  
22 respect to that portion of the cooperative agreement budget that is  
23 for personnel related costs of the cooperative agreement, as  
24 determined by the department.  
25 (2) A nonprofit organization or governmental agency that is  
26 awarded a cooperative agreement shall also be exempt from the  
27 participation goals described in paragraph (1) when the  
28 cooperative agreement meets any of the following criteria:  
29 (A) The amount of the cooperative agreement is one hundred  
30 thousand dollars (\$100,000) or less annually.  
31 (B) In the case of a nonprofit organization, the nonprofit  
32 organization to be awarded the cooperative agreement has a board  
33 of directors of which at least 51 percent of the members are any  
34 combination of women, minorities, and disabled veterans.  
35 (C) Cooperative agreements that result from requests for  
36 application.  
37 (c) The Director of General Services may exempt from his or  
38 her approval or from approval of the department any cooperative  
39 agreements for which, in his or her judgment, the exemption is



- 1 appropriate and in the best interests of the state. Written notice of
- 2 an exemption shall be given to the Controller.
- 3 (d) Subdivision (b) shall become inoperative on June 30, 1997.

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