

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2019 (Aguiar-Curry) – As Amended March 22, 2018

SUBJECT: Health care districts.

SUMMARY: Requires set-asides for affordable units when a healthcare district uses design-build to construct housing, requires healthcare districts to post additional information online, expands what healthcare districts must include in their grant policies, and requires healthcare districts to notify their local agency formation commission (LAFCO) when a district files for bankruptcy. Specifically, **this bill:**

- 1) Requires a healthcare district that is authorized and elects to use the design-build process authorized for local agencies for the construction of housing to require at least 20% of the residential units constructed to be subject to a recorded affordability restriction for at least 55 years and be affordable to lower income households, very low income households, extremely low income households, and persons and families of low or moderate income, as specified.
- 2) Provides that 1), above, shall not apply if the city, county, or city and county in which the district is predominantly located has adopted a local ordinance that requires a greater percentage of the units be affordable to lower income households, very low income households, extremely low income households, and persons and families of low or moderate income.
- 3) Requires, rather than allows, a healthcare district's board to post the following information on the district's Internet Web site (website):
 - a) The district's adopted budget;
 - b) A list of the district's current board members;
 - c) Information regarding public meetings required pursuant to the Local Health Care District Law or the Ralph M. Brown Act (Brown Act);
 - d) A municipal service review (MSR) or special study conducted by a LAFCO pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, if any. The board may comply with this requirement by posting a link on its website to another government website that contains the specified information;
 - e) Recipients of grant funding or assistance provided by the district, if any;
 - f) Audits of the district's accounts and records prepared pursuant to existing law. The board may comply with this requirement by posting a link on its website to another government website that contains the specified information;

- g) Annual financial reports to the Controller, submitted pursuant to existing law. The board may comply with this paragraph by posting a link on its website to another government website that contains the specified information; and,
 - h) Any other information the board deems relevant.
- 4) Additionally requires a healthcare district board to post on the district's website the district's policy for providing assistance or grant funding.
- 5) Requires a healthcare district's annual policy for providing assistance or grant funding to include the following:
- a) Requirements that a grant recipient must meet, such as grant contract terms and conditions, fiscal and programmatic monitoring by the district, and reporting to the district;
 - b) The district's plan for distributing grant funds for each fiscal year;
 - c) A process for providing, accepting, and reviewing grant applications;
 - d) A prohibition against individual meetings regarding grant applications between a grant applicant and a district board member, officer, or staff outside of the district's established grant awards process;
 - e) Beginning January 1, 2020, guidelines for all of the following:
 - i) Awarding grants to underserved individuals and communities, and to organizations that meet the needs of underserved individuals and communities;
 - ii) Awarding grants to multiple recipients with the goal of preventing more than 50% of grant funds from being awarded to a single recipient, and exceptions to this goal;
 - iii) Evaluating the financial need of grant applicants;
 - iv) Considering whether organizations that do not provide direct patient care programs will be eligible for grant funding and, if so, under what criteria;
 - v) Funding limitations for prior grant recipients, and exceptions to these limitations;
 - vi) Considering sponsorships of charitable events;
 - vii) Funding other government agencies; and,
 - viii) Awarding grants to, and limiting funds for, foundations that are sponsored or controlled by, or associated with, a separate grant recipient.
- 6) Requires, upon filing a petition under federal bankruptcy law, the board of directors of a healthcare district to provide written notice within 10 business days to the LAFCO of the principal county in which it is located.

- 7) Finds and declares that this bill furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies, and declares, pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, that the Legislature makes the following findings: By requiring health care districts to post specified information on their website, this act increases public access to public records, and thereby furthers the purposes of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
- 8) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to existing law governing state mandates.

EXISTING LAW:

- 1) Provides for local healthcare districts, which govern certain health care facilities and services. Each healthcare district has specific duties and powers respecting the creation, administration, and maintenance of the healthcare district, including the authority to purchase, receive, take, hold, lease, use, and enjoy property of every kind and description within and without the boundaries of the healthcare district.
- 2) Allows the Beach Cities Health District and the Peninsula Health Care District to use the design-build procurement method to assign contracts for the construction of facilities or other buildings in the district.
- 3) Requires the board of directors of healthcare districts to do all of the following:
 - a) Adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts;
 - b) Establish and maintain an Internet Web site that lists contact information for the district. The Internet Web site may also list any of the following:
 - i) The district's adopted budget;
 - ii) A list of the district's current board members;
 - iii) Information regarding public meetings required pursuant to the Local Health Care District Law or the Ralph M. Brown Act (Brown Act);
 - iv) An MSR or special study conducted by a LAFCO pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, if any;
 - v) Recipients of grant funding or assistance provided by the district, if any;

- vi) Audits of the district's accounts and records prepared pursuant to existing law;
 - vii) Annual financial reports to the Controller, submitted pursuant to existing law; and,
 - viii) Any other information the board deems relevant.
- 4) Requires healthcare districts to adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants, which must include the following:
- a) A nexus between the allocation of assistance and grant funding with health care and the mission of the district; and,
 - b) A process for the district to ensure allocated grant funding is spent consistently with the grant application and the mission and purpose of the district.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill requires healthcare districts that use the design-build procurement process to construct housing to set aside at least 20% of the units for lower, very low, and extremely low income households

It also requires healthcare districts to post specified information on their internet websites, including: the district's adopted budget; a list of current board members; information regarding public meetings; recipients of grant funding and the district's policy for providing grants; and, specified audits, financial reports and LAFCO reviews that current law requires for healthcare districts.

This bill also adds specified elements that healthcare districts must include in their grant policies, including:

- a) Requirements that a grant recipient must meet, such as contract terms and conditions, fiscal and programmatic monitoring by the district, and reporting to the district;
- b) The district's plan for distributing grant funds for each fiscal year;
- c) A process for providing, accepting, and reviewing grant applications;
- d) A prohibition against individual meetings regarding grant applications between grant applicants and board members, officers or staff outside the district's grant award process; and,
- e) Beginning January 1, 2020, guidelines for additional elements, such as awarding grants to underserved individuals and communities, evaluating the financial need of applicants, considering eligibility for applicants that don't provide direct patient care programs, and other grant policy guidelines.

This bill also requires a healthcare district to provide written notice to its respective LAFCO when filing for bankruptcy.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "The Assembly Local Government Committee held an oversight hearing on healthcare districts in March of 2017. AB 1728 (Committee on Local Government), Chapter 265, Statutes of 2017, provided a solution to several issues identified during this hearing. AB 1728 required healthcare districts to: establish and maintain an internet website that includes the district's contact information; adopt an annual budget; and, adopt grant policies that help ensure funding is awarded for healthcare consistent with the district's mission and purpose.

"AB 2019 builds on the foundation established by AB 1728 by requiring healthcare districts to post additional information on their internet websites, including: the district's adopted budget; a list of current board members; information regarding public meetings; recipients of grant funding and the district's policy for providing grants; and, specified audits, financial reports and LAFCO reviews that current law requires for healthcare districts. AB 2019 also adds specified elements that healthcare districts must include in their grant policies, to ensure that grants are awarded and monitored with a fair, transparent and accountable process that encourages healthcare districts to award grants to organizations that provide direct healthcare programs to underserved communities and individuals.

"AB 2019 requires a healthcare district to provide written notice to the respective LAFCO when filing for bankruptcy, to ensure appropriate oversight and accountability. AB 2019 also requires healthcare districts that use the design-build procurement process to construct housing to set aside at least 20% of the units for lower, very low, and extremely low income households, consistent with the state's affordable housing policies and goals.

"Each healthcare district is a unique agency and some already comply with many of these requirements. This bill is a modest addition to the work started by AB 1728 to strengthen transparency and accountability for healthcare districts while preserving local control."

- 3) **Background.** Near the end of World War II, California faced a severe shortage of hospital beds. To respond to the inadequacy of acute care services in rural areas, the Legislature enacted the Local Hospital District Law, to provide medically underserved areas without access to hospital facilities a source of tax dollars that could be used to construct and operate community hospitals. SB 1169 (Maddy) of 1994, changed the name of the principal act to 'The Local Healthcare District Law' to better reflect the shift in the provision of healthcare services outside hospital settings.

The powers and duties granted to healthcare districts under existing law have remained largely unchanged while the demographics of areas being served by the districts, access and provision of healthcare services, and the districts themselves have vastly changed. For example, following the change in law in 1994, 14 healthcare districts have filed for bankruptcy, and over one-third of the healthcare districts in California have either closed or sold their hospital, thus moving away from the original legislative intent of 'hospital districts.'

There are currently 79 healthcare districts in California. Of the total, 38 healthcare districts own and operate a hospital, five districts own, but do not operate a hospital, and 36 healthcare districts do not own or operate a hospital. Of the 36 districts that do not own or operate a hospital, 19 districts provide direct services (like ambulance or clinic services), and 17 districts do not provide direct services, and instead, administer grant funding as their sole purpose.

- 4) **Recent Controversy.** Recent controversies have brought greater statewide attention to healthcare districts in the following areas: overall fiscal management, compliance with the Brown Act and conflict of interest laws, executive compensation policies, lack of provision of direct healthcare services, and overall accountability and transparency issues for healthcare districts.

The Committee on Accountability and Administrative Review conducted several hearings in 2012 regarding healthcare districts, and focused specifically on healthcare districts that do not operate hospitals, but were maintaining reserve balances in the tens of millions of dollars. Additionally, the Legislative Analyst's Office (LAO) produced a report entitled, "Overview of Health Care Districts" in April 2012 in response to several healthcare districts that have declared bankruptcy since 2000.

Additionally, according to the LAO report, several LAFCOs have considered dissolving districts. Five districts have been dissolved or otherwise reorganized since 2000. Since that time, the Contra Costa County LAFCO consolidated Mount Diablo Healthcare District into the City of Concord. The Mount Diablo Healthcare District did not operate a hospital and concerns were expressed about the amount of revenue spent on administrative costs, instead of on grant funding for community health needs.

A 2012 Bureau of State Audits' report on Salinas Valley Memorial Health Care System found that the District's board violated open meeting laws to grant overly generous compensation, retirement, and benefits to the chief executive officer. This Committee heard several bills addressing the employment contract between a healthcare district and hospital administrator.

More recently, the discussion in the Legislature has focused on healthcare districts that no longer operate hospitals, and no longer provide any direct healthcare services to the community, but award grants as their sole purpose.

- 5) **Concerns.** The Association of California Healthcare Districts (ACHD) has expressed concerns with this bill, stating, "ACHD supported last year's AB 1728, which directed all Healthcare Districts to have a maintained website, adopt an annual budget, and develop a policy for issuing community grants, if that district does provide grants. New, additional requirements contained in AB 2019, including a mandate for all Healthcare Districts to have a website with specific components, go further than what exists in statute for any other local public entity.

"While many Healthcare Districts have grants policies to guide their investments in community grants, the provisions of AB 2019 are extremely specific and wide-ranging. Some provisions, like the prohibition against individual meetings regarding grant applications between a grant applicant and a district board member or staff outside of the

grants award process, seem particularly onerous since districts are already subject to conflict of interest laws. The genesis of and necessity for these provisions are not clear to us.

"We respectfully suggest that AB 2019 treats Healthcare Districts differently from other special districts or local agencies for that matter. It is unclear to us why healthcare districts are singled out in this manner when there are likely many other local agencies facing challenges with transparency and certainly few of them that have been under the same kind of legislative scrutiny and have worked so diligently to improve."

- 6) **Proposition 42.** Proposition 42 was passed by voters on June 3, 2014, and requires all local governments to comply with the Public Records Act and the Brown Act and with any subsequent changes to those Acts. Proposition 42 also eliminated reimbursement to local agencies for costs of complying with the Public Records Act and the Brown Act.

This bill contains language that says that the Legislature finds and declares that this bill furthers the purpose of the California Constitution as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the Constitution, the bill also includes a finding that states, "This act ensures that more Californians can meaningfully participate in the meetings of legislative bodies of local agencies."

This bill specifies that no reimbursement for local agencies to implement the bill's provisions is necessary because "the only costs that may be incurred by a local agency or school district... would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution."

- 7) **State Mandate.** This bill is keyed a state mandate, which means the state could be required to reimburse local agencies and school districts for implementing the bill's provisions if the Commission on State Mandates determines that the bill contains costs mandated by the state.
- 8) **Arguments in Support.** None on file.
- 9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Concerns

Association of California Healthcare Districts

Opposition

None on file

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958