

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 722 (Bonta) – As Introduced February 13, 2023

SUBJECT: Alameda Health System Hospital Authority.

SUMMARY: Prohibits, indefinitely, the Alameda Health System Hospital Authority (AHS) from entering into a contract with any other person or entity, including, but not limited to, a subsidiary or other entity established by AHS, to replace services being provided by physicians and surgeons who are employed by AHS and in a recognized collective bargaining unit without clear and convincing evidence that the needed medical care can only be delivered cost effectively by another person or entity.

EXISTING LAW:

- 1) Authorizes the Alameda County Board of Supervisors (County Board) to establish a hospital authority separate and apart from the county for the purpose of effecting a transfer of the management, administration, and control of the Alameda County Medical Center (ACMC). [Health and Safety Code (HSC) § 101850]
- 2) Requires AHS to be governed by a board appointed by the County Board. This AHS governing board shall reflect both the expertise necessary to maximize the quality and scope of care at the medical center in a fiscally responsible manner and the diverse interest that the medical center serves. The enabling ordinance shall specify the membership of the AHS governing board, the qualifications for individual members, the manner of appointment, selection, or removal of governing board members, their terms of office, and all other matters that the County Board deems necessary or convenient for the conduct of AHS's activities. (HSC § 101850)
- 3) Specifies that AHS shall be a legal entity separate and apart from the county. AHS shall be a government entity separate and apart from the county, and shall not be considered to be an agency, division, or department of the county. AHS shall not be governed by, nor be subject to, the charter of the county and shall not be subject to policies or operational rules of the county, including, but not limited to, those relating to personnel and procurement. (HSC § 101850)
- 4) A contract executed by and between the county and the hospital authority shall provide that liabilities or obligations of the hospital authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the hospital authority, and shall not become the liabilities or obligations of the county. (HSC § 101850)
- 5) Establishes the following powers for AHS:
 - a) To acquire and possess real or personal property.
 - b) To sue or be sued.
 - c) To employ personnel.

- d) To contract for services required to meet its obligations. (HSC § 101850)
- 6) Prohibits AHS, before January 1, 2024, from entering into a contract with any other person or entity to replace services being provided by physicians and surgeons who are employed by AHS and in a recognized collective bargaining unit with services provided by that other person or entity without clear and convincing evidence that the needed medical care can only be delivered cost-effectively by that other person or entity. (HSC § 101850)
- 7) Requires AHS, prior to entering into a contract for any of those services, to negotiate with the representative of the recognized collective bargaining unit of its physician and surgeon employees over the decision to privatize and, if unable to resolve any dispute through negotiations, to submit the matter to final binding arbitration. (HSC § 101850)
- 8) Specifies that AHS shall be a public agency subject to the Meyers-Milias-Brown Act. (HSC § 101850)
- 9) Establishes requirements for a personnel transition plan, as specified. (HSC § 101850)
- 10) Requires AHS to be bound by the terms of the memorandum of understanding (MOU) executed by and between the county and healthcare and management employee organizations in effect, as specified. Upon the expiration of the MOU, AHS has sole authority to negotiate subsequent MOUs with appropriate employee organizations. Subsequent MOUs shall be approved by AHS. (HSC § 101850)

FISCAL EFFECT: None.

COMMENTS:

- 1) **Alameda Health System.** Special legislation allowed Alameda County to form a public hospital authority, now known as AHS, to manage, administer, and control the ACMC [AB 2374 (Bates), Chapter 816, Statutes of 1996). AHS is governed by a nine member board of trustees appointed by the County Board and employs more than 4,500 people, including 1,000 physicians. AHS has more than 800 beds at facilities throughout Alameda County providing inpatient and outpatient services, surgery, acute psychiatric care, trauma care, senior health services, and more. Major components of the countywide system include:
 - a) Highland Hospital.
 - b) John George Psychiatric Hospital.
 - c) Fairmont Hospital.
 - d) San Leandro Hospital.
 - e) Alameda Hospital.

AB 1008 (Buchanan), Chapter 311, Statutes of 2013, prohibited AHS, before January 1, 2024, from privatizing any work performed by physicians and surgeons employed by AHS

and in a recognized collective bargaining unit as of March 31, 2013, without clear and convincing evidence that the needed medical care can only be delivered cost-effectively by a another person or entity. Pursuant to AB 1008, existing law requires, before those services are privatized, that AHS must negotiate with the representative of its physician and surgeon employees over the decision to privatize. If any dispute cannot be resolved through negotiations, AHS must submit the matter to final binding arbitration.

- 2) **Bill Summary and Author’s Statement.** This bill prohibits, indefinitely, AHS from entering into a contract with any other person, entity to replace services being provided by physicians and surgeons who are employed by AHS and in a recognized collective bargaining unit without clear and convincing evidence that medical care can only be delivered cost effectively by another person or entity. The Union of American Physicians and Dentists and the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO are the sponsors of this bill.

According to the author, “In 2013, when the Alameda Health Care Systems acquired San Leandro hospital, and in response to fears raised by many of the physicians and surgeons that their jobs would be contracted out, this legislature requires AHS to provide clear and convincing evidence that contracting out would be more cost efficient. That requirement is set to expire at the start of this year. AB 722 removes the sunset date that is current law to ensure that AHS *always* does their due diligence before contracting out a services that a well-qualified and committed employee is more than capable to do.”

- 3) **Previous Legislation.** AB 2374 (Bates), Chapter 816, Statutes of 1996, authorized the County of Alameda to establish a hospital authority to manage the respective county hospitals and county programs currently known as the ACMC.

AB 1008 (Buchanan), Chapter 311, Statutes of 2013, prohibited, until January 1, 2024, AHS from privatizing services provided by physicians and surgeons, as specified, and established eligibility for retirement benefits for employees of a facility that is acquired or merged into AHS.

AB 1538 (Bonta), Chapter 263, Statutes of 2017, deleted the March 31, 2013, date by which an AHS employed physician and surgeon must be in a recognized collective bargaining unit pursuant to existing law, which prohibits AHS from privatizing services provided by these specified physicians and surgeons.

- 4) **Arguments in Support.** According to AFSCME, “The Alameda Health System (AHS) administers several hospitals in Alameda County. Existing law prohibits AHS from privatizing the work of employee physicians and surgeons without demonstrating clear and convincing evidence that only such subcontracting will provide cost effective care. This law serves as a layer of protection for the doctors who have an existing contract with AHS. Currently, this law would sunset in 2024 and AB 722 removes the sunset.

“Privatization, or subcontracting of public services can be an insidious practice. In health and social services settings, overreliance on subcontracting can result in the gradual decline of quality of care. Temporary contractors have no inherent long-term dedication to the patients, teams of health professionals, or long-term outcomes of the care facilities in which they work. In these settings, long-term outcomes are the mission.”

5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Union of American Physicians and Dentists [SPONSOR]
AFSCME, AFL-CIO [SPONSOR]

Opposition

None on file

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