

Seismic Safety Commission
Minutes of Special Teleconference Meeting
On Hospital Seismic Safety

September 5, 2001

Primary Teleconference Location: Seismic Safety Commission Office

1755 Creekside Oaks Drive, Suite 100

Sacramento, California

Members Participating

Bruce R. Clark, Chairman

Stan Y. Moy, Vice Chairman

Andrew Adelman

Lawrence T. Klein

Douglas E. Mochizuki

Linden T. Nishinaga

Ashok S. Patwardhan

Daniel Shapiro

Members Not Participating

Senator Richard Alarcon/Chris Modrzejewski

Mark Church

William L. Gates

Staff Participating

Richard McCarthy

Karen Cogan

Henry Sepulveda

Fred Turner

I. CALL TO ORDER/ROLL CALL

The special meeting of the Seismic Safety Commission was called to order by Chairman Bruce Clark at 3:07 p.m. Commissioners Clark, Klein, Mochizuki, Nishinaga, Patwardhan, and Shapiro were present. Commissioner Moy joined the teleconference at 3:10 p.m., and Commissioner Adelman joined at 3:25 p.m.

II. STATUS REPORT ON PENDING HOSPITAL SEISMIC SAFETY LEGISLATION

Chairman Clark explained that the major objective of the special meeting was to discuss the status of SB 842 and consider taking an official position. He invited Director of Legislation Henry Sepulveda to provide an update on the bill's current status.

Mr. Sepulveda explained that SB 1953 established 2008 as the deadline for eliminating collapse hazards in hospital buildings and 2030 as the deadline for post-earthquake functionality. Hospitals unable to meet these deadlines would not be allowed to continue operating. SB 842 (Speier) attempts to extend the 2008 compliance deadline for some hospitals. In its present form, the bill has two tracks: one for hospitals who can meet 2030 deadlines by 2013, and another track for other hospitals desiring a five-year extension of the 2008 deadline.

Mr. Sepulveda explained that the first track of the bill, dubbed the "Kaiser plan," would allow extensions of the 2008 deadline to 2013 for hospitals committing to attaining the 2030 goals by 2013. The second track would provide a five-year extension for hospitals submitting master plans and milestone schedules to OSHPD, with penalties for missing milestone deadlines. Mr. Sepulveda noted there is extensive discussion in the Legislature regarding the second track in particular. The hospital industry wants some assurance of eligibility for extensions, while OSHPD wants to know the criteria for approval and denial.

Commissioner Shapiro asked if the concept of triaging and subcategorizing SPC-1 buildings is still viable. Mr. Sepulveda responded that the Legislature has moved away from the triage approach, and that language has been dropped from the bill. He added that SB 842 is linked to passage of the hospital seismic safety bond act.

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Commissioner Patwardhan asked if bond funds could be used for all hospitals in the state. Mr. Sepulveda responded that for-profit hospitals are ineligible. He said bond funds can be used only for local, county, and state hospitals.

Commissioner Patwardhan asked if the second track, providing case-by-case review by OSHPD, would result in achieving the 2030 level any sooner. Mr. Sepulveda answered that the OSHPD review would be a requirement for a five-year extension of the 2008 deadline.

Commissioner Shapiro asked if the case-by-case track had any way to ensure that the worst buildings do not receive extensions. Mr. Sepulveda said fixing the worst buildings should be a designated priority, but those provisions are not yet defined.

Chairman Clark expressed concern that SB 842 in its current form did not include a careful subdivision of SPC-1 buildings into priority categories. He pointed out that the benefits and tradeoffs in the two tracks are unequal: the first track achieves 2030 goals but 2013, but the proposed second track simply results of five more years of risk in an unsafe building. Chairman Clark suggested supporting the Kaiser approach, but not the second track.

Mr. Sepulveda said the Governor's Office was comfortable with the Kaiser approach but uncomfortable with the second track. The Governor's Office also wanted OSHPD to have greater authority. Although the Governor's Office has not taken an official position on SB 842, a blanket five-year extension would be unacceptable. Chairman Clark said this point of view is also reflected in the Commission's findings and recommendations report. He agreed that extensions should only be granted if the tradeoff results in a seismic safety benefit.

Commissioner Nishinaga concurred regarding the second track. He pointed out the workload

entailed in case-by-case review would be a problem for OSHPD.

Commissioner Shapiro added that the hospital industry does not support the Kaiser approach and would like to see an alternative. Mr. Sepulveda commented that the Kaiser plan is becoming more acceptable. He said Catholic Healthcare West continues to be one of the most resistant entities.

In terms of the second track, Commissioner Patwardhan suggested allowing five-year extensions only for clear exceptions, such as scarcity of other hospital facilities in a county, but not as a general choice. He added that he supports the first track of SB 842.

Chairman Clark asked the staff to convey the message to legislators that the Commission supports the Kaiser approach, resulting in 2030 standards by 2008, but believes other five-year extensions are only appropriate for exceptional cases.

Mr. Sepulveda commented that SB 842 is changing rapidly, and the next version is likely to be stronger, with a prohibition on blanket five-year extensions and more muscle for OSHPD. He added that the Commission's opinion carries some weight with the Governor, so taking a position is helpful.

Chairman Clark observed that there appeared to be consensus that the Commission should support the Kaiser approach, but not other extensions except rare exceptions. Commissioners agreed that the exceptions include loss of services to the community and services to the needy, but not financial hardship to hospitals. Commissioner Patwardhan emphasized that the five-year extension should be available only as an exception, not a general option. Mr. Sepulveda noted the hospital bond bill uses two equal factors to determine eligibility for bond funds, regional service areas and high MediCal populations, and he suggested using similar terminology.

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Mr. Sepulveda welcomed commissioners' input regarding OSHPD's denial criteria.

Commissioner Nishinaga said structural unsoundness and financial hardship on patients should be factors.

Staff Structural Engineer Fred Turner said a large percentage of California's hospital buildings are wood frame structures that can probably meet the 2008 deadlines, but meeting the 2030 functionality deadlines may be impossible. Hospital owners may conclude it makes more sense to replace these facilities rather than try to retrofit.

Chairman Clark recommended that the second track of SB 842 require OSHPD to consider SPC-1 rankings, plus the level of risk within SPC-1; he proposed three factors: general risk of the structure; Medicaid population; and availability of other providers. Mr. Sepulveda cautioned that there is not enough time remaining to make many substantial changes in the current wording. Chairman Clark noted the Senate version of the bill included the SPC-1 subcategories, and he suggested retaining those provisions in the current joint version. Mr. Sepulveda explained that the earlier versions of the bill have disappeared. He said the next step will be Senate concurrence in the Assembly amendments or referral to a conference committee.

ACTION: Commissioner Patwardhan made a motion, seconded by Commissioner Moy, that:

The Commission direct the staff to convey its strong support for the first track of SB 842, and to indicate the Commission is uncomfortable with the second track and would be interested in strict guidelines to identify hospitals to be considered for extensions..

Commissioner Klein proposed saying "narrow guidelines" rather than "strict guidelines."

Commissioners Patwardhan and Moy agreed to the amendment.

- * Motion carried, 8 - 0.

Based on this position, Chairman Clark asked the staff to incorporate appropriate wording in the Commission's findings and recommendations.

III. TRANSMITTAL OF DRAFT FINDINGS AND RECOMMENDATIONS REPORT ON IMPLEMENTATION OF HOSPITAL SEISMIC SAFETY LAWS

Chairman Clark said the findings and recommendations report would be finalized and distributed for review within the next few days. He asked commissioners to review the report before the September 13 Commission meeting. Chairman Clark noted that after being approved by the Commission, the document will be forwarded to the Governor's Office.

Chairman Clark added that if the hospital seismic safety bond bill fails, this issue will come up again in January. He suggested the Commission consider drafting and sponsoring a bill at that time.

Executive Director Richard McCarthy asked if the Commission wanted to take a position on the bond bill. Chairman Clark commented that the Commission appeared to have no strong feeling on the bond bill.

IV. PUBLIC COMMENTS

There were no comments by members of the public.

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V. GOOD OF THE MEETING

There were no other items discussed by the Commission.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned at 3:48 p.m.

Karen Cogan

Executive Assistant

Approved by:

Richard McCarthy

Executive Director