

# **NOTICE OF PROPOSED ACTION**

## **TITLE 11. DEPARTMENT OF JUSTICE**

NOTICE IS HEREBY GIVEN that the Department of Justice (DOJ) proposes to add permanent regulations relating to notice that health care districts must provide to the Attorney General within thirty days of transferring or leasing district assets to other corporations pursuant to recent amendments to Health and Safety Code sections 32121 and 32126.

### **PUBLIC COMMENT PERIOD**

The Department of Justice will accept written comments presenting statements, arguments or contentions relevant to the proposed regulations for a period of 45 days from the date of publication of this Notice of Proposed Action. The DOJ will not consider any comments which are not received by 5 p.m. on December 18, 2006. No later than 15 days prior to the close of this written comment period, any interested person or his or her duly authorized representative may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Written comments or requests for a public hearing should be addressed to Deputy Attorney General Jeffery M. Ogata, Department of Justice, Office of the Attorney General, P.O. Box 944255, Sacramento, California, 94244-2550.

### **AUTHORITY AND REFERENCE**

The proposed regulations add Chapter 17, section 999.40 to Title 11, Division 1 of the California Code of Regulations, pursuant to the authority of Health and Safety Code sections 32121 and 32126 which require notice of certain transactions by health care districts to the Attorney General. New Chapter 17 will be entitled "Attorney General Regulations Regarding Health Care Districts Under Health and Safety Code sections 32121 and 32126."

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Health and Safety Code sections 32121 and 32126 require health care districts to follow certain requirements with respect to the leasing or transferring of district assets. Both sections

allow the lease or transfer to any type of corporation, including for-profit corporations. These code sections were originally supposed to sunset on January 1, 2006.

In 2005, the Legislature, in AB 1131, extended the original language of sections 32121 and 32126 for five years. Also, the Legislature added subdivision (p)(12) to section 32121 and subdivision (c) to section 32126 that required the districts to report to the Attorney General, within 30 days of entering into any lease or transfer of district assets, the type of transaction and the entity to whom the assets were leased or transferred.

The proposed regulations set forth the appropriate Attorney General's Office address to whom the health care districts must report, and the requirement that the report must contain the type of transaction, and the entity, including address and telephone number, to whom the assets were leased or transferred.

#### **DISCLOSURES REGARDING THE REGULATIONS**

Fiscal Impact on Public Agencies: There will be a minor cost to the health care districts in complying with these regulations as there will be some personnel costs associated with reporting this information to the Attorney General's Office. These costs are not a mandate and are not reimbursable as these regulations do not require a new program or an increased level of service in an existing program.

The Attorney General estimates direct costs of compliance with the proposed regulations as follows:

1. Personnel costs: one support staff using one-half hour to prepare and mail the report to the Attorney General's Office is estimated to cost \$8.50.<sup>1</sup>
2. Fringe benefits associated with that personnel cost are approximately \$2.50.<sup>2</sup>
3. No additional equipment will be required for compliance.

There are no indirect costs.

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<sup>1</sup> Office Technician at \$17 per hour.

<sup>2</sup> Fringe benefits at thirty percent of hourly wage.

Therefore, the total cost of complying with the proposed regulations for one transaction is estimated to be \$11.00.

Mandate and cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings to any state agency. None.

Cost or savings in federal funding to the state: None.

Cost impact on private persons or directly affected businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic effect directly affecting business including the ability of California businesses to compete with businesses in other States: None.

Effect on small businesses: The proposed regulation only requires health care districts and not the businesses themselves to report the transactions. There is no benefit or detriment to small businesses due to this proposed regulation. Therefore, there is no impact on them.

Significant effect on housing costs: None.

In accordance with Government Code section 11346.3, the DOJ has assessed whether and to what extent adoption of the regulations will affect the following:

(a) The creation or elimination of jobs within the State of California: None.

(b) The creation of new businesses or the elimination or expansion of existing businesses with the State of California: None.

### **STATEMENT OF REASONS AND INFORMATION**

DOJ has prepared an initial statement of the reasons for the proposed action and has available all of the information upon which the proposal is based.

### **TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS**

Copies of the exact language of the proposed regulations, the initial statement of reasons and other information, if any, may be obtained upon request from the Department of Justice,

Office of the Attorney General, 1300 I Street, Sacramento, CA 94244-2550, Attn: Jeffery M. Ogata, or by telephoning the contact person listed below.

### **CONTACT PERSON**

General or substantive inquiries concerning the regulatory actions should be directed to Deputy Attorney General Jeffery M. Ogata at the above address or at (916) 327-6820. The backup contact person to whom general inquiries may be directed is Sandy Blazak, Associate Governmental Program Analyst, who may be contacted at the above address or at (916) 327-7882. The backup contact person to whom substantive inquiries may be directed is Supervising Deputy Attorney General Kelvin Gong who may be contacted at 455 Golden Gate Avenue, Suite 11000, San Francisco, California, 94102-7004 or at (415) 703-5510.

### **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

Interested persons are invited to submit written comments on the adoption of the regulations. A public comment period is provided from November 3, 2006 through December 18, 2006. Filing of written statements will be accepted at the Department of Justice, Office of the Attorney General (Attention: Jeffery M. Ogata, Deputy Attorney General), 1300 I Street, Sacramento, CA 95814, or by mail addressed to P.O. Box 944255, Sacramento, CA 94244-2550, until the close of business 5:00 p.m. on December 18, 2006. The DOJ will not consider written comments received after December 18, 2006.

### **PROPOSED REVISIONS, FINAL ADOPTION OF REGULATIONS**

Following the close of the written comment period, the DOJ may adopt, as final, the regulations as described in this Notice and Informative Digest. Copies of the regulations, as finally adopted, will be sent to all persons who have requested copies by filing a written request with the contact person identified above. If, as a result of public comments, significant or substantial changes to the proposed regulations is deemed appropriate, copies of the proposed changes will be sent to all persons who previously requested copies, all persons who submitted

written comments during the comment period, all persons who submitted oral or written comments at a public hearing if one is held, and those who have requested copies of information regarding the regulations.

Thereafter, DOJ will accept written comments, arguments, evidence and the like for a period of 15 days after the date upon which changes were made available. If adopted, the regulations will appear in the California Code of Regulations, Title 11, Division 1, Chapter 17, section 999.40.

The DOJ must determine that no reasonable alternative considered by it or that has otherwise been identified or brought to the attention of the DOJ would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AVAILABILITY OF MATERIALS ON THE INTERNET**

The Notice of Proposed Action, the Initial Statement of Reasons, the Final Statement of Reasons, the text of the proposed regulations, the date a rulemaking action is filed with the Secretary of State, and the effective date of the rulemaking action will all be posted on, and may be downloaded from, the website of the Charitable Trusts Section of the Office of the Attorney General in the DOJ (<http://ag.ca.gov/charities>).

Use these links to view the [Initial Statement of Reasons](#) and [Text of Proposed Regulation](#)