

SUBJECT: Duties of the UT Medical Branch at Galveston

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Rangel, Cuellar, F. Brown, Farabee, Goolsby, J. Jones, Morrison, E. Reyna, Wohlgemuth

0 nays

WITNESSES: None

BACKGROUND: The University of Texas Medical Branch at Galveston (UTMB) is the state's oldest and largest health science center. It is the only state medical school that owns and operates a hospital facility. Historically, UTMB has provided medical services regardless of the patient's ability to pay.

UTMB operations are funded by state general revenue, local contracts, patient charges, and other fees. Its governing statutes are Education Code, chapter 74, and Health and Safety Code, chapter 552.

The Indigent Health Care and Treatment Act (Health and Safety Code, chapter 61) charges local entities with certain responsibilities for health care for indigent patients. Counties, public hospitals, and hospital districts pay for emergency care and pre-approved non-emergency care for indigent residents of their service areas. They may contract with each other and with other providers to facilitate reimbursement. County and public hospital liability for an indigent patient's care is capped at \$30,000 or 30 inpatient days in a hospital or skilled nursing facility. Sums that a local entity spends over the cap may be reimbursed from the Indigent Health Care Assistance Fund.

The Moody State School for Cerebral Palsied Children is a component of UTMB, managed and controlled by the University of Texas System Board of Regents. Its statutory purpose is to provide diagnosis, care, and education for persons afflicted with cerebral palsy. The UTMB Special School operates within the Moody School to provide education for all school children who are patients at UTMB.

In 1995, the 74th Legislature enacted SB 192, allowing the University of Texas M.D. Anderson Cancer Center to contract with counties, hospitals, and hospital districts for indigent care, to ensure its sufficiency of funds, to offer retirement incentives, and to use best-value purchasing methods.

DIGEST:

CSHB 2070 would authorize UTMB to enter into contracts with a county, public hospital, or hospital district to treat patients who are county or service-area residents, including indigent patients. The county, hospital, or hospital district would be liable for no more than UTMB's actual cost of treatment.

If a contract were not signed, the county, hospital, or hospital district would have to approve non-emergency health-care services provided by UTMB to each patient. If UTMB did not receive that approval, the county, hospital, or hospital district would not be liable for costs of non-emergency care. Unless specified in a contract, the county's, hospital's or hospital district's liability could not exceed the liability as provided for in the Indigent Health Care and Treatment Act.

CSHB 2070 also would dissolve the Moody State School for Cerebral Palsied Children and the UTMB Special School by repealing Education Code, chapter 74, subchapter B. By January 1, 2000, UTMB and the two schools would have to enter into a memorandum of understanding for UTMB to absorb the assets of the two dissolving institutions. If UTMB performed the same duties as the two dissolving institutions, it could receive the funding those institutions would have received.

CSHB 2070 would authorize UTMB to acquire goods and services through best-value methods, including competitive bidding, competitive sealed proposals, catalogue purchase, group purchasing, and open-market contracts. UTMB would determine best value by considering the purchase price, long-term costs, vendor reputation, quality of goods or services, institutional needs, compliance with laws relating to historically underutilized businesses (HUBs), and factors considered by private businesses. The state auditor could audit UTMB's purchases. The bill would specify its primacy over other purchasing laws except for those relating to HUBs.

CSHB 2070 also would authorize UTMB to offer at its own expense early-retirement incentive plans for employees. UTMB could not rehire an employee receiving a retirement incentive without specific approval from the

president. The bill also would authorize UTMB to take any reasonable administrative or management action necessary to achieve its mission and strategic plan within its total funding.

CSHB 2070 would take effect September 1, 1999, except that the repeal of Education Code, chapter 74, subchapter B would take effect January 1, 2000.

**SUPPORTERS
SAY:**

By granting UTMB the same flexibility in administration and contracting as the M.D. Anderson Cancer Center already enjoys, CSHB 2070 would increase UTMB's financial stability and strengthen its ability to achieve its mission. It would save UTMB up to \$1.9 million between fiscal 2001 and 2004.

For more than 100 years, UTMB has served as one of the major "safety net" institutions for Texas' uninsured children and adults. UTMB's cost of care for uninsured patients totaled \$142 million in fiscal 1998, when it served uninsured children and adults from 235 of the state's 254 counties. Much of this care was provided to assist surrounding counties with their indigent-care obligations, through contracts UTMB holds with 37 counties to serve their indigent populations.

Some counties have made a practice of sending their uninsured to UTMB for care without entering into contracts for service. Furthermore, these counties often refuse to pay for services provided to their indigent residents because they believe incorrectly that UTMB must provide service to all indigent patients, regardless of whether UTMB has a contract with the county or receives reimbursement.

Historically, UTMB has provided this unreimbursed care regardless of whether the county had a contract. However, because of the recent growth of unreimbursed care, UTMB cannot afford to continue this practice.

Texas leads the nation in the percentage (25 percent) of its residents without health insurance. In the Houston-Galveston area, the uninsured population has grown to 32 percent, while the number of persons enrolled in the Medicaid program has declined. The comptroller's Texas Performance Review estimates that continuing growth in the uninsured population could increase UTMB's

costs by up to \$11.7 million per year. UTMB faces an operating deficit of \$40 million for fiscal 1999.

Operating the Moody State School is too costly in view of the limited demand for its services. This school and the UTMB Special School essentially operate as one unit to educate UTMB's inpatient school-aged patients. As treatments have changed and inpatient care time has diminished, the cost of running the school now far outweighs the patients' demand for educational services. On average, five to ten patients use the school at any time. The average stay for students is five to seven days. Current law recognizes the Moody State School as an independent school district. It draws funding based on Texas Education Agency formulas for special schools. However, UTMB must supplement the school's costs.

Dissolving the Moody State School and instructing UTMB to enter into a memorandum of understanding for the transfer of its assets would allow UTMB to use its resources in higher-demand areas. Once the state school was eliminated, UTMB would continue to meet the educational needs of its school-aged patients. Special funding assigned to the Moody State School would go to UTMB. Eventually, UTMB would transfer educational services to the local school districts, which then would receive the special funding. In essence, CSHB 2070 would eliminate a school district that serves only about 10 students at any given time.

The bill's other provisions would provide clear public policy statements to support UTMB. CSHB 2070 specifically would endorse UTMB's use of best-value purchasing, retirement incentives, and practices ensuring sufficiency of its fund. Best-value purchasing is allowed at all medical and dental units of higher education.

**OPPONENTS
SAY:**

The state should not shirk its financial responsibility and pass costs for indigent care on to local taxpayers by authorizing UTMB to charge or contract with counties and public hospitals. If this occurred, what is now a special service provided by the state would become an unfunded state mandate. Instead, the state should increase funding to UTMB so it can continue to provide high-quality care to all Texans.

CSHB 2070 would force a state service on local school districts. It would abolish the Moody State School, which provides educational services for

school-aged inpatients at UTMB. The state school was established to provide diagnosis, care, and education for persons afflicted with cerebral palsy. Without the state school, these children would be returned to local school districts for education and care. Local school districts are not prepared to handle that burden.

CSHB 2070 would enact a sweeping special exemption from state purchasing laws and rules for UTMB, a flexibility denied to most other state institutions. The purchasing laws now governing the hospital were designed to give the state the greatest negotiating leverage for price discounts, to ensure that certain public policies are enacted, and to monitor and enforce appropriate and ethical purchasing practices. CSHB 2070 would reduce monitoring of purchases because the state auditor would not have to audit all purchases, and the institution would be exempt from routine reporting requirements. A better approach might be to allow the hospital certain exemptions when purchasing special health-care goods but to follow state rules when purchasing common goods, such as transportation vehicles.

OTHER
OPPONENTS
SAY:

CSHB 2070 would make no provision to ensure a smooth transition of educational services. It simply would direct the affected institutions to enter a memorandum of understanding concerning the transfer of assets. Given UTMB's budget crisis, it might be more advisable to shut down the state school altogether without any transitional steps.

The bill's approach is too broad. Although it focuses on indigent patients in the Galveston area, it could burden counties across the state. The state should try fine-tuning local financing solutions before enacting this broad proposal.

NOTES:

The committee substitute amended the original by deleting the requirement for UTMB to file its retirement incentive plan with the Legislative Budget Board. The substitute also specified that UTMB could enter into a contract to provide any care, not only indigent care.

The companion bill, SB 1655 by Jackson, was reported favorably as substituted by the Senate Higher Education Subcommittee on April 19.