

- SUBJECT:** Contracting with private entities to operate or build state hospitals
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 8 ayes — Delisi, Laubenberg, Coleman, Dawson, Jackson, Solis, Truitt, Zedler
- 0 nays
- 1 absent — McReynolds
- WITNESSES:** For — Dale Frick, Atlantic Shores Healthcare
- Against — Denise Brady, Mental Health Association in Texas; Aaryce Hayes, Advocacy Inc., Texas Mental Health Consumers; Caroline O'Connor, Texas State Employees Union
- On — Kenny Dudley, Department of State Health Services State Hospital Section; Joe Lovelace, National Alliance for the Mentally Ill Texas; Debby Sanderson
- BACKGROUND:** HB 2292 by Wohlgemuth, the omnibus health and human services law enacted by the 78th Legislature in 2003, permitted the Department of State Health Services (DSHS) to contract with a private provider to operate a state mental health hospital under certain conditions, including if it were at least 25 percent less expensive and if the hospital would treat the same population.
- DIGEST:** CSHB 3089 would change the conditions under which DSHS could contract to operate a state hospital, reducing the cost-effectiveness factor to 5 percent and requiring that the hospital serve a population with essentially the same characteristics. The contract would have to be with an organization with more than five years' experience in this field and experience managing an inpatient mental health facility with more than 250 patients.
- It also would stipulate that a contract to operate a state hospital would have to include DSHS' authority to assume management of the hospital if the 5 percent cost savings were not achieved and specific performance

goals. DSHS would monitor the care of patients and collect information about the number of incidents requiring restraint or seclusion, assaults, contacts with law enforcement, lengths of stay, and patient outcomes.

In the case of a new facility, DSHS could contract with a private entity to finance, construct, and operate the new facility for a period of up to 25 years. A contract would have to include a lease-purchase agreement of up to 25 years, and the entity could issue certificates of participation or other financing tools for the construction of the facility. Operating funds used to pay debt service would be included in the calculation of whether a contract met the 5 percent savings stipulation.

The bill would require DSHS to issue a request for proposals by October 14, 2005. The department would report its progress by November 1 of every even-numbered year. The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 3089 would make operating a state mental hospital more feasible for private contractors. The 25 percent savings bar was too high, but a 5 percent savings would still be significant to the state and more likely to be achieved by a private contractor.

The bill would permit Texas to obtain some of the same benefits Florida experienced with a private contractor. When a contractor took over a state hospital there, the length of stay, quality of care, and waitlists improved dramatically.

**OPPONENTS
SAY:**

Texas should not continue to lower standards just to move the state hospitals into the private sector. This bill would not ensure comparable care for patients, as it would change the requirement to "essentially" the same population of clients. That would mean that some clients might not receive services at all.

State hospitals are operated by state employees who have benefits, something private contractors cannot promise to provide but that could generate savings of over 5 percent. By lowering the bar, the state would shift funds from benefits for employees to profit for a private employer.

The Florida experience is not comparable to Texas' system. Florida had patients with very long stays and a different approach to treatment. In Texas, patients stay just over 20 days and are in the hospital for

stabilization, not long-term treatment. The savings that Florida saw by reducing stays would not likely materialize in Texas.

NOTES:

The committee substitute would change the requirement for contracts to serve a population with "essentially" the same characteristics.

The fiscal note estimated a savings of \$1.5 million in fiscal 2006-07.

The companion bill, SB 1760 by Gallegos, has been referred to the Senate Health and Human Services Committee.