

## **BILL ANALYSIS**

Senate Research Center

S.B. 1264  
By: Cain  
Health & Human Services  
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As Filed

### **DIGEST**

Currently, state law is limited in the provisions that apply to certain nonprofit hospitals that provide health or long-term care. Nonprofit hospitals have historically served the health care needs of their community, including the needs of the indigent and underinsured individuals. The health care market is undergoing a period of rapid change. The competitive pressures accompanying this change are causing a substantial number of nonprofit hospitals to consider transactions with for-profit ventures. This bill sets forth certain requirements for nonprofit hospitals that provide long-term care.

### **PURPOSE**

As proposed, S.B. 1264 sets forth certain requirements for nonprofit hospitals that provide long-term care.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

**SECTION 1. PURPOSE AND FINDINGS.** Provides that while nonprofit hospitals have historically served the needs of uninsured individuals in the community, access to health care is needed in a state with over four million adequately insured and uninsured individuals. Provides that changes in the health care market have caused some nonprofit hospitals to consider transactions with for-profit ventures, affecting hundreds of millions of charitable dollars. Provides that as health care system changes occur, it is in the interest of the state to ensure that health care assets continue to serve the public and the unmet health care needs in this state.

**SECTION 2. SHORT TITLE:** Charitable Hospital Trust Act.

**SECTION 3. DEFINITIONS.** Defines "charitable health care organization," "charitable hospital trust," "designated charitable health care organization," "hospital system," "nonprofit hospital," and "service area."

**SECTION 4. DUTIES OF A NONPROFIT HOSPITAL.** Requires a nonprofit hospital to comply with this Act before entering into any agreement or transaction under which the hospital directly or indirectly engages in certain activities regarding the material portion of the assets of nonprofit hospitals or business entities. Provides that this Act applies to any transaction described in Subsections (1) through (3) involving a nonprofit hospital that is a member of the hospital system.

**SECTION 5. REQUIREMENTS FOR AGREEMENT OR TRANSACTION.** Prohibits a nonprofit hospital from entering into an agreement or transaction described by SECTION 4 of this Act, unless the agreement or transaction meets certain requirements. Sets forth requirements for the agreement or transaction.

**SECTION 6. AGREEMENT IN PUBLIC INTEREST.** Provides that an Agreement or transaction is not in the public interest for purposes of SECTION 5(a) of this Act unless the nonprofit hospital has taken certain appropriate steps to safeguard the value of assets held by the nonprofit hospital and to ensure the dedication of certain proceeds. Defines "charitable health care purpose."

**SECTION 7. DUE DILIGENCE REQUIRED.** Requires a nonprofit hospital to use due diligence in selecting the entity with which to enter an agreement or transaction and in negotiating the terms of an agreement.

**SECTION 8. CHARITABLE HOSPITAL TRUST.** Authorizes the attorney general to require a nonprofit hospital entering into an agreement described by SECTION 4 of this Act to establish a charitable hospital trust in a certain amount. Provides that hospitals are deemed to satisfy the requirements of SECTION 6 where the fair market value of assets received from a transaction are contributed to a related nonprofit hospital that provides hospital services in the same service area. Requires distributions from the charitable trust hospital to be dedicated to an existing or newly created charitable health care organization that will operate in the service area of the nonprofit hospital. Requires an assessor meeting certain conditions to determine the fair market value of the assets of the nonprofit hospital. Sets forth requirements for determination of the hospital's fair market value. Requires the nonprofit hospital to pay for the assessment. Requires the nonprofit hospital and the entity with which the agreement is made to make the report of the assessor available to any person on request. Authorizes a portion of the consideration conveyed to the charitable hospital trust to consist of stock of an entity organized for profit. Prohibits conveyed stock from being subject to unreasonable restrictions that prohibit the sale or transfer of the stock.

**SECTION 9. DESIGNATED CHARITABLE HEALTH CARE ORGANIZATION.** Requires a designated charitable health care organization and certain persons to be independent of the entity and its affiliates with which the agreement or transaction described by SECTION 4 of this Act is made. Prohibits certain persons from serving in certain capacities of the charitable health care organization for a period of three years. Sets forth procedures a designated charitable health care organization is required to implement. Requires the charitable health care organization to publish certain notices and to hold at least one public hearing to obtain public comment in the service area relating to the mission and purpose. Requires the notice required under Subsection (c)(1) to be published and the hearing required under Subsection (c)(2) to be held by a certain date. Requires a designated charitable health care organization to publish an annual report of its activities and sets forth requirements of the report.

**SECTION 10. NOTICE OF AGREEMENT.** Requires a nonprofit hospital intending to enter into an agreement described by SECTION 4 of this Act to notify the attorney general and to publish notice of that fact. Requires notice of the attorney general to be made in writing as soon as practicable after the nonprofit hospital becomes aware that it intends to consider the agreement, by the 90th day before the date on which the agreement is to become effective, and to disclose certain conditions. Requires the notice provided to the attorney general under Subsection (b) of this section to state certain information. Requires the nonprofit hospital to provide to the attorney general a copy of the report of the assessor appointed under SECTION 8(b) of this Act. Requires the report to be provided to the attorney general by a certain date. Requires the nonprofit hospital to notify the attorney general of any material change in the agreement or any of the information required by Subsection (c) of this section by the 45th day before the date the agreement becomes effective. Provides that the notice submitted to the attorney general under this section and any materials submitted with the notice are public information and requires the hospital to make the information available upon request. Requires the first publication of notice under this section to be made by a certain date.

**SECTION 11. PUBLIC HEARING.** Requires a nonprofit hospital to solicit written public comment and to hold at least one public hearing to obtain public comment in the service area of a nonprofit hospital, by the 45th day after the date the attorney general receives the notice under SECTION 10 of this Act. Requires the nonprofit hospital to publish notice of the request for written comment and to notify the county commissioners in each county in the service area of the nonprofit hospital, along with the time and place of the hearing. Requires the notice provided under Subsection (b)(1) to state the address of the business office of the nonprofit hospital in the service area and that detailed information concerning the proposed agreement is available at the business office.

**SECTION 12. PUBLICATION OF NOTICE.** Requires notice to be published in the Texas Register and one or more newspapers in accordance with Subsection (b). Requires notice published under Subsection (a)(2) to be published in a newspaper of general circulation in the service area. Sets forth requirements for publication of the notice. Sets forth requirements for publication of notice at

a courthouse, if a newspaper of general circulation does not exist in a county in the service area.

SECTION 13. ENFORCEMENT BY ATTORNEY GENERAL'S OFFICE. Sets forth actions for which a district may bring an action in a district court of Travis County. Authorizes a court to make the attorney general aware of the costs of the suit and the attorney's fees in an action brought under this section in which the attorney general prevails.

SECTION 14. Provides that a nonprofit hospital, the successor in interest of a nonprofit hospital, or a designated charitable health care organization who fails to comply with this Act are subject to revocation or suspension of the license or certificate of authority of certain entities or certain administrative or civil penalties.

SECTION 15. Effective date: September 1, 1997.

SECTION 16. Makes application of this Act prospective.

SECTION 15. Emergency clause.