

## **BILL ANALYSIS**

Senate Research Center  
76R3778 DLF-D

S.B. 244  
By: Ellis  
Economic Development  
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As Filed

### **DIGEST**

Currently, in Texas, nonprofit health care providers must make certain that health care services are available to low income communities. This bill enacts the Charitable Health Care Trust Act which will clarify existing law and implement standards to ensure that nonprofit health care providers fully understand and abide by their charitable obligations if they convert to for profit status.

### **PURPOSE**

As proposed, S.B. 244 sets forth requirements for certain nonprofit entities that provide health or long-term care or health benefit plans; provides a penalty.

### **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 FINDS. Sets forth the findings of the legislature regarding nonprofit health care providers.

SECTION 2. Short title: Charitable Health Care Trust Act.

SECTION 3. Defines “charitable health care organization,” “charitable health care trust,” “designated charitable health care organization,” “health benefit plan provider,” “health care provider,” “mutual plan provider,” “nonprofit provider,” and “service area.”

SECTION 4. DUTIES OF NONPROFIT PROVIDER. Requires a nonprofit provider to comply with this Act before entering into an agreement or transaction. Sets forth the provisions under which a nonprofit provider can enter into an agreement or transaction.

SECTION 5. REQUIREMENTS FOR AGREEMENT OR TRANSACTION. Prohibits a nonprofit provider from entering into an agreement or transaction unless the agreement is in the public interest or does not benefit an officer, director, or employee of the nonprofit provider or another private person or entity, is not likely to adversely affect the availability of health care services to uninsured or underinsured individuals, and will not reduce the amount of charity care provided by the nonprofit provider.

SECTION 6. AGREEMENT IN PUBLIC INTEREST. Defines “charitable health care purpose.” Provides that an agreement or transaction is not in the public interest for purposes of Section 5(1) of this Act unless the nonprofit provider has taken steps to safeguard the value of assets held by the nonprofit provider for a charitable health care purpose and ensure that the proceeds of any transaction are irrevocably dedicated to a charitable health care purpose in the nonprofit provider’s service area.

SECTION 7. DUE DILIGENCE REQUIRED. Provides that in entering into an agreement or transaction a nonprofit provider shall use due diligence in selecting the entity and negotiating the terms of the agreement or transaction.

SECTION 8. CHARITABLE HEALTH CARE TRUST. Requires a nonprofit provider to establish

a charitable health care trust equal to the fair market value of the assets of the nonprofit provider. Requires distributions from the charitable health care trust to be dedicated to an existing or newly created charitable health care organization that will operate in the service area of the nonprofit provider and that is designated to receive the distributions. Requires an assessor who is not an employee of the nonprofit provider to determine the fair market value of the assets of the nonprofit provider. Sets forth certain conditions for the assessor to use to determine fair market value. Requires the nonprofit provider to pay for the assessment conducted under this subsection. Requires the nonprofit provider, the entity with which the agreement or transaction is being made, and the designated charitable health care organization, to make the report of the assessor available to any person on request. Authorizes a portion of the consideration conveyed to the charitable health care trust to consist of an entity organized for profit. Prohibits stock conveyed to the charitable trust from being subjected to a restriction prohibiting the sale of the stock by the charitable health care trust or a charitable health care organization for a period of time. Prohibits the agreement or transaction from otherwise placing unreasonable restrictions on the transfer of the stock.

**SECTION 9. DESIGNATED CHARITABLE HEALTH CARE ORGANIZATION.** Requires a designated charitable health care organization that receives assets from the charitable health care trust and each director, officer, and employee of the organization, to be independent of the entity with which the agreement or transaction is made and any affiliate of that entity. Prohibits a person who is an officer, director, or employee of the nonprofit provider at the time an agreement or transaction is under consideration from serving as an officer, director, or employee of the organization. Sets forth certain procedures that a designated charitable health care organization shall implement. Requires the charitable health care organization to publish a notice. Sets forth the requirements of the notice. Requires the notice required to be published no later than the fifth day after the date the charitable health care organization is designated to receive the assets from the charitable health care trust. Requires the hearing to be held not later than the 30th day after the date the charitable health care organization is designated to receive the assets from the charitable health care trust. Requires a designated charitable health care organization to publish an annual report of its activities. Sets forth certain items that the report must include. Requires the report to be made available to the public at the office of the organization and in each public library in the service area. Requires the organization to publish notice of the availability of the report. Defines “public library.”

**SECTION 10. NOTICE OF AGREEMENT OR TRANSACTION.** Requires a nonprofit provider that intends to enter into an agreement or transaction to notify the attorney general and publish notice of the fact. Sets forth requirements for the notice and information required to be in the notice. Requires the nonprofit providers to provide the attorney general a copy of the report. Requires the report to be provided to the attorney general by a certain date. Requires the nonprofit provider to notify the attorney general of a material change in the agreement or transaction or the information required by Subsection (c) of this section not later than the 45th day before the date the agreement or transaction becomes effective. Provides that all notices under this section are public information. Requires the nonprofit provider to make information available upon request by any person. Requires the first publication of notice under this section to be made by a certain date.

**SECTION 11. PUBLIC HEARING.** Requires the nonprofit provider to solicit written public comment and hold at least one public hearing to obtain public comment in the service area on the nonprofit provider by a certain date. Requires the nonprofit provider to publish notice and notify the county commissioners of the request for written comment and of the time and place of the hearing by a certain date. Requires the notice under Subsection (b)(1) of this section must state the address of the business office of the nonprofit provider in the service area and to state that more detailed information concerning the proposed agreement or transaction is available at the business office.

**SECTION 12. PUBLICATION OF NOTICE.** Sets forth the publications in which a public notice must be published and the amount of time the notice must remain published.

**SECTION 13. ENFORCEMENT BY ATTORNEY GENERAL’S OFFICE.** Sets forth the legal actions for which the attorney general may bring action in a district court of Travis County. Authorizes the court to award the attorney general the cost of the suit and attorney’s fees, in an action brought under this section in which the attorney general prevails.

SECTION 14. PENALTIES UNDER LICENSING LAW. Subjects a nonprofit provider, the successor in interest of a nonprofit provider, or a designated charitable health care organization that fails to comply with this Act to certain penalties.

SECTION 15. Effective date: September 1, 1999.

SECTION 16. Makes application of this Act prospective.

SECTION 17. Emergency clause.