

1-1 By: Kolkhorst (Senate Sponsor - Ogden) H.B. No. 2453
1-2 (In the Senate - Received from the House May 7, 2003;
1-3 May 9, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 24, 2003, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; May 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2453 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the definition of a hospital district management
1-11 contractor.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 108.002(a) and (b), Civil Practice and
1-14 Remedies Code, are amended to read as follows:

1-15 (a) Except in an action arising under the constitution or
1-16 laws of the United States, a public servant [~~other than a provider~~
1-17 ~~of health care as that term is defined in Section 108.002(c),~~] is
1-18 not personally liable for damages in excess of \$100,000 arising
1-19 from personal injury, death, or deprivation of a right, privilege,
1-20 or immunity if:

1-21 (1) the damages are the result of an act or omission by
1-22 the public servant in the course and scope of the public servant's
1-23 office, employment, or contractual performance for or service on
1-24 behalf of a state agency, institution, department, or local
1-25 government; and

1-26 (2) for the amount not in excess of \$100,000, the
1-27 public servant is covered:

1-28 (A) by the state's obligation to indemnify under
1-29 Chapter 104;

1-30 (B) by a local government's authorization to
1-31 indemnify under Chapter 102;

1-32 (C) by liability or errors and omissions
1-33 insurance; or

1-34 (D) by liability or errors and omissions coverage
1-35 under an interlocal agreement.

1-36 (b) Except in an action arising under the constitution or
1-37 laws of the United States, a public servant [~~other than a provider~~
1-38 ~~of health care as that term is defined in Section 108.002(c),~~] is
1-39 not liable for damages in excess of \$100,000 for property damage if:

1-40 (1) the damages are the result of an act or omission by
1-41 the public servant in the course and scope of the public servant's
1-42 office, employment, or contractual performance for or service on
1-43 behalf of a state agency, institution, department, or local
1-44 government; and

1-45 (2) for the amount not in excess of \$100,000, the
1-46 public servant is covered:

1-47 (A) by the state's obligation to indemnify under
1-48 Chapter 104;

1-49 (B) by a local government's authorization to
1-50 indemnify under Chapter 102;

1-51 (C) by liability or errors and omissions
1-52 insurance; or

1-53 (D) by liability or errors and omissions coverage
1-54 under an interlocal agreement.

1-55 SECTION 2. Chapter 261, Health and Safety Code, is amended
1-56 by adding Subchapter C to read as follows:

1-57 SUBCHAPTER C. LIABILITY OF NONPROFIT MANAGEMENT CONTRACTOR

1-58 Sec. 261.051. DEFINITION. In this subchapter, "municipal
1-59 hospital management contractor" means a nonprofit corporation,
1-60 partnership, or sole proprietorship that manages or operates a
1-61 hospital or provides services under contract with a municipality.

1-62 Sec. 261.052. LIABILITY OF MUNICIPAL HOSPITAL MANAGEMENT
1-63 CONTRACTOR. A municipal hospital management contractor in its

2-1 management or operation of a hospital under a contract with a
2-2 municipality is considered a governmental unit for purposes of
2-3 Chapters 101, 102, and 108, Civil Practice and Remedies Code, and
2-4 any employee of the contractor is, while performing services under
2-5 the contract for the benefit of the hospital, an employee of the
2-6 municipality for the purposes of Chapters 101, 102, and 108, Civil
2-7 Practice and Remedies Code.

2-8 SECTION 3. Section 285.071, Health and Safety Code, is
2-9 amended to read as follows:

2-10 Sec. 285.071. DEFINITION. In this chapter, "hospital
2-11 district management contractor" means a nonprofit corporation,
2-12 partnership, or sole proprietorship that manages or operates a
2-13 hospital or provides services [~~as a part of a rural health network~~
2-14 ~~as defined under 42 U.S.C. Section 1395i-4(g)~~] under contract with
2-15 a hospital district that was created by general or special law [~~and~~
2-16 ~~that has a population under 50,000~~].

2-17 SECTION 4. Section 285.072, Health and Safety Code, is
2-18 amended to read as follows:

2-19 Sec. 285.072. LIABILITY OF A HOSPITAL DISTRICT MANAGEMENT
2-20 CONTRACTOR. A hospital district management contractor in its
2-21 management or operation of a hospital under a contract with a
2-22 hospital district is considered a governmental unit for purposes of
2-23 Chapters 101, 102, and 108, Civil Practice and Remedies Code, and
2-24 any employee of the contractor is [are], while performing services
2-25 under the contract for the benefit of the hospital, an employee
2-26 [employees] of the hospital district for the purposes of Chapters
2-27 101, [and] 102, and 108, Civil Practice and Remedies Code.

2-28 SECTION 5. Section 108.002(c), Civil Practice and Remedies
2-29 Code, is repealed.

2-30 SECTION 6. This Act takes effect September 1, 2003, and
2-31 applies only to a suit filed on or after that date.

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