

By: Dutton, Davis of Harris

H.B. No. 3089

Substitute the following for H.B. No. 3089:

By: Laubenberg

C.S.H.B. No. 3089

A BILL TO BE ENTITLED

AN ACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

relating to contracts with private entities to finance, design, construct, or operate state hospitals for persons with mental illness.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 533.050, Health and Safety Code, is amended to read as follows:

Sec. 533.050. PRIVATIZATION OF STATE MENTAL HOSPITAL; CONSTRUCTION AND OPERATION OF REPLACEMENT FACILITY. (a) The Department of State Health Services shall [~~After August 31, 2004, and before September 1, 2005, the department may~~] contract with a private service provider to operate a state mental hospital [~~owned by the department only~~] if:

(1) the executive commissioner of the Health and Human Services Commission determines that the private service provider will operate the hospital at a cost that is at least five [~~25~~] percent less than the cost to the department to operate the hospital;

(2) the executive commissioner of the Health and Human Services Commission approves the contract;

(3) the hospital, when operated under the contract, treats a population with essentially the same characteristics and acuity levels as the population treated at the hospital when operated by the department; and

1 (4) the private service provider is required under the
2 contract to operate the hospital at a quality level at least equal
3 to the quality level achieved by the department when the department
4 operated the hospital, as measured by the hospital's most recent
5 applicable accreditation determination from the Joint Commission
6 on Accreditation of Healthcare Organizations (JCAHO).

7 (b) The Department of State Health Services [~~On or before~~
8 ~~April 1, 2004, the department~~] shall report to the executive
9 commissioner of the Health and Human Services Commission regarding
10 [~~health and human services~~] whether the department has received a
11 proposal by a private service provider to operate a state mental
12 hospital. The report must include an evaluation of the private
13 service provider's qualifications, experience, and financial
14 strength, a determination of whether the provider can operate the
15 hospital under the same standard of care as the department, and an
16 analysis of the projected savings under a proposed contract with
17 the provider. The savings analysis must include all department
18 costs to operate the hospital, including costs, such as employee
19 benefits, that are not appropriated to the department.

20 (c) A contract entered into under Subsection (a) must:

21 (1) provide that the Department of State Health
22 Services retains the right to assume management of the hospital if
23 contract terms are not met or if the five percent cost savings
24 requirement is not met; and

25 (2) establish specific goals for the provider to meet:

26 (A) in significantly reducing the use of
27 restraints and the seclusion of patients;

1 (B) in significantly reducing patient waiting
2 lists;

3 (C) in significantly reducing total length of
4 stay for patients, measured annually;

5 (D) in increasing access to mental health
6 inpatient services; and

7 (E) in reducing recidivism.

8 (d) The Department of State Health Services shall monitor
9 care of patients at a state hospital operated by contract. The
10 department shall develop and maintain information on activities
11 carried out under the contract without violating privacy or
12 confidentiality rules. The information developed under this
13 subsection must include:

14 (1) the number of incidents in which patients were
15 restrained or secluded;

16 (2) the number of incidents of serious assaults in the
17 hospital setting;

18 (3) the number of occurrences in the hospital setting
19 involving contacts with law enforcement personnel;

20 (4) individual and average lengths of stay, including
21 computation of lengths of stay according to the number of days a
22 patient is in the facility during each calendar year, regardless of
23 discharge and readmission; and

24 (5) client outcomes.

25 (e) The Department of State Health Services may not enter
26 into a contract under this section with a private service provider
27 unless the provider has a documented and verified successful record

1 of:

2 (1) providing mental health services over a five-year
3 period; and

4 (2) managing an inpatient mental health facility with
5 a population of at least 250 patients.

6 (f) If the Department of State Health Services [department]
7 contracts with a private service provider to operate a state mental
8 hospital under Subsection (a) or with a person to finance, design,
9 construct, and operate a state mental hospital under Subsection
10 (h), the department, the Governor's Office of Budget and Planning,
11 and the Legislative Budget Board shall identify sources of funding
12 that must be transferred to the department to fund the contract.

13 (g) [~~(d)~~] The Department of State Health Services
14 [~~department~~] may renew a contract under this section. The
15 conditions provided by this section [~~listed in Subsections~~
16 ~~(a)(1)-(3)~~] apply to the renewal of the contract.

17 (h) The Department of State Health Services shall enter into
18 an agreement with a private entity to finance, design, construct,
19 and operate a new facility to replace one or more state hospitals.
20 The agreement may be for a term not to exceed 25 years. The
21 agreement must provide for the department to acquire the facility
22 under a lease-purchase agreement with a term not to exceed 25 years
23 and authorize the private entity to issue certificates of
24 participation or other appropriate securities to finance the
25 construction of the facility. The portions of the agreement that
26 govern the provision of services must meet the requirements for a
27 contract entered into under Subsection (a). Operational savings

1 used to pay debt service payments for financing a new facility shall
2 be counted in calculating whether the proposal meets the five
3 percent savings required by Subsection (a)(1). The Department of
4 State Health Services shall report to the executive commissioner of
5 the Health and Human Services Commission regarding whether the
6 department has received a proposal from a person to finance,
7 design, construct, and operate a facility under this subsection.
8 The report must include an evaluation of the proposal, including an
9 evaluation of the person's qualifications, experience, and
10 financial strength, a determination of whether the person can
11 operate the new facility under the same standard of care as the
12 department, and an analysis of the projected savings under the
13 proposal.

14 (i) The Department of State Health Services and each private
15 entity that contracts with the department under this section shall
16 provide to the legislature a report on the progress of activities
17 under the contract and performance of services under the contract.
18 The report must be provided to the legislature not later than
19 November 1 of each even-numbered year.

20 SECTION 2. Not later than October 14, 2005, the Department
21 of State Health Services shall issue a request for proposals for a
22 private service provider to contract with the department to
23 finance, design, construct, and operate a state hospital as
24 authorized by Section 533.050(h), Health and Safety Code, as added
25 by this Act.

26 SECTION 3. This Act takes effect September 1, 2005.