

By: Dutton

H.B. No. 3089

A BILL TO BE ENTITLED

AN ACT

relating to contracts with private entities to 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 [~~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 the same characteristics and acuity levels as the population treated at the hospital when operated by the department; and

(4) the private service provider is required under the

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

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

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

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

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

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

27 (B) in significantly reducing patient waiting

1 lists;

2 (C) in significantly reducing average length of
3 stay for patients; and

4 (D) in increasing access to mental health
5 inpatient services.

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

12 (1) the number of incidents in which patients were
13 restrained or secluded;

14 (2) the number of incidents of assaults in the
15 hospital setting;

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

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

22 (5) client outcomes.

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

27 (1) providing mental health services over a five-year

1 period; and

2 (2) managing a mental health facility with a
3 population of at least 250 patients.

4 (f) If the Department of State Health Services [~~department~~]
5 contracts with a private service provider to operate a state mental
6 hospital, the department, the Governor's Office of Budget and
7 Planning, and the Legislative Budget Board shall identify sources
8 of funding that must be transferred to the department to fund the
9 contract.

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

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

25 (i) The Department of State Health Services and each private
26 entity that contracts with the department under this section shall
27 provide to the legislature a report on the progress of activities

1 under the contract and performance of services under the contract.
2 The report must be provided to the legislature not later than
3 November 1 of each even-numbered year.

4 SECTION 2. The Department of State Health Services shall
5 issue a request for proposals for a private service provider to
6 contract with the department to operate a state hospital not later
7 than October 14, 2005.

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