

## **BILL ANALYSIS**

C.S.H.B. 811  
By: Darby  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas is one of a few states that continues to enforce some form of prohibition against the corporate practice of medicine. However, Texas does allow certain entities and facilities to employ physicians, and the legislature has allowed several hospital districts to change their enabling legislation to allow for employing physicians. Many smaller Texas communities report that the prohibition against the hiring of physicians is a significant factor contributing to the inability to recruit and retain physicians to serve in those communities. When an individual physician is required to establish a sole practitioner office that requires health insurance and retirement benefits, the cost and administrative burden can be a deterrent to agreeing to practice in a small community.

C.S.H.B. 811 seeks to address this concern by adding provisions to the Special District Local Laws Code specifying powers and duties of the Scurry County Hospital District board of directors, including powers and duties regarding the employment of physicians or health care providers as necessary to ensure the timely and affordable delivery of health care and the district's authority to issue bonds for the purpose of generating revenue for expansion and improvement.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 811 amends the Special District Local Laws Code to authorize the board of directors of the Scurry County Hospital District to employ health care providers other than physicians as the board considers necessary for the efficient operation of the district. The bill authorizes the board to delegate to the administrator of the district the authority to employ such health care providers and authorizes the board to employ physicians only as provided by the bill's provisions.

C.S.H.B. 811 authorizes the board to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the district if the board satisfies certain requirements. The bill requires the board to appoint a chief medical officer for the district and to adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the physician's independent medical judgment in providing care to patients. The bill requires such policies to include policies relating to credentialing, quality assurance, utilization review, peer review, and medical decision-making and to include the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment. The bill requires the adopted policies to be approved by the chief medical officer and to prevail over a conflicting district policy. The bill requires each physician employed by the board to report ultimately to the district's chief medical officer for all matters relating to the practice of medicine. The bill requires the chief medical officer to

report immediately to the Texas Medical Board any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of a physician's independent medical judgment in caring for a patient. The bill prohibits the board from delegating to the administrator of the district the authority to hire a physician. The bill prohibits provisions relating to the authorization to employ physicians from being construed as authorizing the board to supervise or control the practice of medicine, as prohibited by the Medical Practice Act.

C.S.H.B. 811 authorizes the board to borrow money at a rate not to exceed the maximum annual percentage rate allowed by law for district obligations at the time the loan is made. The bill authorizes the board to secure a loan by pledging district revenue that is not pledged to pay the district's bonded indebtedness, pledging a district tax to be imposed by the district during the 12-month period following the date of the pledge that is not pledged to pay the principal of or interest on the district bonds, or pledging district bonds that have been authorized but not sold. The bill requires a loan for which taxes or bonds are pledged to mature not later than the first anniversary of the date the loan is made and requires a loan for which district revenue is pledged to mature not later than the fifth anniversary of the date the loan is made.

C.S.H.B. 811 authorizes the board to provide for the security and repayment of district bonds from a pledge of a combination of taxes, revenue, and other sources as authorized under provisions relating to hospital districts created by voter approval as an additional means of securing repayment of bonds. The bill authorizes the district to use the proceeds of such bonds to pay for the following:

- any expense the board determines is reasonable and necessary to issue, sell, and deliver the bonds;
- interest payments on the bonds during a period of acquisition or construction of a project or facility to be provided through the bonds, not to exceed five years;
- costs related to the operation and maintenance of a project or facility to be provided through the bonds during an estimated period of acquisition or construction, not to exceed five years, and for one year after the project or facility is acquired or constructed;
- costs related to the financing of the bond funds, including debt service reserve and contingency funds;
- costs related to the bond issuance;
- costs related to the acquisition of land or interests in land for a project or facility to be provided through the bonds; and
- costs of construction of a project or facility to be provided through the bonds, including the payment of related professional services and expenses.

C.S.H.B. 811 defines "board" and "district."

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 811 differs from the original by authorizing the board to employ health care providers other than physicians generally, authorizing the board to delegate the authority to employ such health care providers to the district administrator, establishing separate provisions governing the employment of physicians, and prohibiting the board from delegating the authority to hire a physician, whereas the original authorizes the board to employ physicians or other health care providers under the same statutory provision and without any specified authority to delegate the hiring function.

C.S.H.B. 811 contains a provision not included in the original authorizing the board to employ a physician and retain all or part of the professional income generated by the physician for medical services if the board satisfies certain applicable requirements. The substitute contains provisions not included in the original requiring the appointment of a chief medical officer, requiring the adoption of policies regarding a physician's independent medical judgment and establishing content requirements for such policies, requiring approval of the policies by the district's chief medical officer and prevalence over a conflicting district policy, and establishing reporting requirements for each physician to the chief medical officer on matters relating to the practice of medicine and for the chief medical officer to the Texas Medical Board on matters relating to a compromise of a physician's independent medical judgment.