

## **BILL ANALYSIS**

C.S.H.B. 3753  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that, despite state programs that are designed to attract physicians to rural and underserved areas in Texas, state law remains an obstacle to meeting this important goal because it does not allow hospitals to employ physicians. The parties note that this prohibition is particularly burdensome and that many physicians prefer to be employed by the local hospital and avoid the complications of running a private practice. Especially in small rural cities, the prohibition is a major barrier to the recruitment and retention of physicians. C.S.H.B. 3753 attempts to remove this barrier by allowing certain municipal hospital authorities to employ physicians.

### **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. 3753 amends the Health and Safety Code to authorize the board of a hospital authority that is created by the governing body of a municipality with a population of less than 10,000 and that owns or operates a hospital with more than 50 licensed beds 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 authority if the board satisfies the requirements set out in the bill's provisions.

C.S.H.B. 3753 requires the board of the authority to appoint a chief medical officer for the authority who has been recommended by the medical staff of the authority and to adopt, maintain, and enforce policies to ensure that a physician employed by the authority exercises the physician's independent medical judgment in providing care to patients. The bill requires the policies adopted by the board to include policies relating to credentialing and privileges, quality assurance, utilization review, peer review and due process, and medical decision-making and 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 policies to be approved by the medical staff of the authority and requires the medical staff and the board to jointly develop and implement a conflict management policy to resolve any conflict between a medical staff policy and a board policy.

C.S.H.B. 3753 requires each physician employed by the authority, for all matters relating to the practice of medicine, to ultimately report to the chief medical officer of the authority. The bill requires the chief medical officer to notify the Texas Medical Board that the board is employing physicians and that the chief medical officer is the board's designated contact with the Texas Medical Board. The bill requires the chief medical officer to immediately report to the Texas Medical Board any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

C.S.H.B. 3753 requires the board of the authority to give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the authority and physicians not employed by the authority. The bill requires a physician employed by the authority to retain independent medical judgment in providing care to patients and prohibits the physician from being disciplined for reasonably advocating for patient care.

C.S.H.B. 3753 specifies that a physician employed by the authority, if the authority provides professional liability coverage for physicians employed by the authority, is authorized to participate in the selection of the professional liability coverage, has the right to an independent defense at the physician's own cost, and retains the right to consent to the settlement of any action or proceeding brought against the physician. The bill specifies that if a physician employed by the authority enters into an employment agreement that includes a covenant not to compete, the agreement is subject to statutory provisions setting out the criteria for enforcing covenants not to compete.

C.S.H.B. 3753 prohibits the board of the authority from delegating to the manager or executive director of a hospital owned or operated by the hospital authority the authority to hire a physician. The bill prohibits its provisions from being construed as authorizing the board to supervise or control the practice of medicine as prohibited by the Medical Practice Act. The bill adds an exception for physicians hired in accordance with the bill's provisions to certain provisions governing a municipal hospital authority's powers and duties relating to employees.

#### **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. 3753 differs from the original by authorizing the board of an authority that is created by the governing board of a municipality with a population of less than 10,000 and that owns or operates a hospital with more than 50 licensed beds to employ physicians, whereas the original authorizes the board of an authority that is created by the governing board of a municipality with a population of less than 10,000 to employ physicians and staff.

C.S.H.B. 3753 contains provisions not included in the original relating to the employment of physicians by the board of a hospital authority described by its provisions.