

BILL ANALYSIS

C.S.H.B. 4844
By: Herrero
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Nueces County Hospital District must utilize a sealed bidding system to sell any property that it owns. This can lead to the property being on the market for extended periods of time if members of the local community are not interested in purchasing the property. C.S.H.B. 4844 seeks to allow the district to utilize a broker for the sale of real property, which would allow the property to be actively marketed to a wide array of potential buyers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 4844 amends the Health and Safety Code to authorize the Nueces County Hospital District to contract with a licensed real estate broker to sell a tract of real property that is owned by the district, as long as the broker is not related within the third degree of consanguinity or affinity to a member of the district's board of hospital managers or a public official who serves on the Nueces County Commissioners Court. The bill provides the following with respect to such a sale:

- the district may pay a fee if the broker produces a ready, willing, and able buyer to purchase a tract of real property;
- if the contract requires the broker to list the tract of real property for sale for at least 30 days with a multiple-listing service (MLS) used by other brokers in the county in which the property is located, the district, on or after the 30th day after the date the property is listed, may sell the tract to a ready, willing, and able buyer who is produced by any broker with whom the district may contract under the bill using the MLS and who submits the most advantageous offer;
- the district must post a notice of intent to sell the real property in a newspaper of general circulation, not less than once, at least 30 days before the date the district accepts an offer produced by a broker;
- the district may sell a tract of real property without complying with Local Government Code requirements relating to notice of a sale or exchange of land by a political subdivision;
- the district may not sell a tract of real property for less than the tract's fair market value, as determined by an independent appraisal prepared by, and obtained by the district from, a certified appraiser who is not related within the third degree of consanguinity or affinity

to a member of the district's board of hospital managers or a public official who serves on the Nueces County Commissioners Court; and

- the district may not sell a tract of real property to a buyer who:
 - is related within the third degree of consanguinity or affinity to a member of the district's board of hospital managers, a public official who serves on the Nueces County Commissioners Court, or the broker for the sale; or
 - has a business or financial relationship with such a board member or a public official that could reasonably be expected to materially and adversely affect the member's or official's judgment.

The bill defines "fair market value" for these purposes as the price that a property would bring in an arms-length transaction when offered for sale by a person who wishes, but is not obliged, to sell the property and when bought by a person who is under no necessity of buying the property. The value is required to be determined as if the property were available for immediate possession and for use for any reasonable purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4844 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute broadens the scope of the conflict of interest protections established by the introduced, which consisted of a single prohibition against the district contracting with a broker who is related within the third degree of consanguinity to a member of the district's board of hospital managers or a public official who serves on the Nueces County Commissioners Court, by doing the following:

- also prohibiting the district from contracting with a broker who is related to such a board member or official by affinity;
- prohibiting the district from selling a tract of real property to a buyer who is related in that manner to such a board member or official or the broker for the sale or who has a business or financial relationship with such a board member or official that could reasonably be expected to materially and adversely affect the member's or official's judgment; and
- requiring that the appraiser appraising the tract of real property to be sold in order to determine its market value also not be related in that manner to such a board member or official.

Moreover, whereas the introduced authorized the district to sell property to a buyer who is produced by any broker using an MLS and who submits the most advantageous offer if the contract requires the tract of property to be listed for sale with the MLS for at least 30 days, the substitute authorizes the district only to sell the tract to a buyer who is produced by a broker with whom the district may contract in accordance with the bill's established conflict of interest protections.

The substitute requires the district to post a notice of intent to sell real property in a newspaper of general circulation, not less than once, at least 30 days before the date the district accepts an offer produced by a broker, whereas the introduced required the notice to be provided at least 14 days before the date the district accepts such an offer.

The substitute revises the provision in the introduced prohibiting the district from selling a tract of real property for less than fair market value, as determined by an appraisal obtained by the district, by specifying that the appraisal must be independently prepared by a certified appraiser. The substitute also includes a definition of "fair market value," that was not included in the introduced.