

SENATE BILL REPORT

SB 6698

As Reported by Senate Committee On:
Health & Long-Term Care, February 4, 2010

Title: An act relating to the acquisition of nonprofit hospitals.

Brief Description: Concerning the acquisition of nonprofit hospitals.

Sponsors: Senators Keiser, Marr, Murray, Fairley and Kohl-Welles.

Brief History:

Committee Activity: Health & Long-Term Care: 2/01/10, 2/04/10 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6698 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Fairley and Murray.

Minority Report: Do not pass.

Signed by Senator Marr.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker and Parlette.

Staff: Rhoda Donkin (786-7465)

Background: Nationally, nonprofit hospitals are increasingly being acquired by for-profit corporations. In Washington, state law dictates the process for these sales and authorizes the Department of Health (department) to oversee them. When the sale of a nonprofit hospital is proposed, a review process must include public notice, the opportunity to submit written comments, and a public hearing in the county where the hospital being acquired is located.

The department may only approve an acquisition if it determines that appropriate steps have been taken to safeguard charitable assets and to ensure that any proceeds of the transaction are used for appropriate charitable health and health care purposes. Criteria are enumerated in law for making this determination.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The department may only approve an acquisition if it also determines that the acquisition will not detrimentally affect the continued existence of accessible, affordable health care that is responsive to the needs of the community where the hospital being acquired is located. Criteria are enumerated in law for this determination.

All parties to the acquisition are required to periodically report to the department regarding compliance with commitments made in the acquisition process. If, after the hearing, the department determines that the acquiring party is not fulfilling its commitment, it may revoke or suspend the license of that party, or refer the matter to the Attorney General for appropriate action.

There is concern that the state has insufficient enforcement and reporting requirements to ensure that the commitments made for the approval of the nonprofit hospital acquisition are kept subsequent to a sale.

Summary of Bill (Recommended Substitute): The department must require annual reports from the acquiring party for ten consecutive years after the sale of a nonprofit hospital. If the department finds that the acquiring party has not fulfilled the commitments made during the approval process, the department may impose reasonable conditions on a hospital license, impose civil penalties of not more than \$500 per day per violation, suspend, revoke, or refuse to renew a license.

During an application process, the department must consult with an independent entity who will conduct a comprehensive health impact study to determine that all of the conditions described in law will be met. This study must be paid for by the applicant.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute): It is clarified that the Department of Health makes the determination of whether, after a health impact study, the hospital acquisition should take place. The health impact study must provide health data regarding the impact of the sale and must also identify specific conditions that should be placed on the sale to ensure it will result in the best possible health benefits for the area impacted.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This provides a wider array of enforcement actions that the department can take after a sale is approved when agreements made during the acquisition process have not been kept. State law needs to provide tougher accountability measures. In Spokane, when Community Health Systems (CHS) bought Empire Health, the result was people laid off, fewer services, and reduced charity care. The department has not been assertive enough about requiring reports from CHS. This will

require more reporting and more accountability. Purchasers should know up front that they face stiff fines for each obligation they fail to meet.

CON: The reporting requirements in this bill are already possible under current law. This adds an extra financial burden to the acquisition process, which is already onerous. The state currently has the most rigorous laws in the nation regulating hospital acquisitions. These added provisions will have a chilling effect on future purchases. The sale in Spokane happened so recently that it is too soon to know what lessons have to be learned. This sale has saved hundreds of jobs and done much more for access to health care than it has taken away.

OTHER: There needs to be more dialogue about this before we start changing the law.

Persons Testifying: PRO: Chris Barton, Nancy Westbrook, SEIU Healthcare, 1199 NW; Linda Hull, Providence.

CON: Tom Parker, Community Health Systems; William Gilbert, Deaconess Medical Center; Dennis Barts, Valley Hospital; Lisa Thatcher, Washington State Hospital Association.

OTHER: Denny Eligson, Yakima Regional Medical Center.