

HCS HB 1104 -- HOSPITALS

SPONSOR: Mayhew

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Government Efficiency by a vote of 12 to 5.

The following is a summary of the House Committee Substitute for HB 1104.

This bill prohibits the following persons from being elected or appointed to the board of trustees for a county or district hospital:

- (1) A current employee of the hospital or affiliates; or
- (2) A former employee of the hospital or affiliates within the past three years.

The bill also specifies that members of the board of trustees can be subject to removal from office in the same manner as persons elected to any county, city, town, or township office.

This bill changes the required schedule of meetings from at least one each month to once quarterly, and provides that the board must submit to the county commission an annual financial report in a manner consistent with the submission of other financial reports required by the State Auditor relating to political subdivisions.

The bill specifies that certain hospitals are subject to the same requirements applicable to public bodies and records as provided by existing statute.

However, the records of a hospital and its subsidiaries must not be subject to these requirements if the board determines that the disclosure of such information would be harmful to the fiscal position of the hospital, or confer any other health care providers an unequal advantage over the hospital, and these records contain:

- (1) Proprietary information gathered by, or in possession of, the hospital from third parties under confidentiality;
- (2) Contract cost estimates prepared for confidential use in awarding certain contracts;
- (3) Data, records, or information of a proprietary nature produced or collected by or for the hospital, its employees, its officers, or members of its board of trustees;

- (4) Third-party financial statements, records, and related data that is not publicly available;
- (5) Consulting or other reports paid for by the hospital to assist with strategic planning and goals;
- (6) The determination of marketing and operational strategies, where the disclosure of such information would be harmful to the fiscal position or confer any other health care providers unequal advantage over the hospital; or
- (7) Financial information gathered by, or in the possession of, the hospital where the disclosure of such information would be harmful to the fiscal position of the hospital or confer any other health care providers unequal advantage over the hospital.

The bill allows the hospital, including the board of trustees and certain committees, to discuss, consider, and take action on certain plans, use of property, or marketing or operational strategies in a closed session if the board of trustees determines that the disclosure of such information would be harmful to the fiscal position or confer any other health care providers unequal advantage over the hospital.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that preventing county hospitals from having conflicts of interests with board members that work for competing hospitals creates a competitive disadvantage. This bill helps address abuses to open records laws and will help prevent private hospitals from taking staff and ideas from public hospitals. Too often individuals run for a small county board with an agenda due to a grudge that developed when they were employed. This language should be expanded to include district hospitals.

Testifying in person for the bill were Representative Mayhew; Phelps Health; Jason Shenefield, Phelps Health; and Golden Valley Memorial Healthcare.

OPPONENTS: Those who oppose the bill say that this bill has a number of red flags including a lack of ethical transparency. The attempt to hide public records most likely means that there is something worth looking for.

Testifying in person against the bill was Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.