

Regular Session, 2010

SENATE BILL NO. 295

BY SENATOR DONAHUE

HEALTH/HOSPITALS DEPT. Authorizes the Department of Health and Hospitals to contract for the operation of state inpatient mental health facilities and certain services provided at such facilities. (8/15/10)

1 AN ACT

2 To enact R.S. 28:22.11, relative to inpatient mental health institutions; to authorize the
3 Department of Health and Hospitals to contract with private contractors for the
4 provision of inpatient mental health treatment and services; to provide for the
5 financing, acquiring, designing, leasing, constructing, and operating of inpatient
6 mental health facilities; to provide for the lease or use of public lands or buildings;
7 to require contractors to enter into hold harmless agreements; to require the release
8 of financial statements by contractors; to require insurance, bonding, and
9 indemnification for the state or political subdivisions; to provide for approval and
10 monitoring of the contract; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 28:22.11 is hereby enacted to read as follows:

13 **§22.11. Agreements with private contractors**

14 **A. The Department of Health and Hospitals is hereby authorized to enter**
15 **into contracts with private contractors for the financing, acquiring, designing,**
16 **leasing, constructing, and operating of inpatient mental health facilities.**

17 **B. (1) Contracts entered into under the terms of this Section shall be**

1 negotiated with the contractor chosen by the Department of Health and
2 Hospitals pursuant to a competitive process. Notwithstanding any other
3 provision of law to the contrary, contracts entered into under the terms of this
4 Section shall not be subject to capital outlay requirements, Title 38 of the
5 Louisiana Revised Statutes of 1950, or the request for proposals process of R.S.
6 39:1503. A contract for the financing, acquiring, designing, leasing and
7 constructing of an inpatient mental health facility may also contain provisions
8 relating to the maintenance and operation of administrative and treatment
9 services in the inpatient mental health facility, if the department determines
10 that combining the contract services would be efficient and cost effective.
11 However, no contract for services may be entered into unless the contractor
12 demonstrates that it has:

13 (a) The financial and programmatic qualifications, experience, and
14 personnel necessary to carry out the terms of the contract.

15 (b) The financial strength and ability to provide indemnification for
16 liability arising from the operation of inpatient mental health facility projects.

17 (c) Evidence of past performance of similar contracts.

18 (d) The ability to comply with applicable mental health standards.

19 (2) Contracts awarded under the provisions of this Section may be
20 entered into for a period not to exceed twenty years, subject to annual
21 appropriation by the legislature.

22 C. No contract for inpatient mental health treatment or services shall be
23 entered into unless the following requirements are met:

24 (1) The contractor provides audited financial statements for the
25 previous five years or for each of the years the contractor has been in operation,
26 if less than five years, and provides other financial information as requested.

27 (2) The contractor shall agree to hold harmless the state, its agencies,
28 political subdivisions, and the employees and contractors of the state, its
29 agencies and political subdivisions for any claim or cause of action which arises

1 from any act or omission by the contractor or any of the contractor's employees
2 or subcontractors.

3 (3) The contractor shall agree to provide insurance, or equal bonding,
4 and proof of such insurance or bonding for the indemnification of the state or
5 its agencies and political subdivisions and the employees and contractors of the
6 state and its agencies and political subdivisions for any claim or cause of action
7 which arises from any act or omission by the contractor or any of the
8 contractor's employees or subcontractors. Nothing in this Section is intended
9 to deprive a contractor or the state and its agencies and political subdivisions
10 of the benefits of any law limiting liability or setting a limit on damages.

11 D. Nothing in this Section shall limit or affect the ability of the
12 Department of Health and Hospitals to contract for professional, personal,
13 consulting or social services under the authority existing as of July 1, 2010.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Greg Waddell.

DIGEST

Proposed law provides that DHH may enter into contracts with private contractors for the financing, acquiring, designing, leasing, constructing, and operating of inpatient mental health facilities.

Proposed law provides that contracts entered into under proposed law shall be negotiated with the contractor chosen by DHH pursuant to a competitive process.

Proposed law provides that contracts entered into under the terms of proposed law shall not be subject to capital outlay requirements, Title 38 of the Louisiana Revised Statutes of 1950, or the request for proposals process of R.S. 39:1503.

Proposed law provides that a contract for the financing, acquiring, designing, leasing and constructing of an inpatient mental health facility may also contain provisions relating to the maintenance and operation of administrative and treatment services in the inpatient mental health facility, if DHH determines that combining the contract services would be efficient and cost effective.

Proposed law further provides that no contract for services may be entered into unless the contractor demonstrates that it has:

- (1) The financial and programmatic qualifications, experience, and personnel necessary to carry out the terms of the contract.
- (2) The financial strength and ability to provide indemnification for liability arising from the operation of inpatient mental health facility projects.

- (3) Evidence of past performance of similar contracts.
- (4) The ability to comply with applicable mental health standards.

Proposed law provides that contracts awarded under the provisions of proposed law may be entered into for a period not to exceed 20 years, subject to annual appropriation by the legislature.

Proposed law provides that no contract for inpatient mental health treatment or services shall be entered into unless the following requirements are met:

- (1) The contractor provides audited financial statements for the previous five years or for each of the years the contractor has been in operation, if less than five years, and provides other financial information as requested.
- (2) The contractor shall agree to hold harmless the state, its agencies, political subdivisions, and the employees and contractors of the state, its agencies and political subdivisions for any claim or cause of action which arises from any act or omission by the contractor or any of the contractor's employees or subcontractors.
- (3) The contractor shall agree to provide insurance, or equal bonding, and proof of such insurance or bonding for the indemnification of the state or its agencies and political subdivisions and the employees and contractors of the state and its agencies and political subdivisions for any claim or cause of action which arises from any act or omission by the contractor or any of the contractor's employees or subcontractors.

Proposed law provides that nothing in the provisions of proposed law shall limit or affect the ability of DHH to contract for professional, personal, consulting or social services under the authority existing as of July 1, 2010.

Effective August 15, 2010.

(Adds R.S. 28:22.11)