

Regular Session, 2010

HOUSE BILL NO. 979

BY REPRESENTATIVE SIMON

STATE DEPARTMENTS: Authorizes the Dept. of Health and Hospitals to contract for the operation of state inpatient mental health facilities and certain services provided at such facilities

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 require contractors to enter into hold harmless agreements;
7 to require the release of financial statements by contractors; to require insurance,
8 bonding, and indemnification for the state or political subdivisions; and to provide
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

12 §22.11. Agreements with private contractors

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

16 B. (1) Contracts entered into pursuant to the terms of this Section shall be
17 negotiated with the contractor chosen by the Department of Health and Hospitals
18 pursuant to a competitive process. Notwithstanding any other provision of law to the
19 contrary, contracts entered into pursuant to the terms of this Section shall not be

1 subject to capital outlay requirements, Title 38 of the Louisiana Revised Statutes of
2 1950, or the request for proposals process in R.S. 39:1503. A contract for the
3 financing, acquiring, designing, leasing, and constructing of an inpatient mental
4 health facility may also contain provisions relating to the maintenance and operation
5 of administrative and treatment services in the inpatient mental health facility, if the
6 department determines that combining the contract services would be efficient and
7 cost effective; however, no contract for services may be entered into unless the
8 contractor demonstrates that it has:

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

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

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

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

15 (2) Contracts awarded pursuant to the provisions of this Section may be
16 entered into for a period not to exceed twenty years, subject to annual appropriation
17 by the legislature.

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

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

23 (2) The contractor shall agree to hold harmless the state, its agencies,
24 political subdivisions, and the employees and contractors of the state, its agencies
25 and political subdivisions for any claim or cause of action which arises from any act
26 or omission by the contractor or any of the contractor's employees or subcontractors.

27 (3) The contractor shall agree to provide insurance, or equal bonding, and
28 proof of such insurance or bonding for the indemnification of the state or its agencies
29 and political subdivisions and the employees and contractors of the state and its

1 agencies and political subdivisions for any claim or cause of action which arises
 2 from any act or omission by the contractor or any of the contractor's employees or
 3 subcontractors. Nothing in this Section shall be intended to deprive a contractor or
 4 the state and its agencies and political subdivisions of the benefits of any law
 5 limiting liability or setting a limit on damages.

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

9 Section 2. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Simon

HB No. 979

Abstract: To authorize the Department of Health and Hospitals to contract with private contractors for the provision of inpatient mental health treatment and services.

Proposed law (R.S. 28:22.11(A)) provides that the Department of Health and Hospitals (DHH) may enter into contracts with private contractors for the financing, acquiring, designing, leasing, constructing, and operating of inpatient mental health facilities.

Proposed law (R.S. 28:22.11(B)(1)) 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 in 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 (R.S. 28:22.11(C)) 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 5 years or for each of the years the contractor has been in operation, if less than 5 years, and provides other financial information as requested.
- (2) The contractor agrees 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 agrees 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 upon signature of the governor or lapse of the time for gubernatorial action.

(Adds R.S. 28:22.11)