

# SENATE BILL REPORT

## SB 5227

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As Reported By Senate Committee On:  
Health & Long-Term Care, February 25, 1997  
Ways & Means, March 10, 1997

**Title:** An act relating to nonprofit hospital sales.

**Brief Description:** Regulating the sales of nonprofit hospitals.

**Sponsors:** Senators Deccio, Franklin, Patterson, Prentice, Benton, Wojahn and Long.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/31/97, 2/25/97 [DPS-WM].  
Ways & Means: 3/10/97 [DPS (HEA)].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5227 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Fairley, Franklin, Strannigan and Wojahn.

**Staff:** Jonathan Seib (786-7427)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5227 as recommended by Committee on Health & Long-Term Care be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

**Staff:** Susan Lucas (786-7711)

**Background:** Nonprofit organizations, including hospitals, are created under laws that require them to serve charitable or other public purposes. In return, federal and state laws accord them certain financial advantages such as tax exemption. On a national level, however, nonprofit hospitals are increasingly being acquired by for-profit corporations. When this occurs, there is a public interest in insuring that the acquiring corporation will continue to provide the community served by the hospital with quality, affordable health care and that the proceeds from the transaction will be used for charitable purposes. There is concern that should such acquisitions occur in Washington, our laws are insufficient to ensure that these public interests will be served.

**Summary of Substitute Bill:** Except for a nonprofit corporation or government entity, a person may not acquire a hospital owned by another nonprofit corporation without the approval of the Department of Health.

A process is provided whereby the department is to review and rule upon an application for a nonprofit hospital acquisition. The department is to charge an application fee to cover the costs of implementing the bill. The 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 also subpoena information and witnesses, require sworn statements, and take depositions. A completed application must be ruled upon within 120 days of its receipt. For good cause, this deadline may be extended for up to 30 days.

As part of the review process, the Attorney General is to provide the department with a written opinion as to whether or not the proposed acquisition meets the requirements of the act.

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 for making this determination.

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 for making this determination.

The Secretary of State may not accept any documents in connection with an acquisition until the acquisition is approved by the department. The Attorney General may seek an injunction to prevent any unapproved acquisition.

All parties to the acquisition are required to periodically report to the Department of Health regarding compliance with commitments made in the acquisition process. If, after a 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.

The acquisition of the property of a public hospital district may only be authorized by approval of a majority of voters in the district. Prior to the election on this issue, the state Department of Health is to provide an opinion regarding the merits of the acquisition.

**Substitute Bill Compared to Original Bill:** The application of the substitute bill is narrower than the original bill, applying only to acquisitions of nonprofit hospitals. Special provisions are added covering public hospital districts. Under the substitute bill, the Department of Health is given sole approval authority, with the Attorney General only required to provide an opinion on whether the application should be approved. The substitute bill requires that the department charge an application fee, extends the maximum time for review from 60 to 120 days, and does not require a single process for review of certificate of need and applications under this bill. Some changes are made to the review

standards enumerated in the bill. Additional enforcement authority is given to the Attorney General.

**Appropriation:** None.

**Fiscal Note:** Available for original bill; requested for substitute on February 26, 1997.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For (Health & Long-Term Care):** Washington has a significant number of nonprofit hospitals, making this a ripe environment for acquisitions similar to those which have occurred in other parts of the country. This bill puts the state ahead of the curve in addressing concerns that are raised by the sale of nonprofit hospitals. It fills in gaps in the current law and will assure that should an acquisition occur, health resources will stay in the community where the acquired hospital is located.

**Testimony Against (Health & Long-Term Care):** None.

**Testified (Health & Long-Term Care):** PRO: Ellie Menzies, District 1199 NW SEIU; Jeff Even, Office of the Attorney General; Dave Broderick, Barbara Shickich, Washington Hospital Association; Cliff Webster, WSMA; Mimi Fields, Department of Health; Eleanor Hamburger, Washington Citizen Action.

**Testimony For (Ways & Means):** The bill assures communities supporting a nonprofit or public district hospital that a purchase of the hospital will not harm the community. The taxpayers don't have to pay for the process in this bill.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** Senator Alex Deccio, sponsor; Dave Broderick, Washington State Hospital Association.