SENATE BILL REPORT
SB 6517

As of February 2, 2012

Title: An act relating to hospital financing and tax preference eligibility.

Brief Description: Regarding hospital financing and tax preference eligibility.

Sponsors: Senators Pflug and Keiser.

Brief History:
Committee Activity: Health & Long-Term Care: 1/30/12.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Mich'l Needham (786-7442)

Background: The Health Care Financing Authority (HCFA) was created in 1974 to ensure health care facilities adequate for good public health were established and maintained in sufficient numbers and in proper locations. It was declared the public policy of Washington to assist and encourage the building of well-equipped and reasonably priced health care facilities and to assist with expansion, modernization, and financing of building projects through the issuance of bonds issued under the name of the HCFA.

There are 97 licensed hospitals in Washington. Of these, 87 are either nonprofit hospitals or public hospital district hospitals. Nonprofit hospitals are exempt from paying state and local property taxes. A report of the Joint Legislative Audit and Review Committee found that the property tax exemption equaled approximately $104.7 million in the 2007-2009 biennium. Hospitals claiming nonprofit status must provide the Washington State Department of Revenue (DOR) documentation from the federal Internal Revenue Service (IRS) that the hospital is exempt from federal income taxes. Federal law requires hospitals claiming nonprofit status to provide community benefits, but the amount of community benefit is not specific. The IRS reports that over half of the community benefits reported by nonprofit hospitals was in the form of free or discounted health care commonly referred to as charity care.

The federal Affordable Care Act amended the requirements for hospitals to qualify as nonprofit organizations and will require hospitals to complete a community health needs assessment and adopt an implementation strategy to meet the identified community health needs.

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.

Summary of Bill: The intent of the HCFA is modified to include reference to health care facilities contributing to improve the quality of health care and ensuring accountability for the cost of care. The membership of the HCFA is also modified: four legislators – one from each caucus – and three members of the public are added to the membership. The three members of the public must have had no fiduciary interest or responsibility toward any health care facility or organization within the seven year prior to the appointment. The Lieutenant Governor and the four legislative members are nonvoting members.

Additional requirements are added as minimum conditions for hospital project financing. Hospitals interested in financing must:

- Provide charity care that exceeds the average expenditures for charity care, as reported to the Department of Health, provided by the peer group of hospitals in the state during the year immediately preceding the year the financing application is submitted;
- Implement one or more programs to substantially reduce the number and rate of emergency department visits for non-emergency health conditions. Such programs may include maintaining full-service primary care capacity outside the emergency department, or maintaining an urgent care center as an accessible, available alternative to non-emergency care.
- Agree to participate in activities that enhance accountable care such as providing reports to physicians within 72 hours of admission or emergency room visits, and other suggested measures adopted in rule.
- Agree to provide data on community health needs, consistent with the meaning of community health needs as defined in federal law and rule.

The description of community health needs includes the five most common causes of death in the community; the extent to which the community experiences ambulatory sensitive conditions; a description of existing facilities, provider, or resources that are owned, operated or jointly managed by the hospital or health system; and copies of the policies for charging facility fees, the policies on sharing access to electronic medical records with all community providers, and the policies on determining charges for the uninsured relative to the best payer rates that have been negotiated.

The HCFA has the authority to review and verify the information provided to ensure the information is in compliance with the new reporting requirements. It is clarified that none of the expenses of the HCFA may be paid by the state of Washington.

A nonprofit hospital and a public hospital district claiming a tax exemption for business and occupation taxes or property taxes with the DOR must file new information including:

- documentation of the charity care provided including costs of care as well as charges of care;
- documentation of the salaries of the top five highest paid officials; and
- documentation showing the availability of inpatient mental health beds, voluntary and involuntary, is relative to the community needs for such services; beds must be reported as a percentage of available hospital beds in the hospital and region; hospitals within a region may make arrangements to trade the availability of mental health beds with another facility in the region in exchange for a funding offset or other agreement that must be provided with the above documentation.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This change will bring the hospital finance authority additional scope to ensure hospitals are following due diligence before they are issued bonds. The laws were written when we needed more hospitals and were designed to encourage building and expansion, but that goal is not as relevant today when we need to be expanding the primary care delivery systems, not hospital systems. Hospitals are getting tax preferences, and this language does not take that away but ensures citizens are getting a focus on their community needs and getting value in return for the tax preference. We support the incentive in this bill for hospitals to provide additional community mental health beds relative to their community needs. This approach may help mitigate some of the delay in addressing infrastructure needs for mental health access, caused by the delay in the law that was passed in the special session budget. The medical infrastructure for mental health services must be increased dramatically.

CON: This bill attempts to regulate hospitals through two agencies that do not have the task to regulate hospitals. HCFA's sole responsibility is financing projects with no state money on the hook by providing access to the municipal bond market. The language regarding the peer group hospitals and their charity care is a challenge. The assignments duplicate the certificate of need efforts. The additional language allows DOR to regulate hospitals. This assigns responsibility to hospitals to provide access to mental health beds that should rest with the state. Denying the property tax exemption to facilities not on or adjacent to the hospital property is problematic. There have been multiple cases over the last 40 years on this matter with the Board of Tax Appeals. The Seattle Cancer hospital is unique and cannot be swept up into the same requirements since we do not have the same structures. Public hospitals are protected in the constitution and cannot be pulled into the language on property tax. The hospitals must begin reporting community health needs assessments to the federal government, and this bill just requires duplicate reporting.

Persons Testifying: PRO: Senator Pflug, prime sponsor; Seth Dawson, Jim Bloss, National Alliance on Mental Illness.

CON: Len McComb, Lisa Thatcher, WA State Hospital Assn., Marcia Fromhold, Seattle Cancer Care Alliance.