HB
477

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

1/9/84

Date: February 17, 1984

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 477

"An Act relating to repayment of state aid for hospital and health facility construction."

under consideration and reports it back as follows:

[X] do pass

[ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent"

[ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

[signature]

[signature]

[signature]

[signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature]

CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Representative Mae Tischer, Chairman
House Health, Education and Social Services Committee

From: Representative Terry Martin

Date: February 16, 1984

Subject: HB 477

"An Act relating to repayment of state aid for hospital and health facility construction."

Over the years, the state has provided millions of dollars toward construction and expansion of non-profit hospital facilities. Under current law, if the non-profit hospital is sold to a private, profit-making entity, these dollars are unrecoverable by the state.

This bill provides that, if a non-profit hospital which received state construction funds is sold to a private entity, the state will be repaid. The formula in the bill provides for recovery of the state's investment, plus a proportionate amount of the profit received from the sale.

The question is raised as to whether the state can go back and amend existing contracts. Ed Hein, LAA legal counsel, contends that this would probably be upheld in court if the amendment were to a contract between the state and a non-profit or municipal agency, but would not be legal if the state were trying to amend a contract made with a private entity.

This bill is an important protection of the state's investment in public health care, ensuring that dollars invested remain in public use, and do not become a subsidy of private, for-profit enterprise.

HB 477

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M October 21, 1983

SUBJECT: Repayment of state aid for hospital and health facility construction (Work Order No. 13-1519)

TO: Representative Terry Martin

FROM: Edward H. Hein
Legislative Counsel

Enclosed is the bill draft we discussed over the telephone regarding repayment of state aid given under former AS 29.-90.010 - 29.90.030. I have used the formula that appears in 19 AAC 30.061(b) for repayment of state aid if the hospital ceases to be a hospital within 20 years. This formula provides for repayment of the original amount granted, plus or minus the proportionate share of any profit made or loss incurred from the transfer of the hospital or health facility to a for-profit entity.

You should be aware that the bill is not immune from legal challenge, although a court in that event is likely to uphold it. A for-profit corporation that wished to buy a hospital subject to the terms of the bill could raise the argument that it (the for-profit corporation) was eligible for direct aid under the terms of former AS 29.90.030(2) and, therefore, a penalty cannot now be attached to transferring the aid to it indirectly through a sale or lease of the hospital. Under the state aid program, a hospital sponsor did not have to be a municipality or other nonprofit entity, as did the sponsor of a health facility. Compare AS 29.90.030(2) with AS 29.90.030(4). In fact, state aid under the program was granted only to nonprofit sponsors, in part because of the Department of Community and Regional Affairs' possibly erroneous interpretation of the law.

It is our opinion that such a challenge is not likely to cause the bill, should it become law, to be overturned in court. However, the argument might receive serious consideration by the court if raised.

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ljb

Enclosure
30/002

Private corporations buying up public hospitals

By WILLIAM C. REMPEL
and ALAN GOLDSTEIN
The Los Angeles Times

> *'Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals.'*
> — Walter Weisman, president, American Medical International

CRAWFORDSVILLE, Ind. — Culver Memorial, a 1920s-vintage public hospital, is so antiquated and crowded that patients are prepared for surgery in hallways outside the operating rooms. Expectant fathers share a common waiting room with families of dying patients, and visitors and patients often have to share the same elevators.

A chronic plumbing problem periodically causes sewage to drain into a basement corridor, and for years the hospital has lived with potentially hazardous fire code violations. When an engineering survey detailed many structural deficiencies, administrators began searching for money to make major improvements.

But Montgomery County officials would not subsidize replacement of the tax-supported hospital or major renovations. Advised that the hospital was a poor credit risk, they also refused to underwrite a bond issue.

Out of financial desperation, Culver Memorial did what an increasing number of hospitals are doing — it turned to private industry. The county sold its hospital to a profit-making medical chain, American Medical International, based in [illegible] Hills, Calif.

The sale was another example of a strategy for survival that critics warn will impair poor persons' access to health care and raise the cost of medical treatment for everyone.

"The public hospital is the closest thing to national health insurance we have," said Deborah L. Bauer, administrator of the National Association of Public Hospitals. "There's a tremendous need for it, especially in this economy. We're seeing the greatest increases in public hospital use today in areas of high unemployment. The care of indigents isn't just for the winos off the streets. It's for the guy next door who's been laid off, too."

But public hospitals — particularly small ones — are in trouble. A generation of public hospitals built and expanded with federal funds in the years after World War II has reached old age with outdated equipment, crumbling bricks and little or no cash, credit or operating surpluses for repair and replacement. Repeatedly, voters have rejected bond issues aimed at improving the situation.

At the same time, economic pressures on hospitals in general are increasing. Government funding and charitable contributions have declined, and hospitals everywhere are competing for paying patients — increasing the pressure to affiliate with private, money-rich chains.

For example, at York General, a 216-bed public hospital in Rock Hill, S.C., two bond issues that would have financed improvements failed when submitted to voters. Meanwhile, rain occasionally leaked into labs, heavily used X-ray equipment frequently broke down and the maternity ward had no private labor rooms. For a time, the physician staff dwindled, and a survey showed that half of those in the rural area needing treatment checked into hospitals outside the county — until the hospital sold out to American Medical.

The same chain bought Collin Memorial, a 168-bed public hospital in McKinney, Texas, after voters rejected a bond issue to raise taxes. Collin was chronically short of everything from intravenous equipment to thermometers. The hospital had to ask its staff to bring in pens and staplers from home.

Public hospitals are "floating on borrowed time," said Gary Rowe, executive director at Culver Memorial for nearly 10 years. "This country is in for a serious shock. Public hospitals have been operating out of a shoestring box, setting nothing aside for a rainy day. They are going to be closing like flies."

Some — such as 750-bed Philadelphia General Hospital, which [illegible] million in renovation costs seven years ago — already have closed. Others have put out "For Sale" signs when funding for vital improvements was not available.

Riding to the rescue with healthy bank accounts and robust credit ratings, the chains of for-profit hospitals are increasingly eager to purchase struggling public facilities. They have the financial strength to build new, state-of-the-art medical centers, buy expensive high-tech equipment and attract some of the best-qualified physicians.

To critics, some of whom object to the very presence of the profit motive in health care, the trend could turn hospitals into cash registers.

"My health . . . has become a potential profit opportunity," complained Doug Cassel, an attorney with the Health and Medicine Policy Research Group in Chicago. "Before long, patients' kidneys may be listed on the commodities exchange."

But the acquisition trend that began slowly through the Sun Belt in the late 1960s has increased most rapidly during the last two years, industry sources say. The investor-owned chains now control about 80 former public health facilities.

This industry generates more than $16 billion in annual revenue from more than 900 for-profit hospitals in the United States and abroad.

"Our principal advantage is capital — we can find the financing while local hospitals, in the main, cannot," said Charles Martin, a senior vice president with Hospital Corp. of America, the leading buyer of public hospitals among the investor-owned hospital chains. "Charity is no longer a major source of funding for hospitals, and bond issues aren't popular."

Executives at American Medical International see the trend as part of the move away from government-provided health care.

"What we're seeing now is deregulation and an entrusting of that field to private health care firms," said Walter Weisman, president of American Medical International. "Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals."

What worries public interest groups is that "economically viable hospitals" will be achieved by raising fees and denying quality treatment to persons unable to pay for it.

"Profit-making hospitals might not be as motivated to care for people who can't pay for treatment," warned Quentin Young, former administrator of the public Cook County Hospital in Illinois.

Some for-profit hospitals have even been [illegible] of threatening or refusing to treat those who cannot afford to pay.

In Somerset, Ky., for instance, a 27-year-old woman signed an affidavit alleging that an official of the Humana Hospital — another large for-profit chain — said she could not take her newborn baby home until an $8,000 bill was paid. The same hospital was accused of pressuring a 30-year-old man, admitted for neurological testing, to sign a check for $1,100 even though it exceeded his bank balance. He was told that he should apply for a loan to cover the check, according to an affidavit.

Although Humana insisted that the allegations were "fiction," it settled litigation with its former patients by signing a consent decree, agreeing never to engage in the alleged conduct.

More alarming to critics is the prospect of needy patients being denied access to former public hospitals — or being "dumped" on distant public hospitals — because of their inability to pay.

In rural Georgia, for instance, several women complained to an Atlanta newspaper that they were denied admission for maternity care at a former public hospital because they could not afford to pay a deposit. Each delivered a child at the public hospital in a neighboring county.

Damon King, administrator of the Medical Center of Central Georgia, a public hospital outside Macon, said his hospital is resisting patient transfers from the for-profit hospitals.

"Their capability for handling a patient does not decrease simply because that patient cannot pay," King said.

But Rowe of Culver Memorial countered, "No one says food stores shouldn't make a profit — and they're more important than health care. Society seems to be saying that government has a responsibility to provide health care. I don't believe that."

Furthermore, Weisman of American Medical International added, "Private hospitals have to generate profit — and so do public hospitals. We call it profit. They call it surplus. But it's the same animal."

In its last year as a public hospital, Rowe said, Culver Memorial realized an operating surplus of $300,000 — equivalent to about $2,500 per bed. By contrast, Weisman's firm, the new owners of Culver Memorial, showed a systemwide profit of $17,200 per bed.

"It costs money to deliver health care," Weisman said. "If no money is reinvested in the plant, equipment and personnel, you can charge lower fees, but you also deliver much less service. That alternative is clearly unacceptable."

And the cost of health care is higher at investor-owned, for-profit medical centers than at public hospitals. According to a survey published in August by the New England Journal of Medicine, investor-owned facilities also charge more than nonprofit hospitals such as church-run medical centers.

Indiana Health Commissioner Ronald G. Blankenbaker predicted that hospital costs probably will double within a year after the new Crawfordsville hospital opens, perhaps in 1984.

Culver Memorial's Rowe acknowledged that rates at for-profit hospitals "are always going to be higher" because the private chain invests heavily in the acquisition and replacement of the old facilities.

For example, American Medical International is building a new $17 million hospital here. Hospital Corp. of America is spending $20 million to replace the public hospital in Tarboro, N.C. Humana Inc. moved into Somerset, Ky., in 1976 and built a replacement for the old city hospital, which was converted to a nursing home as soon as the new investor-owned facility opened.

Executives at the hospital chains contend that taxpayers benefit from converting public hospitals to private ownership, partly because the new corporate owners pay property taxes.

"When a private company buys a public hospital, it creates a taxpaying entity where a tax drain used to be," Weisman said.

Sales of public hospitals are often accompanied by assurances that indigent care will not be a burden to taxpayers because its cost will be offset by new tax revenues. But, in addition, American Medical has recently negotiated with county officials to provide an indigent-care trust fund. In Crawfordsville, for instance, they agreed to set aside $3.8 million from the proceeds of the sale.

Robert Irvine, a spokesman for Humana Inc. — the Kentucky-based chain that recently took over Louisville's new $73 million public hospital — said a community suffers if its public hospital is forced to close.

"We still need public hospitals," he said. "We've just got to figure out how these public hospitals can be run more efficiently, so they can stay open and stay viable."

Humana seeks expansion sites

by Cary Virtue
Times Writer

Humana Inc., the second largest hospital chain in the country, is interested in seeing if there are other communities in Alaska where it may operate a new hospital, the company's chairman said Monday.

Anchorage residents also can expect health care competition to stiffen as Humana steps up efforts to woo patients away from Providence Hospital, partly by providing people with special care they can't find elsewhere.

"Our pattern is that once we have a foothold in a state we start looking around (for other acquisitions)," said Dave Jones, co-founder, chairman and chief executive officer of Humana, Inc. "We'd like to expand."

But any decision to expand into other Alaskan communities will depend on market studies, said Jones. He was in town to tour Humana Alaska Hospital and speak to the chamber of commerce noon luncheon Monday.

Meanwhile, Jones said the company is busy establishing itself in Anchorage. He was referring to its plans to build a $21.5 million five-story addition at Humana Alaska Hospital by 1985. The expansion would add another 93 licensed beds, for a total of 292 licensed beds at the hospital.

Providence Hospital also will build a five-story, 186,000-square-foot hospital tower by 1986, boosting its total bed capacity from 250 licensed beds to 410 licensed beds.

Anchorage, Jones said, is large enough to support two major private hospitals, but he said Hummana's mission is to provide the best health care in town.

"We made a big commitment to Anchorage to put ourselves in a position of being a competitor to Providence," Jones said. "Our concept is to have the best hospital in town. (And) I think that in the long run we will become the hospital of choice."

Jones said he welcomes more competition in the health field, saying it would help reduce overall costs by forcing a hospital to "trim its own fat."

Humana, a chain with 93 hospitals, last year was able to provide health care services that averaged about 17 percent lower than its competitors, Jones said. He said he's trying to lower Humana's overall operating costs by another three percent this year.

National policies that attempt to shield the consumer by artifically keeping a lid on health care costs also should be repealed, Jones said. And, he said there should be more public debate on health care issues.

In other areas, Jones said he supported:

- Diagnostic related groupings, a new federal approach to establishing standard health care prices for more than 496 medical procedures based on a community's cost of living index. The new law starts going into effect this fall.
- Allowing hospitals to bid to provide all government-funded health care for a region. This experiment already is being tested in California.
- Public discussion about how private health care organizations can provide health care to those people who can't afford the care and who do not have medical insurance.
- Repealing the certificate of need process that forces hospitals to win state approval before expanding or purchasing expensive new equipment. The state legislature is reviewing a repeal bill currently.

Alice Puster of The Times

Humana's Dave Jones pledges to woo patients away from the competition

POSITION PAPER

on

House Bill No. 477

For an Act entitled: "An Act relating to repayment of state aid for hospital and health facility construction."

Financial assistance for hospital and health facility construction has until recently been available from the Department of Community and Regional Affairs under AS 29.90. Numerous hospitals and health facilities have received funding for construction under this program. The program has recently been amended to limit reimbursement to those facilities constructed prior to July 1, 1980.

This bill proposes a means for recovery of state funds for non-profit or community owned hospital or health facility construction in the event that the facility constructed becomes controlled by a for-profit institution within 20 years following receipt of the state funds. The Department of Health and Social Services supports this bill as consistent with the objectives of the department. However, the department questions the usefulness of the bill in that the statute has been revised to limit payment to facilities constructed prior to July 1, 1980. Facilities now receiving funding or those which have received funding in the past may have unspecified "grandfather" rights under the present statute that prevent recovery of funds already granted.

One example of the purpose of this bill is evidenced by the recent sale of the Alaska Hospital and Medical Center (AHMC) to Humana, Inc. AHMC was constructed to operate as a non-profit community hospital. The state provided approximately $16,200,000 under AS 29.90 to offset approximately 25% of the total project cost for construction. Upon notice of the proposed sale of AHMC to Humana, Inc. (a for-profit corporation) the Department of Law researched the possibility of recovery of state funding. The Department of Law, in two separate opinions indicated that there did not exist a statutory basis for recovery of the funding upon sale of the constructed facility to a for-profit institution. (Ref. May 4, 1982 memorandum to Commissioner Lee McAnerney, file no. 366-629-82 and November 12, 1981 response letter to Senator Arliss Sturgulewski.)

Passage of H.B. 477 will provide a statutory basis for recovery of grants for hospital and health facility construction provided under AS 29.90; however, the recovery of funds may be limited to a time when and if the statute is revised to provide funds for new construction.

Recommended by: Daniel J. Meddleton, for
Daniel J. Meddleton, Director
Division of Planning, Policy
& Program Evaluation

Date: Feb. 7, 1984

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/10/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 477
Title: State Aid for Health Facility Construction
Sponsor: Martin
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Health & Social Service
Program Category Affected:

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

ACC

Prepared By: Dave W. Williams
Phone: 465-3037
Division: Planning, Policy & Program Evaluation
Date:

Approved by Commissioner: Robert Lorden Smith Ph.D
Date: 2/10/84
Agency: Dept of Health & Social Services

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Health and Social Services	Rep. Martin	HB 477

Department Position

Support -- This bill is consistent with the objectives of the Department of Health and Social Services and should be enacted.

Division Director	Date	Commissioner's Signature	Date
Daniel M. Middleton	1-17-84	Robert Landon Smith	2/10/84

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
	Community and Regional Affairs

2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill
	Alaska State Hospital Association and Alaska State Medical Association

3. Program Effects of Bill

This bill proposes a means for recovery of State funds for nonprofit or community owned hospital or health facility construction in the event that the hospital or health facility becomes a for-profit institution within 20 years of receipt of the State funds.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

The bill affects a program of the Department of Community and Regional Affairs. C&RA should review the formula for recovery of funds to accertain that all factors may be obtained.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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March 8, 1984

POSITION PAPER

RE: HB 477
SPONSOR: Representative Martin

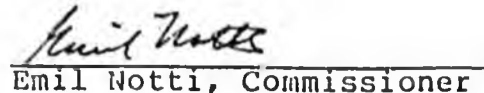
PROGRAM EFFECTS:

This bill establishes a method for the State to be reimbursed in the event that a nonprofit or municipal health facility or hospital which received State Revenue Sharing support is sold to a for-profit owner. Sale to a for-profit owner must occur within 20 years after State Revenue Sharing aid is provided for the State to receive reimbursement.

COMMENTS:

The question of public purpose in the expenditure of State aid for hospital construction is the central issue raised by this bill. State aid diminishes the amount of debt or liability held by a municipality or nonprofit in a hospital or health facility and this factor could be essential in the sale of this facility to a for-profit entity. The equity earned by the nonprofit or municipality as a result of State reimbursement for a hospital or health facility either accrues as a benefit to the nonprofit which, by sale of health facility, is reducing or totally divesting itself from health care responsibilities or translates as a benefit to the for-profit buyer by way of a reduced sale price or acquisition of an undervalued asset. Under either scenario, the State's interest is not served.

This department supports this bill because it protects the State's investment in nonprofit and municipal health care facilities and assures that State funds do indeed serve a public purpose.

APPROVED: 
Emil Notti, Commissioner

21-P1LH