

## **BILL ANALYSIS**

H.B. 3301  
By: Darby  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

It has been suggested that Texas leads the nation in rural hospital closures and that rural hospitals would benefit from having additional tools to combat challenges and improve health care services. H.B. 3301 seeks to address this issue by providing for merger agreements among hospitals located in certain counties.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 3301 amends the Health and Safety Code to provide for a merger agreement among two or more hospitals located within a county that contains two or more hospitals and that has a population of:

- less than 100,000 and is not adjacent to a county with a population of 250,000 or more; or
- more than 100,000 and less than 150,000 and is not adjacent to a county with a population of 100,000 or more.

H.B. 3301 authorizes two or more hospitals to negotiate and enter into a merger agreement, subject to approval by the Health and Human Services Commission (HHSC), and requires HHSC to issue a certificate of public advantage governing the merger agreement for the agreement to receive immunity under the bill's provisions. The bill defines "merger agreement" or "merger" as an agreement among two or more hospitals for the consolidation by merger or other acquisition or transfer of assets by which ownership or control over substantially all of the stock, assets, or activities of one or more previously licensed and operating hospitals is placed under the control of another licensed hospital or hospitals or another entity that controls the hospitals.

H.B. 3301 authorizes one or more parties to a merger agreement to submit an application to HHSC for a certificate of public advantage governing the merger agreement, sets out related requirements for such an application, and provides for the following:

- an application fee capped at \$75,000, the review of the application by HHSC, the grant or denial of the application, and a deadline for that grant or denial; and

- the review of the application by the attorney general, including a requirement for the attorney general, on completion of such review, to advise HHSC whether the proposed merger agreement would likely benefit the public and meet the appropriate standard as described by the bill.

H.B. 3301, with respect to a certificate of public advantage:

- requires HHSC, after reviewing the application and consulting with the attorney general, to issue the certificate if HHSC determines under the totality of the circumstances that there are certain likely benefits, as described by the bill, to the proposed merger;
- requires HHSC to consider, in making such a determination, the effect of the merger agreement on a nonexclusive list of certain factors set out in the bill;
- authorizes HHSC to include terms or conditions of compliance in connection with the certificate if necessary to ensure that the proposed merger likely benefits the public, as described by the bill; and
- sets out provisions relating to the required maintenance of records of merger agreements by HHSC, the authorized voluntary termination of a certificate by a hospital, and the required annual review and authorized annual review of the certificate by HHSC and the attorney general, respectively.

H.B. 3301 requires HHSC to supervise in the manner provided by the bill each hospital operating under a certificate of public advantage to ensure that the immunized conduct of a merged entity furthers the bill's purposes. The bill prohibits an increase in rates for hospital services by such a hospital from taking effect without prior approval of HHSC; provides for a rate review by HHSC; and sets out conditions under which HHSC must approve, deny, or modify a proposed rate increase.

H.B. 3301 requires each hospital to submit an annual report to HHSC and sets out the required contents of the report. The bill requires HHSC to require a hospital to adopt a plan to correct a deficiency in the hospital's activities if HHSC determines that an activity of the hospital does not benefit the public and no longer meets the prescribed standard. The bill sets out provisions relating to:

- certain requirements related to the corrective action plan;
- an annual supervision fee capped at \$75,000;
- an authorization for the executive commissioner of HHSC to investigate a hospital's activities, to require the hospital to perform a certain action or refrain from a certain action, or to revoke a hospital's certificate upon certain HHSC determinations;
- the judicial review of an applicable action by HHSC in granting, denying, or refusing to act on an application or in revoking a certificate; and
- a civil investigative demand by the attorney general and an attorney general action, following an annual review of a certificate, seeking to revoke a certificate.

H.B. 3301 sets out certain legislative findings and purposes and establishes that nothing in its provisions affects antitrust immunity that may be provided through another provision of state law. The bill requires the executive commissioner to adopt rules for the administration and implementation of the bill's provisions by HHSC.

### **EFFECTIVE DATE**

September 1, 2019.