

SUBJECT: Transfer of Beaumont State Center to Spindletop MHMR non-profit

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Rose, S. King, J. Davis, Eissler, Hughes, Naishtat, Pierson

0 nays

2 absent — Herrero, Parker

WITNESSES: For — Joe Lovelace, Texas Council of Community MHMR Centers

Against — Brenda Garison

BACKGROUND: In 1999, the 76th Legislature enacted SB 358 by Madla, authorizing the Department of Mental Health and Mental Retardation (MHMR) to transfer the state-operated Beaumont State Center, which provided mental health and mental retardation services, to locally controlled community services. Following this legislation, the Beaumont State Center facility was leased to Spindletop Mental Health and Mental Retardation Services (Spindletop), a nonprofit MHMR organization in Beaumont.

In 2001, the 77th Legislature enacted HB 1628 by Deshotel, which authorized MHMR to convey the land, buildings, and improvements of the former Beaumont State Center to Spindletop in consideration for Spindletop's continued use of the property to provide community-based mental health or mental retardation services. However, because the transfer did not occur by May 31, 2002, the transfer deadline required in the legislation, Spindletop never received title to the facility.

DIGEST: HB 1759 would authorize the Health and Human Services Commission (HHSC), the Department of State Health Services (DSHS), or the Department of Aging and Disability Services (DADS) to transfer to Spindletop all or part of the real property, including improved fixtures, of the former site of the Beaumont State Center, as legally described in the bill. The transfer would have to take place by May 31, 2008, and would exclude any and all oil, gas, and other mineral interest rights in and under the described property. Under the bill, Spindletop would not be

responsible for any debts related to the property that would accrue before the transfer.

The bill would require Spindletop to continue to use the property to provide community-based MHMR services as non-monetary consideration for the transfer. If Spindletop failed to use the property for such services for more than 180 continuous days, ownership of the property automatically would revert back to the agency that made the transfer. These restrictions would be binding on the property transaction. The transfer would have to occur by deed without warranties regarding covenants of title, and the deed would have to include the conditions enumerated in the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 1759 would allow the state to receive additional value from the MHMR services currently offered at Spindletop. Spindletop has continued to seek ownership of the former Beaumont State Center facility to provide community-based MHMR services. With the transfer, the financial responsibility and/or legal culpability of HHSC with respect to the property would be virtually eliminated. Also, conveying ownership would allow Spindletop to access and secure a broader spectrum of funding sources, such as bonds, to finance future capital improvements not currently available because the state holds title to the facility.

Concerns about the transfer of this property with respect to the wishes of the Rogers Foundation are unfounded. The bill would stipulate that the transferred land would have to be used for MHMR services or revert back to the state. Furthermore, the deed itself restricts the use of the land by the state and its successors. Therefore, there is little opportunity for Spindletop to disrespect the current deed restrictions.

**OPPONENTS
SAY:**

HB 1759 might allow Spindletop to repudiate existing deed restrictions on the property owned by the state. In 1980, the Rogers Foundation donated land to be dedicated to MHMR services and restricted the deed so the land could not be sold or used to provide healthcare services other than those for mental health and mental retardation. Currently, Spindletop has constructed a concrete sidewalk on the facility that is used not only by MHMR patients, but also by others accessing general hospital services.

Construction on this vacant land should be limited to new MHMR facilities, and Spindletop's construction of an expensive sidewalk indicates that it might not be the best steward of the land. In fact, the organization may be motivated to sell a 9.6-acre tract that is currently vacant. The state should take greater steps to ensure the Rogers Foundation deed restrictions are respected.

NOTES:

During the 2005 regular session, HB 2188 by Deshotel, an identical bill, was reported favorably by the House Human Services Committee and was placed on the General State Calendar, but the House took no action.

The fiscal note states that although there would not be a significant fiscal impact, Spindletop would not be obligated to pay any existing debt related to the property before the transfer, which consists of 12 debt service payments of \$36,767, for a total of \$625,042.