

SESSION OF 2003

SUPPLEMENTAL NOTE ON SENATE BILL NO. 44

As Recommended by Senate Committee of the Whole

Brief*

SB 44 concerns hospitals and provides for the transfer of hospital assets to a foundation created under the act. The term "hospital" is defined to include: those defined in KSA 65-425 that are not-for-profit pursuant to Section 501(c)(3) of the Federal Internal Revenue Code and are licensed by the Department of Health and Environment; or Health Midwest, Inc., and any other similarly situated hospital holding company; or a licensed Kansas not-for-profit hospital that is a subsidiary or affiliate of a domestic or foreign hospital holding company.

The bill requires that, whenever there is a proposed change in control of a not-for-profit hospital by sale, merger, integration, or any other event that may result in a change or loss of the hospital's federal tax exempt status or forfeiture or amendment of the hospital's articles of incorporation that alters the original purpose of the hospital, and before there is any transfer or depletion of the hospital's assets, a new foundation must be formed and all Kansas assets of the hospital must be transferred to the foundation.

The foundation must be a Kansas not-for-profit corporation created for the purpose of determining the disposition of the transferred assets in a manner that effectuates as nearly as possible the manifested general charitable intention of the donor or donors. The board of directors of the foundation consists of 18 members appointed as follows: five by the Governor, five by the Attorney General, three by the President of the Senate, three by the Speaker of the House of Representatives, one by the Minority Leader of the Senate, and one by the Minority Leader of the House of Representatives. Board members must be a resident of one of the counties comprising the hospital's service area and serve without compensation for a three-year term.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill prohibits any foundation created under the act from making any loans to board members, officers, employees, and any other person or entity employed by or having a contract with the foundation. Further, the foundation shall not engage in any self-dealing for the benefit of any board member, officer, employee, or other person or entity having a contract with the foundation. Finally, the foundation, board members, officers, and employees are prohibited from any direct or indirect engagement in lobbying or otherwise attempting to influence legislation, advocating the nomination, election, or defeat of any candidate for public office, or attempting to influence the outcome of any ballot initiative or issue. However, the foundation, board members, officers, employees, or grant recipients are permitted to publicize the decisions and actions of the foundation, and to express individually held opinions as long as they are not expressed as being held by the foundation itself.

The provision of the bill will apply from and after January 1, 2003, and the bill is effective upon publication in the *Kansas Register*.

Background

The bill was introduced at the request of the Attorney General with the support of the Governor.