BILL ANALYSIS

C.S.H.B. 2463
By: Villarreal
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Medicaid programs are funded through a state or local government share combined with matching funds from the federal government. In Texas, the federal government provides approximately $1.56 for every $1 of state or local tax revenues used in the Medicaid program. Over the past few years, local government entities have been working with health care providers to supply the local funding necessary to draw the additional federal funds Texas providers are currently entitled to receive for providing services to the Medicaid and uninsured population.

One option for generating local funds eligible for federal matching is through a provider based tax levied on a defined class of health care services in a locality, such as all hospital outpatient services within a particular county. This bill would implement this approach through a special purpose district known as a Healthcare Funding District that would levy the tax. Once implemented at the state level, the entire funding mechanism must receive federal approval.

This district would take the funds generated through a local tax and transfer them to the Texas Comptroller who, in turn, certifies them for the federal match. These local and federal matching funds are then paid by the Texas Health and Human Services Commission (HHSC) to the qualifying health care providers in the community from which the funds originated, consistent with the particular Medicaid program rules.

In the four counties to which this bill may apply, hospitals have agreed to the creation of the special purpose district which would assist them to bring in additional federal Medicaid dollars. The creation of these four districts could result in $70 million in new Medicaid funds to hospitals in these counties for FY '05.

A Healthcare Funding District can raise taxes in communities where there is no available funding source from a county or county hospital district or where the available funding from the county source is not sufficient to draw down all of the available federal funds for the area. The Healthcare Funding District provides a mechanism to implement a new tax directly on hospitals, all of whom have agreed to the taxing district concept.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Title 4 of the Health and Safety Code by adding Chapters 288, 289, 290, and 291, establishing healthcare funding districts in a county with a population of 500,000 or more that is located on the international border of this state and borders two or more counties with populations of 50,000 or more each (applicable to Hidalgo County), a county with a population of 275,000 or more that is adjacent to a county with a population of 3.3 million or more (applicable to Montgomery County), a county with a population of less than 200,000 that is located on the international border and contains at least one city with a population of 100,000 or more (applicable to Webb County), and a county with a population of 1.4 million or less that contains a municipality that has a population of 1.1 million or more that is wholly or partially located within the county (applicable to Bexar County), respectively. Each chapter includes subchapters (A) through (E), which are summarized generally below.

(A) The authority of and for the healthcare funding district, and the duration of the territory affected are outlined.

(1) The definitions make the legislation applicable to nonpublic general hospitals licensed under Chapter 241, Health and Safety Code.
(2) The healthcare funding district is created.
(3) The healthcare funding district shall only exist until September of 2007 and, if the healthcare funding district ceases to exist, all remaining funds will be refunded to the district taxpayers after expenses of the healthcare funding district are paid.
(4) The healthcare funding district is a political subdivision of the State of Texas.
(5) The boundaries of the healthcare funding district are defined.

(B) This Subchapter establishes the governing body for the healthcare funding district as follows:

(1) Commission governing the healthcare funding district will be composed of five Commissioners appointed to a two year term by the County Commissioners and the County Judge. The Commissioners Court shall appoint a new Commissioner in the event of a vacancy.
(2) The qualifications of the members of the commission are set out
(3) The Commission shall elect officers and may hire employees or independent contractors, but the individual Commissioners shall not be compensated.
(4) The Commission shall maintain records available for public inspection.

(C) This Subchapter provides the Commission the power to:

(1) Levy a tax upon majority approval by the Commissioners.
(2) Spend funds:
    (a) for administrative expenses upon majority approval by the Commissioners.
    (b) for nonadministrative purposes upon majority approval by the Commissioners and supermajority approval by the taxpayers.
(3) Establish procedures to meet the requirements of this subsection.
(4) Adopt rules governing district operations.
(5) Establish procedures for purchasing and accounting.
(6) Require submission by all taxpayers of data reported to the Department of State Health Services, and request inspection of any taxpayer records necessary to verify the information provided.
(7) Sue and be sued.

(D) This Subchapter outlines the following general financial provisions for the healthcare funding district:

(1) Creation of the healthcare funding district's budget.
(2) Fiscal year;
(3) Annual audit;
(4) Designation of a bank to hold the district funds; and

(E) This Section explains how the healthcare funding district tax will operate by specifying the District:

(1) May impose a tax on all outpatient hospital visits or emergency room visits provided depending on the particular county;
(2) Must require broad application of the tax on all providers of outpatient hospital services or emergency room services;

(3) Is authorized to calculate an annual tax rate sufficient to cover its administrative expenses, fund the nonfederal share of a Medicaid supplemental payment program, and pay for indigent services;
(4) May not impose a tax greater than $100 or $150 per outpatient hospital visit or emergency room visit depending on the county;
(5) Must limit administrative expenditures to the lesser of $20,000 per annum or 4% of the taxes collected;
(6) Is authorized to use the funds collected to:
 (a) cover its administrative expenses;
 (b) provide the nonfederal share of a Medicaid supplemental payment program; and
 (c) subsidize indigent services.
(7) Must protect patients by specifically disallowing the tax to be passed on as a surcharge to patients;
(8) Must exempt hospitals that treat mental illness from the tax;
(9) May appoint a tax collector or utilize the services of the county tax assessor; and
(10) May assess interest and penalties on non-compliant taxpayers.

SECTION 2. Provides for the appointment of the initial members of commissions established by the Act by not later than October 1, 2005.

SECTION 3. Effective Date

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill amended the Special Districts Code, while C.S.H.B. 2463 amends the Health and Safety Code.

The original bill defined a "district taxpayer" as "any persons or entities that paid taxes", while C.S.H.B. 2463 defines a "district taxpayer" as "a person or entity subject to a tax imposed under this chapter".

The original language of HB 2463 defined an "institutional health care provider" as "all nonpublic general acute care hospitals", whereas C.S.H.B. 2463 defines an "institutional health care provider" as "a nonpublic general hospital".

The basis of the tax in HB 2463 was emergency room visits, whereas C.S.H.B. 2463 provides that the basis of the tax will be outpatient hospital visits or emergency room visits depending on the county.

C.S.H.B. 2463 provides new language that if the healthcare funding district ceases to exist, it will refund all remaining funds to the taxpayers.

C.S.H.B. 2463 changed the definition of county in each chapter to use a more appropriate description.

C.S.H.B. 2463 deleted a provision from the original bill related to the special district's authority to alter any procedure in the text of the legislation if a court finds it unconstitutional.

In HB 2463, the maximum tax rate was set at $100.00 per visit, while C.S.H.B. 2463 sets the maximum tax rate at either $100.00 per visit or $150.00 per visit, depending upon the county. tax C.S.H.B. added a new section,,health care The original language of HB 2463 required the to be based on data reported to the Department of State Health Services in 2002 and 2006, while C.S.H.B. 2463 requires the calculation of the tax to be based on data reported in "the most recent fiscal year for which the information is available", and every two years thereafter.

There are also non-substantive conforming changes.