

AN ACT

relating to the creation and operations of health care funding districts in certain counties located on the Texas-Mexico border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 288, Health and Safety Code, is amended to read as follows:

CHAPTER 288. HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES LOCATED ON TEXAS-MEXICO BORDER [~~THAT ARE ADJACENT TO COUNTIES WITH POPULATION OF 50,000 OR MORE~~]

SECTION 2. Subdivisions (2) and (3), Section 288.001, Health and Safety Code, are amended to read as follows:

(2) "District" means a county health care funding district created under [~~by~~] this chapter.

(3) "Paying hospital [~~District taxpayer~~]" means an institutional health care provider required to make a mandatory payment [~~a person or entity who has paid a tax imposed~~] under this chapter.

SECTION 3. Section 288.002, Health and Safety Code, is amended to read as follows:

Sec. 288.002. CREATION OF DISTRICT. A district may be [~~is~~] created by order of the commissioners court of [~~in~~] each county located on the Texas-Mexico border that has a population of:

(1) 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;

1           (2) 350,000 or more and is adjacent to a county  
2 described by Subdivision (1); or

3           (3) less than 300,000 and contains one or more  
4 municipalities with a population of 200,000 or more.

5           SECTION 4. Subchapter A, Chapter 288, Health and Safety  
6 Code, is amended by adding Sections 288.0031 and 288.0032 to read as  
7 follows:

8           Sec. 288.0031. DISSOLUTION. A district created under this  
9 chapter may be dissolved in the manner provided for the dissolution  
10 of a hospital district under Subchapter E, Chapter 286.

11           Sec. 288.0032. EXPIRATION OF CHAPTER; DISTRIBUTION OF FUNDS  
12 ON EXPIRATION. (a) A district created under this chapter is  
13 abolished and this chapter expires on December 31, 2016.

14           (b) The commissioners court of a county in which a district  
15 is created shall refund to each paying hospital the proportionate  
16 share of any money remaining in the local provider participation  
17 fund created by the district under Section 288.155 at the time the  
18 district is abolished.

19           SECTION 5. The heading to Section 288.051, Health and  
20 Safety Code, is amended to read as follows:

21           Sec. 288.051. COMMISSION;           DISTRICT           GOVERNANCE  
22 [APPOINTMENT].

23           SECTION 6. Section 288.051, Health and Safety Code, is  
24 amended by amending Subsection (a) and adding Subsections (c) and  
25 (d) to read as follows:

26           (a) Each district created under Section 288.002 is governed  
27 by a commission consisting of the commissioners court of the county

1 in which the district is created [~~of five members appointed as~~  
2 ~~provided by this section~~].

3 (c) Service on the commission by a county commissioner or  
4 county judge is an additional duty of that person's office.

5 (d) A district is a component of county government and is  
6 not a separate political subdivision of this state.

7 SECTION 7. Section 288.101, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 288.101. LIMITATION ON [~~TAXING~~] AUTHORITY TO REQUIRE  
10 MANDATORY PAYMENT. Each district may require a mandatory payment  
11 [~~impose taxes~~] only in the manner provided by this chapter.

12 SECTION 8. Section 288.102, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 288.102. MAJORITY VOTE REQUIRED. (a) A district may  
15 not require [~~impose~~] any mandatory payment [~~tax~~] authorized by this  
16 chapter, spend any money, including for the administrative expenses  
17 of the district, or conduct any other business of the commission  
18 without an affirmative vote of a majority of the members of the  
19 commission.

20 (b) Before requiring a mandatory payment [~~imposing a tax~~]  
21 under this chapter in any one year, the commission must obtain the  
22 affirmative vote required by Subsection (a).

23 SECTION 9. Subsection (a), Section 288.104, Health and  
24 Safety Code, is amended to read as follows:

25 (a) The commission may adopt rules governing the operation  
26 of the district, including rules relating to the administration of  
27 a mandatory payment [~~tax~~] authorized by this chapter.

1 SECTION 10. Section 288.151, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 288.151. HEARING [~~BUDGET~~]. (a) Each year, the  
4 commission of a district shall hold a public hearing on [~~prepare a~~  
5 ~~budget for the following fiscal year that includes:~~

- 6 [~~(1) proposed expenditures and disbursements,~~  
7 [~~(2) estimated receipts and collections, and~~  
8 [~~(3)]~~ the [~~rates and~~] amounts of any mandatory  
9 payments [~~taxes~~] that the commission intends to require [~~impose~~]  
10 during the year and how the revenue derived from those payments is  
11 to be spent.

12 (b) [~~The commission shall hold a public hearing on the~~  
13 ~~proposed budget.~~] Not later than the 10th day before the date of  
14 the hearing, the commission shall publish at least once notice of  
15 the hearing in a newspaper of general circulation in the county in  
16 which the district is located.

17 (c) A representative of a paying hospital [~~Any district~~  
18 ~~taxpayer~~] is entitled to appear at the time and place designated in  
19 the public notice and to be heard regarding any matter related to  
20 the mandatory payments required by the district under this chapter  
21 [~~item shown in the proposed budget~~].

22 SECTION 11. Subsection (b), Section 288.154, Health and  
23 Safety Code, is amended to read as follows:

24 (b) All income received by a district, including the [~~tax~~]  
25 revenue from mandatory payments remaining after [~~deducting~~]  
26 discounts and fees for assessing and collecting the payments are  
27 deducted [~~taxes~~], shall be deposited with the district depository

1 as provided by Section 288.203 and may be withdrawn only as provided  
2 by this chapter.

3 SECTION 12. Subchapter D, Chapter 288, Health and Safety  
4 Code, is amended by adding Sections 288.155 and 288.156 to read as  
5 follows:

6 Sec. 288.155. LOCAL PROVIDER PARTICIPATION FUND;  
7 AUTHORIZED USES OF MONEY. (a) Each district shall create a local  
8 provider participation fund.

9 (b) The local provider participation fund consists of:

10 (1) all revenue from the mandatory payment required by  
11 this chapter, including any penalties and interest attributable to  
12 delinquent payments;

13 (2) money received from the Health and Human Services  
14 Commission as a refund of an intergovernmental transfer from the  
15 district to the state for the purpose of providing the nonfederal  
16 share of Medicaid supplemental payment program payments, provided  
17 that the intergovernmental transfer does not receive a federal  
18 matching payment; and

19 (3) the earnings of the fund.

20 (c) Money deposited to the local provider participation  
21 fund may be used only to:

22 (1) fund intergovernmental transfers from the  
23 district to the state to provide the nonfederal share of a Medicaid  
24 supplemental payment program authorized under the state Medicaid  
25 plan, the Texas Healthcare Transformation and Quality Improvement  
26 Program waiver issued under Section 1115 of the federal Social  
27 Security Act (42 U.S.C. Section 1315), or a successor waiver

1 program authorizing similar Medicaid supplemental payment  
2 programs;

3 (2) subsidize indigent programs;

4 (3) pay the administrative expenses of the district;

5 (4) refund a portion of a mandatory payment collected  
6 in error from a paying hospital; and

7 (5) refund to paying hospitals the proportionate share  
8 of the money received by the district from the Health and Human  
9 Services Commission that is not used to fund the nonfederal share of  
10 Medicaid supplemental payment program payments.

11 (d) Money in the local provider participation fund may not  
12 be commingled with other county funds.

13 (e) An intergovernmental transfer of funds described by  
14 Subsection (c)(1) and any funds received by the district as a result  
15 of an intergovernmental transfer described by that subdivision may  
16 not be used by the district, the county in which the district is  
17 located, or any other entity to expand Medicaid eligibility under  
18 the Patient Protection and Affordable Care Act (Pub. L. No.  
19 111-148) as amended by the Health Care and Education Reconciliation  
20 Act of 2010 (Pub. L. No. 111-152).

21 Sec. 288.156. ALLOCATION OF CERTAIN FUNDS. Not later than  
22 the 15th day after the date the district receives a payment  
23 described by Section 288.155(c)(5), the district shall transfer to  
24 each paying hospital an amount equal to the proportionate share of  
25 those funds to which the hospital is entitled.

26 SECTION 13. The heading to Subchapter E, Chapter 288,  
27 Health and Safety Code, is amended to read as follows:

1                   SUBCHAPTER E. MANDATORY PAYMENTS [~~TAXES~~]

2                   SECTION 14. Section 288.201, Health and Safety Code, is  
3 amended to read as follows:

4                   Sec. 288.201. MANDATORY PAYMENT BASED [~~TAX~~] ON [~~OUTPATIENT~~]  
5 HOSPITAL NET PATIENT REVENUE [~~SERVICES~~]. (a) Except as provided  
6 by Subsection (e), the [~~The~~] commission of a district may require  
7 [~~impose~~] an annual mandatory payment [~~tax~~] to be assessed quarterly  
8 on the net patient revenue of [~~all outpatient hospital visits to~~] an  
9 institutional health care provider located in the district. In the  
10 first year in which the mandatory payment [~~tax~~] is required  
11 [~~imposed~~], the mandatory payment [~~tax~~] is assessed on the net  
12 patient revenue [~~total number of outpatient hospital visits~~] of an  
13 institutional health care provider as determined by the data  
14 reported to the Department of State Health Services under Sections  
15 311.032 and 311.033 in the fiscal year ending in 2010 [~~2003~~]. The  
16 district shall update the amount of the mandatory payment [~~this tax~~  
17 ~~basis with the number of outpatient hospital visits reported~~] on a  
18 biennial basis.

19                   (b) The amount of a mandatory payment required under this  
20 chapter must be uniformly proportionate with the amount of net  
21 patient revenue generated by each paying hospital in the district.  
22 [~~A tax imposed under this section must be imposed uniformly on each~~  
23 ~~institutional health care provider of outpatient hospital services~~  
24 ~~located in the district.~~] A mandatory payment required [~~tax~~  
25 ~~imposed~~] under this section [~~also~~] may not hold harmless any  
26 institutional health care provider [~~of outpatient hospital~~  
27 ~~services~~], as required under 42 U.S.C. Section 1396b(w).

1           (c) The commission of a district shall set the amount [~~rate~~]  
2 of the mandatory payment required [~~tax imposed~~] under this section.  
3 The amount of the mandatory payment required of each paying  
4 hospital [~~rate~~] may not exceed an amount that, when added to the  
5 amount of the mandatory payments required from all other paying  
6 hospitals in the district, equals an amount of revenue that exceeds  
7 six percent of the aggregate net patient revenue of all paying  
8 hospitals in the district [~~\$100 for each outpatient hospital~~  
9 ~~visit~~].

10           (d) Subject to the maximum amount [~~tax rate~~] prescribed by  
11 Subsection (c), the commission shall set the mandatory payments in  
12 amounts [~~rate of the tax at a rate~~] that in the aggregate will  
13 generate sufficient revenue to cover the administrative expenses of  
14 the district, to fund the nonfederal share of a Medicaid  
15 supplemental payment program, and to pay for indigent programs,  
16 except that the amount of [~~tax~~] revenue from mandatory payments  
17 used for administrative expenses of the district in a year may not  
18 exceed the lesser of four percent of the total revenue generated  
19 from the mandatory payment [~~tax~~] or \$20,000.

20           (e) An institutional health care provider may not add a  
21 mandatory payment required [~~tax imposed~~] under this section as a  
22 surcharge to a patient.

23           SECTION 15. Section 288.202, Health and Safety Code, is  
24 amended to read as follows:

25           Sec. 288.202. ASSESSMENT AND COLLECTION OF MANDATORY  
26 PAYMENTS [~~TAXES~~]. (a) Except as provided by Subsection (b), the  
27 county tax assessor-collector shall collect a mandatory payment



1 required [~~tax imposed~~] under this subchapter [~~unless the commission~~  
2 ~~employs a tax assessor and collector for the district~~]. The county  
3 tax assessor-collector shall charge and deduct from mandatory  
4 payments [~~taxes~~] collected for the district a fee for collecting  
5 the mandatory payment [~~tax~~] in an amount determined by the  
6 commission, not to exceed the county tax assessor-collector's usual  
7 and customary charges [~~for the collection of similar taxes~~].

8 (b) If determined by the commission to be appropriate, the  
9 commission may contract for the assessment and collection of  
10 mandatory payments [~~taxes~~] in the manner provided by Title 1, Tax  
11 Code, for the assessment and collection of ad valorem taxes.

12 (c) Revenue from a fee charged by a county tax  
13 assessor-collector for collecting the mandatory payment [~~tax~~]  
14 shall be deposited in the county general fund and, if appropriate,  
15 shall be reported as fees of the county tax assessor-collector.

16 SECTION 16. Section 288.203, Health and Safety Code, is  
17 amended to read as follows:

18 Sec. 288.203. DEPOSIT [~~USE~~] OF [~~TAX~~] REVENUE FROM MANDATORY  
19 PAYMENTS. Revenue [~~generated by a district~~] from the mandatory  
20 payment required by [~~a tax imposed under~~] this chapter shall be  
21 deposited in the district's local provider participation fund  
22 [~~subchapter may be used only to:~~

23 [~~(1) provide the nonfederal share of a Medicaid~~  
24 ~~supplemental payment program,~~

25 [~~(2) subsidize indigent programs, and~~

26 [~~(3) pay administrative expenses of the district~~].

27 SECTION 17. Section 288.204, Health and Safety Code, is

1 amended to read as follows:

2           Sec. 288.204. INTEREST, PENALTIES, AND DISCOUNTS.  
3 Interest, penalties, and discounts on mandatory payments required  
4 [~~taxes imposed~~] under this subchapter are governed by the law  
5 applicable to county ad valorem taxes.

6           SECTION 18. Section 288.205, Health and Safety Code, is  
7 amended to read as follows:

8           Sec. 288.205. PURPOSE; CORRECTION OF INVALID PROVISION OR  
9 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
10 from a mandatory payment required [~~tax imposed~~] by the district to  
11 provide the nonfederal share of a Medicaid supplemental payment  
12 program.

13           (b) To the extent any provision or procedure under this  
14 chapter causes a mandatory payment [~~tax~~] under this chapter to be  
15 ineligible for federal matching funds, the district may provide by  
16 rule for an alternative provision or procedure that conforms to the  
17 requirements of the federal Centers for Medicare and Medicaid  
18 Services.

19           SECTION 19. Sections 288.003 and 288.004; Subsection (b),  
20 Section 288.051; Sections 288.052, 288.053, 288.054, 288.055,  
21 288.056, 288.057, 288.058, and 288.103; Subsection (b), Section  
22 288.104; and Sections 288.105, 288.107, 288.153, and 288.206,  
23 Health and Safety Code, are repealed.

24           SECTION 20. If before implementing any provision of this  
25 Act a state agency determines that a waiver or authorization from a  
26 federal agency is necessary for implementation of that provision,  
27 the agency affected by the provision shall request the waiver or

1 authorization and may delay implementing that provision until the  
2 waiver or authorization is granted.

3 SECTION 21. This Act takes effect immediately if it  
4 receives a vote of two-thirds of all the members elected to each  
5 house, as provided by Section 39, Article III, Texas Constitution.  
6 If this Act does not receive the vote necessary for immediate  
7 effect, this Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1623 passed the Senate on April 11, 2013, by the following vote: Yeas 28, Nays 3; and that the Senate concurred in House amendments on May 24, 2013, by the following vote: Yeas 28, Nays 3.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1623 passed the House, with amendments, on May 21, 2013, by the following vote: Yeas 142, Nays 4, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor