

By: Hinojosa
(Guerra)

S.B. No. 1623

Substitute the following for S.B. No. 1623:

By: Naishtat

C.S.S.B. No. 1623

A BILL TO BE ENTITLED

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

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

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

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

10 SECTION 2. Sections 288.001(2) and (3), Health and Safety
11 Code, are amended to read as follows:

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

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

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

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

23 (1) 500,000 or more and is adjacent to two or more
24 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. Section 288.104(a), Health and Safety Code, is
24 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. Section 288.154(b), Health and Safety Code, is
23 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 by
6 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 proportionate with the amount of net patient
21 revenue generated by a paying hospital. [~~A tax imposed under this~~
22 ~~section must be imposed uniformly on each institutional health care~~
23 ~~provider of outpatient hospital services located in the district.~~]

24 A mandatory payment required [~~tax imposed~~] under this section
25 [~~also~~] may not hold harmless any institutional health care provider
26 [~~of outpatient hospital services~~], as required under 42 U.S.C.
27 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, 288.004, 288.051(b),
20 288.052, 288.053, 288.054, 288.055, 288.056, 288.057, 288.058,
21 288.103, 288.104(b), 288.105, 288.107, 288.153, and 288.206,
22 Health and Safety Code, are repealed.

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

1 waiver or authorization is granted.

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