

By: Rodriguez

S.B. No. 1767

A BILL TO BE ENTITLED

AN ACT

relating to the authorization for and imposition of hospital assessments by hospital districts.

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

SECTION 1. Chapter 281 of the Health and Safety Code is amended by adding new subchapter H to read as follows:

SUBCHAPTER H. HOSPITAL ASSESSMENTS

Sec. 281.131. DEFINITIONS. In this subchapter:

(a) "Assessment" means the fee authorized to be implemented under this subchapter on every general acute care hospital within a hospital district.

(b) "Assessment advisory committee" means the committee comprised of representatives of general acute care hospitals that are subject to the assessment.

(c) "Commission" means the Health and Human Services Commission or an agency operating the Medicaid program.

(d) "Comprehensive medical rehabilitation hospital" means a general hospital that specializes in providing comprehensive medical rehabilitation services, including surgery and related ancillary services.

(e) "General acute care hospital" means a hospital other than:

(1) a psychiatric hospital;

(2) a comprehensive medical rehabilitation hospital;

1 or

2 (3) a long-term acute care hospital.

3 (f) "Hospital" means a facility licensed by the Department
4 of State Health Services under Chapter 241, Health and Safety Code.

5 (g) "Hospital district" means the El Paso County Hospital
6 District.

7 (h) "Long-term acute care hospital" means a hospital or unit
8 of a hospital whose patients have a length of stay of greater than
9 25 days and that provides specialized acute care of medically
10 complex patients who are critically ill.

11 (i) "Medicaid" means the medical assistance program
12 established under Chapter 32, Human Resources Code.

13 (j) "Medicaid DSH program" means the Medicaid
14 disproportionate share hospital program as provided for by 42
15 U.S.C. Section 1394r-(4).

16 (k) "Medicaid Transformation Waiver" means the Texas
17 Healthcare Transformation and Quality Improvement Program, a
18 demonstration project under 42 U.S.C. Section 1315(a) that was
19 approved by the Centers for Medicare and Medicaid Services of the
20 United States Department of Health and Human Services in December
21 2011.

22 (l) "Net patient revenue" means the estimated net
23 realizable amounts from patients, third-party payors, and others
24 for services rendered, including estimated retroactive adjustments
25 under reimbursement agreements with third-party payors.
26 Retroactive adjustments are accrued on an estimated basis in the
27 period the related services are rendered and adjusted in future

1 periods as final settlements are determined.

2 (m) "Psychiatric hospital" means a hospital licensed under
3 Chapter 577, Health and Safety Code.

4 Sec. 281.132. AUTHORIZATION. (a) General Rule. In order
5 to generate additional revenues for the purpose of assuring that
6 Medicaid recipients have access to hospital services, subject to
7 the conditions and requirements specified under this subchapter, a
8 hospital district may, by order, impose a monetary assessment on
9 the net patient revenue of each general acute care hospital located
10 in the district. Any assessment under this subchapter will be
11 imposed annually and collected quarterly.

12 (b) Administrative Provisions. The orders adopted pursuant
13 to Subsection (a) of this section shall include appropriate
14 administrative provisions, including, without limitation,
15 provisions for the collection of interest and penalties. The
16 amount of interest and penalties shall not exceed the amounts
17 provided in Title 1, Subtitle E, Chapter 33, Tax Code.

18 (c) Maximum Assessment. In each year in which the
19 assessment is implemented, the assessment shall be subject to the
20 maximum aggregate amount that may be assessed under 42 C.F.R.
21 Section 433.68 or any other maximum established under federal law.

22 (d) Assessment Amount. In determining the amount of the
23 assessment, interest and penalties, the hospital district shall
24 consider:

25 (1) the recommendation of the assessment advisory
26 committee;

27 (2) the maximum assessment as set out in Subsection

1 (c) of this section; and

2 (3) the assessment necessary to generate sufficient
3 revenue to accomplish the purposes of the assessment and to pay the
4 expenses of collection.

5 Sec. 281.133. FINAL APPROVAL OF HOSPITAL ASSESSMENT. With
6 respect to the imposition or collection of a hospital assessment
7 imposed under this subchapter, the commissioners court of the
8 county in which the hospital district is located must finally
9 approve the imposition and collection of the assessment.

10 Sec. 281.134. IMPLEMENTATION. The assessment authorized
11 under this subchapter, once imposed, shall be implemented as a
12 health-care related fee as defined under 42 U.S.C. Section 1396b
13 and may be collected only to the extent and for the periods for
14 which the Commission determines that the revenues generated by the
15 assessment will qualify as the state share of Medicaid expenditures
16 eligible for federal financial participation.

17 Sec. 281.135. ASSESSMENT AND COLLECTION. (a) If a hospital
18 district imposes an assessment as provided for in this subchapter,

19 (1) the district may make the assessment or may enter
20 into an interlocal contract as provided under Chapter 791,
21 Government Code, with the county tax assessor-collector to make the
22 assessment; and

23 (2) general acute care hospitals shall submit to the
24 district, or to the county tax assessor-collector at the district's
25 direction, the information required by Sections 311.032 and
26 311.033, Health and Safety Code, at the same time that the
27 information is submitted to the Department of State Health Services

1 from which the assessment shall be calculated.

2 (b) If imposed, a hospital district shall collect the
3 assessment quarterly:

4 (1) through its tax assessor and collector if the
5 hospital district has appointed a tax assessor and collector;

6 (2) through an intergovernmental agreement or other
7 arrangement with a county tax assessor and collector;

8 (3) through a contract with a private entity; or

9 (4) through an internal process by which the district
10 collects the assessment directly.

11 (c) Revenue that the hospital district collects under this
12 subchapter shall be deposited in a dedicated fund or special
13 account established for the purpose of the hospital assessment in
14 the district depository and secured as provided by Title 4, Chapter
15 116, Local Government Code.

16 Sec. 281.136. USE OF FUNDS. The assessments collected
17 under this subchapter shall be used only to:

18 (a) provide equally the state share of the Medicaid DSH
19 program and the Medicaid Transformation Waiver; and

20 (b) pay collection expenses.

21 Sec. 281.137. NO HOLD HARMLESS. No general acute care
22 hospital shall be directly guaranteed a repayment of its assessment
23 in derogation of 42 C.F.R. Section 433.68, except that, in each
24 fiscal year in which an assessment is implemented, the hospital
25 district shall use all of the funds received under section
26 281.132(a) only for the purposes outlined under section 281.136 to
27 the extent permissible under federal and state law or regulation

1 and without creating an indirect guarantee to hold harmless, as
2 those terms are used under 42 C.F.R. Section 433.68, and for the
3 costs of collection.

4 Sec. 281.138. PLAN AMENDMENT; FEDERAL WAIVER. To the
5 extent necessary in order to implement this subchapter, the
6 Commission shall submit any state Medicaid plan amendment to the
7 United States Department of Health and Human Services and/or seek a
8 waiver under 42 C.F.R. Section 433.68 from the Center for Medicare
9 and Medicaid Services of the United States Department of Health and
10 Human Services.

11 Sec. 281.139. NO EXEMPTION. Notwithstanding any exemptions
12 granted by any other federal, state, or local tax or other law, no
13 general acute care hospital in the hospital district shall be
14 exempt from the assessment.

15 Sec. 281.140. ASSESSMENT ADVISORY COMMITTEE. (a) The
16 hospital district board shall appoint an assessment advisory
17 committee. The committee must include one representative of each
18 hospital that will be subject to the hospital assessment to be
19 implemented under this subchapter.

20 (b) An advisory committee member serves a two-year term,
21 except that the hospital district board may make some initial
22 appointments for one year in order to stagger terms, with as near as
23 possible to one-half of the members' terms expiring each year.

24 (c) An advisory committee shall select from among its
25 members a presiding officer. The presiding officer shall preside
26 over the advisory committee and report to the hospital district
27 board.

1 (d) Prior to the adoption of any hospital assessment, or any
2 change to a previously adopted assessment, the committee shall
3 advise the hospital district on the amount of the assessment. The
4 committee shall also advise the hospital district on the interest
5 rate and amount or schedule of penalties to be imposed, or any
6 proposed change to an adopted interest rate or penalty, for late or
7 non-payment of the assessment subject to the requirements of
8 Section 281.132(b).

9 (e) The advisory committee members shall serve without
10 compensation or remuneration of any kind, including reimbursement
11 of expenses for serving on the advisory committee.

12 Sec. 281.141. EXPIRATION. This subchapter expires on
13 August 31, 2017.

14 SECTION 2. If the Commission or the United States
15 Department of Health and Human Services determines that the
16 assessment does not qualify as the state share of Medicaid
17 expenditures eligible for federal financial participation, after
18 consultation with the Commission, the United States Department of
19 Health and Human Services, and the assessment advisory committee,
20 the district shall either retain the revenue collected under this
21 subchapter if the determination is made that the funds will qualify
22 as the state share of Medicaid expenditures eligible for federal
23 financial participation at a date prior to the expiration of this
24 subchapter or, if that determination is not made, return the
25 remainder to the general acute care hospitals paying the assessment
26 on a pro rata basis.

27 SECTION 3. If this subchapter is not continued in existence

1 by the legislature, any assessments held by the district at the time
2 this subchapter expires shall be used to pay any outstanding costs
3 of collection, and the remainder shall be returned to the general
4 acute care hospitals paying the assessment on a pro rata basis.

5 SECTION 4. This Act takes effect September 1, 2013.