

By: Rodriguez

S.B. No. 1768

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authorization for and imposition of hospital  
3 assessments by counties.

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

5 SECTION 1. Chapter \_\_\_ of the \_\_\_ Code is amended by adding  
6 new subchapter A to read as follows:

7 SUBCHAPTER A. HOSPITAL ASSESSMENTS

8 Sec. 000.01. DEFINITIONS. In this subchapter:

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

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

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

17 (d) "County" means a county of this state.

18 (e) "Critical access hospital" means any hospital that has  
19 qualified under 20 U.S.C. Section 1395x as a critical access  
20 hospital under Medicare.

21 (f) "General acute care hospital" means a hospital other  
22 than a hospital that the Department of State Health Services or  
23 other appropriate federal or state agency has determined is:

24 (1) a federal veterans' affairs hospital;

1           (2) a hospital that provides care, including inpatient  
2 hospital services, to all patients free of charge;

3           (3) a private psychiatric hospital;

4           (4) a critical access hospital; or

5           (5) a long-term acute care hospital.

6           (g) "Hospital" means a facility licensed by the Department  
7 of State Health Services under Chapter 241, Health and Safety Code.

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

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

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

17           (k) "Medicaid Transformation Waiver" means the Texas  
18 Healthcare Transformation and Quality Improvement Program, a  
19 demonstration project under 42 U.S.C. Section 1315(a) that was  
20 approved by the Centers for Medicare and Medicaid Services of the  
21 United States Department of Health and Human Services in December  
22 2011.

23           (l) "Medicare" means the federal health insurance program  
24 that is operated under the Health Insurance for the Aged Act (42  
25 U.S.C. Section 1395 et seq.).

26           (m) "Net patient revenue" means the estimated net  
27 realizable amounts from patients, third-party payors, and others

1 for services rendered, including estimated retroactive adjustments  
2 under reimbursement agreements with third-party payors.  
3 Retroactive adjustments are accrued on an estimated basis in the  
4 period the related services are rendered and adjusted in future  
5 periods, as final settlements are determined.

6 Sec. 000.03. AUTHORIZATION. (a) General Rule. In order to  
7 generate additional revenues for the purpose of assuring that  
8 Medicaid recipients have access to hospital services, subject to  
9 the conditions and requirements specified under this subchapter, a  
10 county may, by order, impose a monetary assessment on the net  
11 patient revenue of each general acute care hospital located in the  
12 county. Any assessment under this subchapter will be imposed  
13 annually and collected quarterly.

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

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

24 (d) Assessment Amount. In determining the amount of the  
25 assessment, interest and penalties, the county shall consider:

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

1           (2) the maximum assessment as set out in Subsection  
2 (c) of this section; and

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

6           Sec. 000.05. IMPLEMENTATION. The assessment authorized  
7 under this subchapter, once imposed, shall be implemented as a  
8 health-care related fee as defined under 42 U.S.C. Section 1396b  
9 and may be collected only to the extent and for the periods for  
10 which the Commission determines that the revenues generated by the  
11 assessment will qualify as the state share of Medicaid expenditures  
12 eligible for federal financial participation.

13           Sec. 000.07. ASSESSMENT AND COLLECTION. (a) If a county  
14 imposes an assessment as provided for in this subchapter,

15                   (1) the county shall make the assessment; and

16                   (2) general acute care hospitals shall submit to the  
17 county the information required by Sections 311.032 and 311.033,  
18 Health and Safety Code, at the same time that the information is  
19 submitted to the Department of State Health Services from which the  
20 assessment shall be calculated.

21           (b) If an assessment is imposed, the county tax  
22 assessor-collector shall collect the assessment quarterly.

23           (c) Revenue that the county collects under this subchapter  
24 shall be deposited in a dedicated fund or special account  
25 established for the purpose of the hospital assessment in the  
26 county depository and secured as provided by Title 4, Local  
27 Government Code.

1       Sec. 000.09. USE OF FUNDS. The assessments collected under  
2 this subchapter shall be used only to:

3       (a) provide the state share of the Medicaid DSH program or  
4 the Medicaid Transformation Waiver; and

5       (b) pay collection expenses.

6       Sec. 000.11. NO HOLD HARMLESS. No general acute care  
7 hospital shall be directly guaranteed a repayment of its assessment  
8 in derogation of 42 C.F.R. Section 433.68, except that, in each  
9 fiscal year in which an assessment is implemented, the county shall  
10 use all of the funds received under section 000.03(a) only for the  
11 purposes outlined under section 000.09 to the extent permissible  
12 under federal and state law or regulation and without creating an  
13 indirect guarantee to hold harmless, as those terms are used under  
14 42 C.F.R. Section 433.68, and for the costs of collection as  
15 provided for in section 000.09 of this subchapter.

16       Sec. 000.13. PLAN AMENDMENT; FEDERAL WAIVER. To the extent  
17 necessary in order to implement this subchapter, the Commission  
18 shall submit any state Medicaid plan amendment to the United States  
19 Department of Health and Human Services and/or seek a waiver under  
20 42 C.F.R. Section 433.68 from the Center for Medicare and Medicaid  
21 Services of the United States Department of Health and Human  
22 Services.

23       Sec. 000.15. TAX EXEMPTION. Notwithstanding any exemptions  
24 granted by any other federal, state, or local tax or other law, no  
25 general acute care hospital in the county shall be exempt from the  
26 assessment.

27       Sec. 000.17. ASSESSMENT ADVISORY COMMITTEE. (a) The

1 commissioners court shall appoint an assessment advisory  
2 committee. The committee must include one representative of each  
3 hospital that will be subject to the hospital assessment to be  
4 implemented under this subchapter.

5 (b) An advisory committee member serves a two-year term,  
6 except that the commissioners court may make some initial  
7 appointments for one year in order to stagger terms, with as near as  
8 possible to one-half of the members' terms expiring each year.

9 (c) An advisory committee shall select from among its  
10 members a presiding officer. The presiding officer shall preside  
11 over the advisory committee and report to the commissioners court.

12 (d) Prior to the adoption of any hospital assessment, or any  
13 change to a previously adopted assessment, the committee shall  
14 advise the county on the amount of the assessment. The committee  
15 shall also advise the county on the interest rate and amount or  
16 schedule of penalties to be imposed, or any proposed change to an  
17 adopted interest rate or penalty, for late or non-payment of the  
18 assessment subject to the requirements of Section 000.03(b).

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

22 Sec. 000.19. EXPIRATION. This subchapter expires on August  
23 31, 2017.

24 SECTION 2. If the Commission or the United States  
25 Department of Health and Human Services determines that the  
26 assessment does not qualify as the state share of Medicaid  
27 expenditures eligible for federal financial participation, after

1 consultation with the Commission, the United States Department of  
2 Health and Human Services, and the assessment advisory committee,  
3 the county shall either retain the revenue collected under this  
4 subchapter if the determination is made that the funds will qualify  
5 as the state share of Medicaid expenditures eligible for federal  
6 financial participation at a date prior to the expiration of this  
7 subchapter or, if that determination is not made, return the  
8 remainder to the general acute care hospitals paying the assessment  
9 on a pro rata basis.

10 SECTION 3. If this subchapter is not continued in existence  
11 by the legislature, any assessments held by the county at the time  
12 this subchapter expires shall be used to pay any outstanding costs  
13 of collection, and the remainder shall be returned to the general  
14 acute care hospitals paying the assessment on a pro rata basis.

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