BILL ANALYSIS

C.S.H.B. 2280
By: VanDeaver
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that several years ago the state pursued a certain Medicaid waiver that empowers local communities to transform the delivery of health care by establishing local projects tailored to meet a community's unique health care needs. The parties note, however, that the waiver requires local government funds to support waiver payments and that counties without a hospital district, such as Bowie County, are disadvantaged because of the lack of a mechanism to generate funds for intergovernmental transfers to draw down federal dollars. The parties contend that a local health care provider participation program would allow local providers to access more funds under the waiver, help ensure access to care for the community, and reduce the level of uncompensated care. C.S.H.B. 2280 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 2280 amends the Health and Safety Code to set out provisions relating to county health care provider participation programs applicable to a county that is not served by a hospital district or a public hospital, is located on the state border with Arkansas, and has a population of more than 90,000. The bill establishes that such a program authorizes a county to collect a mandatory payment from each institutional health care provider located in the county to be deposited in a local provider participation fund established by the county and authorizes money in the fund to be used by the county to fund certain intergovernmental transfers and indigent care programs. The bill authorizes the commissioners court to adopt an order authorizing a county to participate in the program, subject to certain limitations. The bill defines "institutional health care provider" as a nonpublic hospital that provides inpatient hospital services.

C.S.H.B. 2280 authorizes a county commissioners court to require a mandatory payment by an institutional health care provider in the county only in the manner provided by the bill's provisions, requires an affirmative vote of a majority of the county commissioners court for the county's authorization to collect that payment, and authorizes a commissioners court that has voted to require a mandatory payment to adopt related administrative rules.

C.S.H.B. 2280 requires the commissioners court of a county that collects a mandatory payment to require each institutional health care provider to submit to the county a copy of any applicable financial and utilization data required by and reported to the Department of State Health Services

and any related rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC). The bill authorizes the commissioners court to inspect an institutional health care provider's records to the extent necessary to ensure compliance with such requirements.

C.S.H.B. 2280 requires the commissioners court of a county that collects a mandatory payment to hold an annual public hearing on the amounts of any mandatory payments that the commissioners court intends to require during the year and how the revenue derived from those payments is to be spent. The bill provides for notice of the hearing, entitles a representative of a paying hospital to be heard at the hearing regarding any matter related to the mandatory payments, requires the designation of one or more local banks as a depository for such mandatory payments, and requires the deposit of all of the county's income derived from such mandatory payments with that depository in the county's local provider participation fund. The bill defines "paying hospital" as an institutional health care provider required to make a mandatory payment.

C.S.H.B. 2280 requires each county that collects a mandatory payment to create a local provider participation fund that consists of all county revenue attributable to mandatory payments; money received from HHSC as a refund of an intergovernmental transfer from the county to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and the earnings of the fund. The bill restricts the use of money deposited to the local provider participation fund to the funding of intergovernmental transfers from the county to the state to provide the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the Texas Healthcare Transformation and Quality Improvement Program waiver issued under certain federal law, or a successor waiver program authorizing similar Medicaid supplemental payment programs, or to provide payments to Medicaid managed care organizations that are dedicated for payment to hospitals; the subsidizing of indigent programs; the payment of the administrative expenses of the county solely for activities under the bill's provisions; the refunding of a portion of a mandatory payment collected in error from a paying hospital; and the refunding to paying hospitals of the proportionate share of money received by the county from HHSC that is not used to fund the nonfederal share of Medicaid supplemental payment program payments. The bill prohibits an applicable intergovernmental transfer of funds and any funds received by the county as a result of an applicable intergovernmental transfer from being used by the county or any other entity to expand Medicaid eligibility under the federal Patient Protection and Affordable Care Act as amended by the federal Health Care and Education Reconciliation Act of 2010. The bill prohibits money in the local provider participation fund from being commingled with other county funds.

C.S.H.B. 2280 authorizes the commissioners court of a county that collects a mandatory payment to require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the county and authorizes the commissioners court to provide for the mandatory payment to be assessed quarterly. The bill sets out related provisions regarding the amounts to be set by the commissioners court for the mandatory payments and caps the amount of the mandatory payment required of each paying hospital at such an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the county, equals an amount that does not exceed six percent of the aggregate net patient revenue of all paying hospitals in the county. The bill requires the commissioners court to set, subject to such maximum amount, the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the county's administrative expenses for activities under the bill's provisions, to fund certain intergovernmental transfers, and to pay for indigent programs but caps the amount of revenue from mandatory payments used for such administrative expenses in a year at the lesser of four percent of the total revenue generated from the mandatory payment or $20,000. The bill prohibits a paying hospital from adding a mandatory payment as a surcharge to a patient.

C.S.H.B. 2280 provides for the assessment and collection of mandatory payments and establishes that interest, penalties, and discounts on mandatory payments are governed by the law applicable to county property taxes. The bill authorizes a county to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services to the extent any provision or procedure under the bill's provisions causes a mandatory payment to be ineligible for federal matching funds.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2280 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 291 to read as follows:	SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 291 to read as follows:
CHAPTER 291. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING ARKANSAS	CHAPTER 291. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING ARKANSAS
SUBCHAPTER A. GENERAL PROVISIONS	SUBCHAPTER A. GENERAL PROVISIONS
Sec. 291.001. DEFINITIONS. In this chapter:	Sec. 291.001. DEFINITIONS. In this chapter:
(1) "Institutional health care provider" means a nonpublic hospital licensed under Chapter 241.	(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.
(2) "Paying hospital" means an institutional health care provider required to make a mandatory payment under this chapter.	(2) "Paying hospital" means an institutional health care provider required to make a mandatory payment under this chapter.
(3) "Program" means the county health care provider participation program authorized by this chapter.	(3) "Program" means the county health care provider participation program authorized by this chapter.
Sec. 291.002. APPLICABILITY.	Sec. 291.002. APPLICABILITY.
Sec. 291.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM.	Sec. 291.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM.
SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT	SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT
Sec. 291.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT.	Sec. 291.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT.

Sec. 291.052. MAJORITY VOTE REQUIRED.

Sec. 291.053. RULES AND PROCEDURES.

Sec. 291.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 291.101. HEARING.

Sec. 291.102. DEPOSITORY.

Sec. 291.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Each county that collects a mandatory payment authorized under this chapter shall create a local provider participation fund.

(b) The local provider participation fund of a county consists of:

(1) all revenue received by the county attributable to mandatory payments authorized under this chapter, including any penalties and interest attributable to delinquent payments;

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

(3) the earnings of the fund.

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

(1) fund intergovernmental transfers from the county to the state to provide the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the Texas Healthcare Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), or a successor waiver program authorizing similar Medicaid supplemental payment programs;

Sec. 291.052. MAJORITY VOTE REQUIRED.

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Sec. 291.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS.

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Sec. 291.101. HEARING.

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Sec. 291.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Each county that collects a mandatory payment authorized under this chapter shall create a local provider participation fund.

(b) The local provider participation fund of a county consists of:

(1) all revenue received by the county attributable to mandatory payments authorized under this chapter, including any penalties and interest attributable to delinquent payments;

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

(3) the earnings of the fund.

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

(1) fund intergovernmental transfers from the county to the state to provide:

(A) the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the Texas Healthcare Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), or a successor waiver program authorizing similar Medicaid supplemental payment programs; or

(2) subsidize indigent programs;
(3) pay the administrative expenses of the county solely for activities under this chapter;
(4) refund a portion of a mandatory payment collected in error from a paying hospital; and
(5) refund to paying hospitals the proportionate share of money received by the county from the Health and Human Services Commission that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.
(d) Money in the local provider participation fund may not be commingled with other county funds.
(e) An intergovernmental transfer of funds described by Subsection (c)(1) and any funds received by the county as a result of an intergovernmental transfer described by that subsection may not be used by the county or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 291.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the commissioners court of a county that collects a mandatory payment authorized under this chapter may require an annual mandatory payment to be assessed quarterly on the net patient revenue of each institutional health care provider located in the county. In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to the Department of State Health Services under Sections 311.032 and 311.033 in the fiscal year ending in 2014. The county shall update the amount of the mandatory payment on an annual basis.

(B) payments to Medicaid managed care organizations that are dedicated for payment to hospitals;
(2) subsidize indigent programs;
(3) pay the administrative expenses of the county solely for activities under this chapter;
(4) refund a portion of a mandatory payment collected in error from a paying hospital; and
(5) refund to paying hospitals the proportionate share of money received by the county from the Health and Human Services Commission that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.
(d) Money in the local provider participation fund may not be commingled with other county funds.
(e) An intergovernmental transfer of funds described by Subsection (c)(1) and any funds received by the county as a result of an intergovernmental transfer described by that subsection may not be used by the county or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 291.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the commissioners court of a county that collects a mandatory payment authorized under this chapter may require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the county. The commissioners court may provide for the mandatory payment to be assessed quarterly. In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to the Department of State Health Services under Sections 311.032 and 311.033 in the fiscal year ending in 2013 or, if the institutional health care provider did

	not report any data under those sections in that fiscal year, as determined by the institutional health care provider's Medicare cost report submitted for the 2013 fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. The county shall update the amount of the mandatory payment on an annual basis.
(b) The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county. A mandatory payment authorized under this chapter may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).	(b) The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county. A mandatory payment authorized under this chapter may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).
(c) The commissioners court of a county that collects a mandatory payment authorized under this chapter shall set the amount of the mandatory payment. The amount of the mandatory payment required of each paying hospital may not exceed an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the county, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the county.	(c) The commissioners court of a county that collects a mandatory payment authorized under this chapter shall set the amount of the mandatory payment. The amount of the mandatory payment required of each paying hospital may not exceed an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the county, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the county.
(d) Subject to the maximum amount prescribed by Subsection (c), the commissioners court of a county that collects a mandatory payment authorized under this chapter shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter, to fund the nonfederal share of a Medicaid supplemental payment program, and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the county for activities under this chapter in a year may not exceed the lesser of four percent of the total revenue generated from the mandatory payment or $20,000.	(d) Subject to the maximum amount prescribed by Subsection (c), the commissioners court of a county that collects a mandatory payment authorized under this chapter shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter, to fund an intergovernmental transfer described by Section 291.103(c)(7), and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the county for activities under this chapter in a year may not exceed the lesser of four percent of the total revenue generated from the mandatory payment or $20,000.
(e) A paying hospital may not add a mandatory payment required under this section as a surcharge to a patient.	(e) A paying hospital may not add a mandatory payment required under this section as a surcharge to a patient.
Sec. 291.152. ASSESSMENT AND COLLECTION OF MANDATORY	Sec. 291.152. ASSESSMENT AND COLLECTION OF MANDATORY

PAYMENTS.	PAYMENTS.
Sec. 291.153. INTEREST, PENALTIES, AND DISCOUNTS.	Sec. 291.153. INTEREST, PENALTIES, AND DISCOUNTS.
Sec. 291.154. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE.	Sec. 291.154. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE.
SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.	SECTION 2. Same as introduced version.
SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.	SECTION 3. Same as introduced version.