

## **BILL ANALYSIS**

Senate Research Center  
84R9807 MEW-D

H.B. 2809  
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Intergovernmental Relations  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A recently approved Medicaid waiver has helped empower local communities to transform the delivery of health care by establishing local projects tailored to meet a community's unique health care needs. However, the new system requires local government funds to support waiver payments. Interested parties assert that communities without hospital districts are at a disadvantage because, although they may provide a tremendous amount of uncompensated care, they lack a mechanism to generate the funds necessary to draw down federal dollars. One option already available to several Texas counties is the creation of a local provider participation fund, which allows local providers to access more federal funds and helps ensure access to care and reduce the level of uncompensated care in the community. The parties contend that such an option would provide the residents of disadvantaged counties the opportunity to solve a local problem without burdening local taxpayers or requiring state general revenue. H.B. 2809 seeks to provide more counties with this option.

H.B. 2809 amends current law relating to the creation and operations of health care provider participation programs in certain counties.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle D, Title 4, Health and Safety Code, by adding Chapter 294, as follows:

#### **CHAPTER 294. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES CONTAINING A PRIVATE UNIVERSITY**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 294.001. DEFINITIONS. Defines “institutional health care provider,” “paying hospital,” and “program.”

Sec. 294.002. APPLICABILITY. Provides that this chapter applies only to a county that is not served by a hospital district or a public hospital, contains a private institution of higher education with a student enrollment of more than 12,000, and has a population of less than 250,000.

Sec. 294.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) Provides that a county health care provider participation program (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. Provides that money in the fund may be used by the county to fund certain intergovernmental transfers and indigent care programs as provided by this chapter.

(b) Authorizes the commissioners court to adopt an order authorizing a county to participate in the program, subject to the limitations provided by this chapter.

#### SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

Sec. 294.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the commissioners court of a county to require a mandatory payment authorized under this chapter by an institutional health care provider in the county only in the manner provided by this chapter.

Sec. 294.052. MAJORITY VOTE REQUIRED. Prohibits the commissioners court of a county from authorizing the county to collect a mandatory payment authorized under this chapter without an affirmative vote of a majority of the members of the commissioners court.

Sec. 294.053. RULES AND PROCEDURES. Authorizes the commissioners court, after the commissioners court has voted to require a mandatory payment authorized under this chapter, to adopt rules relating to the administration of the mandatory payment.

Sec. 294.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS. (a) Requires the commissioners court of a county that collects a mandatory payment authorized under this chapter to require each institutional health care provider to submit to the county a copy of any financial and utilization data required by and reported to the Department of State Health Services (DSHS) under Sections 311.032 (Department Administration of Hospital Reporting and Collection System) and 311.033 (Financial and Utilization Data Required) and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections.

(b) Authorizes the commissioners court of a county that collects a mandatory payment authorized under this chapter to inspect the records of an institutional health care provider to the extent necessary to ensure compliance with the requirements of Subsection (a).

#### SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 294.101. HEARING. (a) Requires the commissioners court of a county that collects a mandatory payment authorized under this chapter, each year, to hold a 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.

(b) Requires the commissioners court of the county, not later than the 10th day before the date of the hearing required under Subsection (a), to publish notice of the hearing in a newspaper of general circulation in the county.

(c) Entitles a representative of a paying hospital to appear at the time and place designated in the public notice and to be heard regarding any matter related to the mandatory payments authorized under this chapter.

Sec. 294.102. DEPOSITORY. (a) Requires the commissioners court of each county that collects a mandatory payment authorized under this chapter by resolution to designate one or more banks located in the county as the depository for mandatory payments received by the county. Provides that a bank designated as a depository serves for two years or until a successor is designated.

(b) Requires that all income received by a county under this chapter, including the revenue from mandatory payments remaining after discounts and fees for assessing and collecting the payments are deducted, be deposited with the county depository in the county's local provider participation fund and provides that it may be withdrawn only as provided by this chapter.

(c) Requires that all funds under this chapter be secured in the manner provided for securing county funds.

Sec. 294.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires each county that collects a mandatory payment authorized under this chapter to create a local provider participation fund.

(b) Provides that 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 (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

(3) the earnings of the fund.

(c) Requires that money deposited to the local provider participation fund 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;

(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 HHSC that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.

(d) Prohibits money in the local provider participation fund from being commingled with other county funds.

(e) Prohibits 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 from being 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. 294.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Authorizes the commissioners court of a county that collects a

mandatory payment authorized under this chapter, except as provided by Subsection (e), to require an annual mandatory payment to be assessed quarterly on the net patient revenue of each institutional health care provider located in the county. Provides that, 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 DSHS under Sections 311.032 and 311.033 in the fiscal year ending in 2014. Requires the county to update the amount of the mandatory payment on an annual basis.

(b) Requires that the amount of a mandatory payment authorized under this chapter be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county. Prohibits a mandatory payment authorized under this chapter from holding harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) Requires the commissioners court of a county that collects a mandatory payment authorized under this chapter to set the amount of the mandatory payment. Prohibits the amount of the mandatory payment required of each paying hospital from exceeding 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) Requires the commissioners court of a county that collects a mandatory payment authorized under this chapter, subject to the maximum amount prescribed by Subsection (c), to 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.

(e) Prohibits a paying hospital from adding a mandatory payment required under this section as a surcharge to a patient.

#### Sec. 294.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS.

(a) Requires the county tax assessor-collector to, except as provided by Subsection (b), collect the mandatory payment authorized under this chapter. Requires the county tax assessor-collector to charge and deduct from mandatory payments collected for the county a fee for collecting the mandatory payment in an amount determined by the commissioners court of the county, not to exceed the county tax assessor-collector's usual and customary charges.

(b) Authorizes the commissioners court, if determined by the commissioners court to be appropriate, to contract for the assessment and collection of mandatory payments in the manner provided by Title 1 (Property Tax Code), Tax Code, for the assessment and collection of ad valorem taxes.

(c) Requires that revenue from a fee charged by a county tax assessor-collector for collecting the mandatory payment be deposited in the county general fund and, if appropriate, be reported as fees of the county tax assessor-collector.

Sec. 294.153. INTEREST, PENALTIES, AND DISCOUNTS. Provides that interest, penalties, and discounts on mandatory payments required under this chapter are governed by the law applicable to county ad valorem taxes.

Sec. 294.154. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) Provides that the purpose of this chapter is to generate revenue by

collecting from institutional health care providers a mandatory payment to be used to provide the nonfederal share of a Medicaid supplemental payment program.

(b) Authorizes the county, to the extent any provision or procedure under this chapter causes a mandatory payment authorized under this chapter to be ineligible for federal matching funds, to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: upon passage or September 1, 2015.