

By: Anderson of McLennan, Kacal

H.B. No. 2809

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of health care provider participation programs in certain counties.

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

SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 294 to read 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. In this chapter:

(1) "Institutional health care provider" means a nonpublic hospital licensed under Chapter 241.

(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.

Sec. 294.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital;

(2) contains a private institution of higher education with a student enrollment of more than 12,000; and

(3) has a population of less than 250,000.

1       Sec. 294.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
2 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
3 provider participation program authorizes a county to collect a  
4 mandatory payment from each institutional health care provider  
5 located in the county to be deposited in a local provider  
6 participation fund established by the county. Money in the fund may  
7 be used by the county to fund certain intergovernmental transfers  
8 and indigent care programs as provided by this chapter.

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

12       SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

13       Sec. 294.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
14 PAYMENT. The commissioners court of a county may require a  
15 mandatory payment authorized under this chapter by an institutional  
16 health care provider in the county only in the manner provided by  
17 this chapter.

18       Sec. 294.052. MAJORITY VOTE REQUIRED. The commissioners  
19 court of a county may not authorize the county to collect a  
20 mandatory payment authorized under this chapter without an  
21 affirmative vote of a majority of the members of the commissioners  
22 court.

23       Sec. 294.053. RULES AND PROCEDURES. After the  
24 commissioners court has voted to require a mandatory payment  
25 authorized under this chapter, the commissioners court may adopt  
26 rules relating to the administration of the mandatory payment.

27       Sec. 294.054. INSTITUTIONAL HEALTH CARE PROVIDER

1 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a  
2 county that collects a mandatory payment authorized under this  
3 chapter shall require each institutional health care provider to  
4 submit to the county a copy of any financial and utilization data  
5 required by and reported to the Department of State Health Services  
6 under Sections 311.032 and 311.033 and any rules adopted by the  
7 executive commissioner of the Health and Human Services Commission  
8 to implement those sections.

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

14 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

15 Sec. 294.101. HEARING. (a) Each year, the commissioners  
16 court of a county that collects a mandatory payment authorized  
17 under this chapter shall hold a public hearing on the amounts of any  
18 mandatory payments that the commissioners court intends to require  
19 during the year and how the revenue derived from those payments is  
20 to be spent.

21 (b) Not later than the 10th day before the date of the  
22 hearing required under Subsection (a), the commissioners court of  
23 the county shall publish notice of the hearing in a newspaper of  
24 general circulation in the county.

25 (c) A representative of a paying hospital is entitled to  
26 appear at the time and place designated in the public notice and to  
27 be heard regarding any matter related to the mandatory payments

1 authorized under this chapter.

2 Sec. 294.102. DEPOSITORY. (a) The commissioners court of  
3 each county that collects a mandatory payment authorized under this  
4 chapter by resolution shall designate one or more banks located in  
5 the county as the depository for mandatory payments received by the  
6 county. A bank designated as a depository serves for two years or  
7 until a successor is designated.

8 (b) All income received by a county under this chapter,  
9 including the revenue from mandatory payments remaining after  
10 discounts and fees for assessing and collecting the payments are  
11 deducted, shall be deposited with the county depository in the  
12 county's local provider participation fund and may be withdrawn  
13 only as provided by this chapter.

14 (c) All funds under this chapter shall be secured in the  
15 manner provided for securing county funds.

16 Sec. 294.103. LOCAL PROVIDER PARTICIPATION FUND;  
17 AUTHORIZED USES OF MONEY. (a) Each county that collects a  
18 mandatory payment authorized under this chapter shall create a  
19 local provider participation fund.

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

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

25 (2) money received from the Health and Human Services  
26 Commission as a refund of an intergovernmental transfer from the  
27 county to the state for the purpose of providing the nonfederal

1 share of Medicaid supplemental payment program payments, provided  
2 that the intergovernmental transfer does not receive a federal  
3 matching payment; and

4 (3) the earnings of the fund.

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

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

15 (2) subsidize indigent programs;

16 (3) pay the administrative expenses of the county  
17 solely for activities under this chapter;

18 (4) refund a portion of a mandatory payment collected  
19 in error from a paying hospital; and

20 (5) refund to paying hospitals the proportionate share  
21 of money received by the county from the Health and Human Services  
22 Commission that is not used to fund the nonfederal share of Medicaid  
23 supplemental payment program payments.

24 (d) Money in the local provider participation fund may not  
25 be commingled with other county funds.

26 (e) An intergovernmental transfer of funds described by  
27 Subsection (c)(1) and any funds received by the county as a result

1 of an intergovernmental transfer described by that subsection may  
2 not be used by the county or any other entity to expand Medicaid  
3 eligibility under the Patient Protection and Affordable Care Act  
4 (Pub. L. No. 111-148) as amended by the Health Care and Education  
5 Reconciliation Act of 2010 (Pub. L. No. 111-152).

6 SUBCHAPTER D. MANDATORY PAYMENTS

7 Sec. 294.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
8 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
9 commissioners court of a county that collects a mandatory payment  
10 authorized under this chapter may require an annual mandatory  
11 payment to be assessed quarterly on the net patient revenue of each  
12 institutional health care provider located in the county. In the  
13 first year in which the mandatory payment is required, the  
14 mandatory payment is assessed on the net patient revenue of an  
15 institutional health care provider as determined by the data  
16 reported to the Department of State Health Services under Sections  
17 311.032 and 311.033 in the fiscal year ending in 2014. The county  
18 shall update the amount of the mandatory payment on an annual basis.

19 (b) The amount of a mandatory payment authorized under this  
20 chapter must be uniformly proportionate with the amount of net  
21 patient revenue generated by each paying hospital in the county. A  
22 mandatory payment authorized under this chapter may not hold  
23 harmless any institutional health care provider, as required under  
24 42 U.S.C. Section 1396b(w).

25 (c) The commissioners court of a county that collects a  
26 mandatory payment authorized under this chapter shall set the  
27 amount of the mandatory payment. The amount of the mandatory

1 payment required of each paying hospital may not exceed an amount  
2 that, when added to the amount of the mandatory payments required  
3 from all other paying hospitals in the county, equals an amount of  
4 revenue that exceeds six percent of the aggregate net patient  
5 revenue of all paying hospitals in the county.

6 (d) Subject to the maximum amount prescribed by Subsection  
7 (c), the commissioners court of a county that collects a mandatory  
8 payment authorized under this chapter shall set the mandatory  
9 payments in amounts that in the aggregate will generate sufficient  
10 revenue to cover the administrative expenses of the county for  
11 activities under this chapter, to fund the nonfederal share of a  
12 Medicaid supplemental payment program, and to pay for indigent  
13 programs, except that the amount of revenue from mandatory payments  
14 used for administrative expenses of the county for activities under  
15 this chapter in a year may not exceed the lesser of four percent of  
16 the total revenue generated from the mandatory payment or \$20,000.

17 (e) A paying hospital may not add a mandatory payment  
18 required under this section as a surcharge to a patient.

19 Sec. 294.152. ASSESSMENT AND COLLECTION OF MANDATORY  
20 PAYMENTS. (a) Except as provided by Subsection (b), the county tax  
21 assessor-collector shall collect the mandatory payment authorized  
22 under this chapter. The county tax assessor-collector shall charge  
23 and deduct from mandatory payments collected for the county a fee  
24 for collecting the mandatory payment in an amount determined by the  
25 commissioners court of the county, not to exceed the county tax  
26 assessor-collector's usual and customary charges.

27 (b) If determined by the commissioners court to be

1 appropriate, the commissioners court may contract for the  
2 assessment and collection of mandatory payments in the manner  
3 provided by Title 1, Tax Code, for the assessment and collection of  
4 ad valorem taxes.

5 (c) Revenue from a fee charged by a county tax  
6 assessor-collector for collecting the mandatory payment shall be  
7 deposited in the county general fund and, if appropriate, shall be  
8 reported as fees of the county tax assessor-collector.

9 Sec. 294.153. INTEREST, PENALTIES, AND DISCOUNTS.  
10 Interest, penalties, and discounts on mandatory payments required  
11 under this chapter are governed by the law applicable to county ad  
12 valorem taxes.

13 Sec. 294.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
14 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
15 by collecting from institutional health care providers a mandatory  
16 payment to be used to provide the nonfederal share of a Medicaid  
17 supplemental payment program.

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

24 SECTION 2. If before implementing any provision of this Act  
25 a state agency determines that a waiver or authorization from a  
26 federal agency is necessary for implementation of that provision,  
27 the agency affected by the provision shall request the waiver or



1 authorization and may delay implementing that provision until the  
2 waiver or authorization is granted.

3           SECTION 3. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2015.