

1-1 By: Anderson of McLennan, Kacal H.B. No. 2809
 1-2 (Senate Sponsor - Birdwell)
 1-3 (In the Senate - Received from the House April 27, 2015;
 1-4 April 27, 2015, read first time and referred to Committee on
 1-5 Intergovernmental Relations; May 5, 2015, reported favorably by
 1-6 the following vote: Yeas 5, Nays 0; May 5, 2015, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | X | | | |
| 1-9 | | | | |
| 1-10 | | | X | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | | | X | |

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the creation and operations of health care provider
 1-19 participation programs in certain counties.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
 1-22 amended by adding Chapter 294 to read as follows:

1-23 CHAPTER 294. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
 1-24 CERTAIN COUNTIES CONTAINING A PRIVATE UNIVERSITY

1-25 SUBCHAPTER A. GENERAL PROVISIONS

1-26 Sec. 294.001. DEFINITIONS. In this chapter:

1-27 (1) "Institutional health care provider" means a
 1-28 nonpublic hospital licensed under Chapter 241.

1-29 (2) "Paying hospital" means an institutional health
 1-30 care provider required to make a mandatory payment under this
 1-31 chapter.

1-32 (3) "Program" means the county health care provider
 1-33 participation program authorized by this chapter.

1-34 Sec. 294.002. APPLICABILITY. This chapter applies only to
 1-35 a county that:

1-36 (1) is not served by a hospital district or a public
 1-37 hospital;

1-38 (2) contains a private institution of higher education
 1-39 with a student enrollment of more than 12,000; and

1-40 (3) has a population of less than 250,000.

1-41 Sec. 294.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
 1-42 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
 1-43 provider participation program authorizes a county to collect a
 1-44 mandatory payment from each institutional health care provider
 1-45 located in the county to be deposited in a local provider
 1-46 participation fund established by the county. Money in the fund may
 1-47 be used by the county to fund certain intergovernmental transfers
 1-48 and indigent care programs as provided by this chapter.

1-49 (b) The commissioners court may adopt an order authorizing a
 1-50 county to participate in the program, subject to the limitations
 1-51 provided by this chapter.

1-52 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-53 Sec. 294.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
 1-54 PAYMENT. The commissioners court of a county may require a
 1-55 mandatory payment authorized under this chapter by an institutional
 1-56 health care provider in the county only in the manner provided by
 1-57 this chapter.

1-58 Sec. 294.052. MAJORITY VOTE REQUIRED. The commissioners
 1-59 court of a county may not authorize the county to collect a
 1-60 mandatory payment authorized under this chapter without an
 1-61 affirmative vote of a majority of the members of the commissioners

2-1 court.

2-2 Sec. 294.053. RULES AND PROCEDURES. After the
 2-3 commissioners court has voted to require a mandatory payment
 2-4 authorized under this chapter, the commissioners court may adopt
 2-5 rules relating to the administration of the mandatory payment.

2-6 Sec. 294.054. INSTITUTIONAL HEALTH CARE PROVIDER
 2-7 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
 2-8 county that collects a mandatory payment authorized under this
 2-9 chapter shall require each institutional health care provider to
 2-10 submit to the county a copy of any financial and utilization data
 2-11 required by and reported to the Department of State Health Services
 2-12 under Sections 311.032 and 311.033 and any rules adopted by the
 2-13 executive commissioner of the Health and Human Services Commission
 2-14 to implement those sections.

2-15 (b) The commissioners court of a county that collects a
 2-16 mandatory payment authorized under this chapter may inspect the
 2-17 records of an institutional health care provider to the extent
 2-18 necessary to ensure compliance with the requirements of Subsection
 2-19 (a).

2-20 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-21 Sec. 294.101. HEARING. (a) Each year, the commissioners
 2-22 court of a county that collects a mandatory payment authorized
 2-23 under this chapter shall hold a public hearing on the amounts of any
 2-24 mandatory payments that the commissioners court intends to require
 2-25 during the year and how the revenue derived from those payments is
 2-26 to be spent.

2-27 (b) Not later than the 10th day before the date of the
 2-28 hearing required under Subsection (a), the commissioners court of
 2-29 the county shall publish notice of the hearing in a newspaper of
 2-30 general circulation in the county.

2-31 (c) A representative of a paying hospital is entitled to
 2-32 appear at the time and place designated in the public notice and to
 2-33 be heard regarding any matter related to the mandatory payments
 2-34 authorized under this chapter.

2-35 Sec. 294.102. DEPOSITORY. (a) The commissioners court of
 2-36 each county that collects a mandatory payment authorized under this
 2-37 chapter by resolution shall designate one or more banks located in
 2-38 the county as the depository for mandatory payments received by the
 2-39 county. A bank designated as a depository serves for two years or
 2-40 until a successor is designated.

2-41 (b) All income received by a county under this chapter,
 2-42 including the revenue from mandatory payments remaining after
 2-43 discounts and fees for assessing and collecting the payments are
 2-44 deducted, shall be deposited with the county depository in the
 2-45 county's local provider participation fund and may be withdrawn
 2-46 only as provided by this chapter.

2-47 (c) All funds under this chapter shall be secured in the
 2-48 manner provided for securing county funds.

2-49 Sec. 294.103. LOCAL PROVIDER PARTICIPATION FUND;
 2-50 AUTHORIZED USES OF MONEY. (a) Each county that collects a
 2-51 mandatory payment authorized under this chapter shall create a
 2-52 local provider participation fund.

2-53 (b) The local provider participation fund of a county
 2-54 consists of:

2-55 (1) all revenue received by the county attributable to
 2-56 mandatory payments authorized under this chapter, including any
 2-57 penalties and interest attributable to delinquent payments;

2-58 (2) money received from the Health and Human Services
 2-59 Commission as a refund of an intergovernmental transfer from the
 2-60 county to the state for the purpose of providing the nonfederal
 2-61 share of Medicaid supplemental payment program payments, provided
 2-62 that the intergovernmental transfer does not receive a federal
 2-63 matching payment; and

2-64 (3) the earnings of the fund.

2-65 (c) Money deposited to the local provider participation
 2-66 fund may be used only to:

2-67 (1) fund intergovernmental transfers from the county
 2-68 to the state to provide the nonfederal share of a Medicaid
 2-69 supplemental payment program authorized under the state Medicaid

3-1 plan, the Texas Healthcare Transformation and Quality Improvement
 3-2 Program waiver issued under Section 1115 of the federal Social
 3-3 Security Act (42 U.S.C. Section 1315), or a successor waiver
 3-4 program authorizing similar Medicaid supplemental payment
 3-5 programs;

3-6 (2) subsidize indigent programs;

3-7 (3) pay the administrative expenses of the county
 3-8 solely for activities under this chapter;

3-9 (4) refund a portion of a mandatory payment collected
 3-10 in error from a paying hospital; and

3-11 (5) refund to paying hospitals the proportionate share
 3-12 of money received by the county from the Health and Human Services
 3-13 Commission that is not used to fund the nonfederal share of Medicaid
 3-14 supplemental payment program payments.

3-15 (d) Money in the local provider participation fund may not
 3-16 be commingled with other county funds.

3-17 (e) An intergovernmental transfer of funds described by
 3-18 Subsection (c)(1) and any funds received by the county as a result
 3-19 of an intergovernmental transfer described by that subsection may
 3-20 not be used by the county or any other entity to expand Medicaid
 3-21 eligibility under the Patient Protection and Affordable Care Act
 3-22 (Pub. L. No. 111-148) as amended by the Health Care and Education
 3-23 Reconciliation Act of 2010 (Pub. L. No. 111-152).

3-24 SUBCHAPTER D. MANDATORY PAYMENTS

3-25 Sec. 294.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
 3-26 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
 3-27 commissioners court of a county that collects a mandatory payment
 3-28 authorized under this chapter may require an annual mandatory
 3-29 payment to be assessed quarterly on the net patient revenue of each
 3-30 institutional health care provider located in the county. In the
 3-31 first year in which the mandatory payment is required, the
 3-32 mandatory payment is assessed on the net patient revenue of an
 3-33 institutional health care provider as determined by the data
 3-34 reported to the Department of State Health Services under Sections
 3-35 311.032 and 311.033 in the fiscal year ending in 2014. The county
 3-36 shall update the amount of the mandatory payment on an annual basis.

3-37 (b) The amount of a mandatory payment authorized under this
 3-38 chapter must be uniformly proportionate with the amount of net
 3-39 patient revenue generated by each paying hospital in the county. A
 3-40 mandatory payment authorized under this chapter may not hold
 3-41 harmless any institutional health care provider, as required under
 3-42 42 U.S.C. Section 1396b(w).

3-43 (c) The commissioners court of a county that collects a
 3-44 mandatory payment authorized under this chapter shall set the
 3-45 amount of the mandatory payment. The amount of the mandatory
 3-46 payment required of each paying hospital may not exceed an amount
 3-47 that, when added to the amount of the mandatory payments required
 3-48 from all other paying hospitals in the county, equals an amount of
 3-49 revenue that exceeds six percent of the aggregate net patient
 3-50 revenue of all paying hospitals in the county.

3-51 (d) Subject to the maximum amount prescribed by Subsection
 3-52 (c), the commissioners court of a county that collects a mandatory
 3-53 payment authorized under this chapter shall set the mandatory
 3-54 payments in amounts that in the aggregate will generate sufficient
 3-55 revenue to cover the administrative expenses of the county for
 3-56 activities under this chapter, to fund the nonfederal share of a
 3-57 Medicaid supplemental payment program, and to pay for indigent
 3-58 programs, except that the amount of revenue from mandatory payments
 3-59 used for administrative expenses of the county for activities under
 3-60 this chapter in a year may not exceed the lesser of four percent of
 3-61 the total revenue generated from the mandatory payment or \$20,000.

3-62 (e) A paying hospital may not add a mandatory payment
 3-63 required under this section as a surcharge to a patient.

3-64 Sec. 294.152. ASSESSMENT AND COLLECTION OF MANDATORY
 3-65 PAYMENTS. (a) Except as provided by Subsection (b), the county tax
 3-66 assessor-collector shall collect the mandatory payment authorized
 3-67 under this chapter. The county tax assessor-collector shall charge
 3-68 and deduct from mandatory payments collected for the county a fee
 3-69 for collecting the mandatory payment in an amount determined by the

4-1 commissioners court of the county, not to exceed the county tax
4-2 assessor-collector's usual and customary charges.

4-3 (b) If determined by the commissioners court to be
4-4 appropriate, the commissioners court may contract for the
4-5 assessment and collection of mandatory payments in the manner
4-6 provided by Title 1, Tax Code, for the assessment and collection of
4-7 ad valorem taxes.

4-8 (c) Revenue from a fee charged by a county tax
4-9 assessor-collector for collecting the mandatory payment shall be
4-10 deposited in the county general fund and, if appropriate, shall be
4-11 reported as fees of the county tax assessor-collector.

4-12 Sec. 294.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-13 Interest, penalties, and discounts on mandatory payments required
4-14 under this chapter are governed by the law applicable to county ad
4-15 valorem taxes.

4-16 Sec. 294.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-17 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-18 by collecting from institutional health care providers a mandatory
4-19 payment to be used to provide the nonfederal share of a Medicaid
4-20 supplemental payment program.

4-21 (b) To the extent any provision or procedure under this
4-22 chapter causes a mandatory payment authorized under this chapter to
4-23 be ineligible for federal matching funds, the county may provide by
4-24 rule for an alternative provision or procedure that conforms to the
4-25 requirements of the federal Centers for Medicare and Medicaid
4-26 Services.

4-27 SECTION 2. If before implementing any provision of this Act
4-28 a state agency determines that a waiver or authorization from a
4-29 federal agency is necessary for implementation of that provision,
4-30 the agency affected by the provision shall request the waiver or
4-31 authorization and may delay implementing that provision until the
4-32 waiver or authorization is granted.

4-33 SECTION 3. This Act takes effect immediately if it receives
4-34 a vote of two-thirds of all the members elected to each house, as
4-35 provided by Section 39, Article III, Texas Constitution. If this
4-36 Act does not receive the vote necessary for immediate effect, this
4-37 Act takes effect September 1, 2015.

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