

1-1 By: Raney (Senate Sponsor - Lucio) H.B. No. 3185
 1-2 (In the Senate - Received from the House April 27, 2015;
 1-3 May 4, 2015, read first time and referred to Committee on
 1-4 Intergovernmental Relations; May 12, 2015, reported favorably by
 1-5 the following vote: Yeas 6, Nays 0; May 12, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation and operations of health care provider
 1-18 participation programs in certain counties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
 1-21 amended by adding Chapter 296 to read as follows:

1-22 CHAPTER 296. COUNTY HEALTH CARE PROVIDER PARTICIPATION

1-23 PROGRAM IN CERTAIN COUNTIES

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 296.001. DEFINITIONS. In this chapter:

1-26 (1) "Institutional health care provider" means a
 1-27 nonpublic hospital that provides inpatient hospital services.

1-28 (2) "Paying hospital" means an institutional health
 1-29 care provider required to make a mandatory payment under this
 1-30 chapter.

1-31 (3) "Program" means the county health care provider
 1-32 participation program authorized by this chapter.

1-33 Sec. 296.002. APPLICABILITY. This chapter applies only to
 1-34 a county that:

1-35 (1) is not served by a hospital district or a public
 1-36 hospital; and

1-37 (2) has a population of less than 200,000 and contains
 1-38 two municipalities both with populations of 75,000 or more.

1-39 Sec. 296.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
 1-40 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
 1-41 provider participation program authorizes a county to collect a
 1-42 mandatory payment from each institutional health care provider
 1-43 located in the county to be deposited in a local provider
 1-44 participation fund established by the county. Money in the fund may
 1-45 be used by the county to fund certain intergovernmental transfers
 1-46 and indigent care programs as provided by this chapter.

1-47 (b) The commissioners court may adopt an order authorizing a
 1-48 county to participate in the program, subject to the limitations
 1-49 provided by this chapter.

1-50 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-51 Sec. 296.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
 1-52 PAYMENT. The commissioners court of a county may require a
 1-53 mandatory payment authorized under this chapter by an institutional
 1-54 health care provider in the county only in the manner provided by
 1-55 this chapter.

1-56 Sec. 296.052. MAJORITY VOTE REQUIRED. The commissioners
 1-57 court of a county may not authorize the county to collect a
 1-58 mandatory payment authorized under this chapter without an
 1-59 affirmative vote of a majority of the members of the commissioners
 1-60 court.

1-61 Sec. 296.053. RULES AND PROCEDURES. After the

2-1 commissioners court has voted to require a mandatory payment
 2-2 authorized under this chapter, the commissioners court may adopt
 2-3 rules relating to the administration of the mandatory payment.

2-4 Sec. 296.054. INSTITUTIONAL HEALTH CARE PROVIDER
 2-5 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
 2-6 county that collects a mandatory payment authorized under this
 2-7 chapter shall require each institutional health care provider to
 2-8 submit to the county a copy of any financial and utilization data
 2-9 required by and reported to the Department of State Health Services
 2-10 under Sections 311.032 and 311.033 and any rules adopted by the
 2-11 executive commissioner of the Health and Human Services Commission
 2-12 to implement those sections.

2-13 (b) The commissioners court of a county that collects a
 2-14 mandatory payment authorized under this chapter may inspect the
 2-15 records of an institutional health care provider to the extent
 2-16 necessary to ensure compliance with the requirements of Subsection
 2-17 (a).

2-18 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-19 Sec. 296.101. HEARING. (a) Each year, the commissioners
 2-20 court of a county that collects a mandatory payment authorized
 2-21 under this chapter shall hold a public hearing on the amounts of any
 2-22 mandatory payments that the commissioners court intends to require
 2-23 during the year and how the revenue derived from those payments is
 2-24 to be spent.

2-25 (b) Not later than the 10th day before the date of the
 2-26 hearing required under Subsection (a), the commissioners court of
 2-27 the county shall publish notice of the hearing in a newspaper of
 2-28 general circulation in the county.

2-29 (c) A representative of a paying hospital is entitled to
 2-30 appear at the time and place designated in the public notice and to
 2-31 be heard regarding any matter related to the mandatory payments
 2-32 authorized under this chapter.

2-33 Sec. 296.102. DEPOSITORY. (a) The commissioners court of
 2-34 each county that collects a mandatory payment authorized under this
 2-35 chapter by resolution shall designate one or more banks located in
 2-36 the county as the depository for mandatory payments received by the
 2-37 county. A bank designated as a depository serves for two years or
 2-38 until a successor is designated.

2-39 (b) All income received by a county under this chapter,
 2-40 including the revenue from mandatory payments remaining after
 2-41 discounts and fees for assessing and collecting the payments are
 2-42 deducted, shall be deposited with the county depository in the
 2-43 county's local provider participation fund and may be withdrawn
 2-44 only as provided by this chapter.

2-45 (c) All funds under this chapter shall be secured in the
 2-46 manner provided for securing county funds.

2-47 Sec. 296.103. LOCAL PROVIDER PARTICIPATION FUND;
 2-48 AUTHORIZED USES OF MONEY. (a) Each county that collects a
 2-49 mandatory payment authorized under this chapter shall create a
 2-50 local provider participation fund.

2-51 (b) The local provider participation fund of a county
 2-52 consists of:

2-53 (1) all revenue received by the county attributable to
 2-54 mandatory payments authorized under this chapter, including any
 2-55 penalties and interest attributable to delinquent payments;

2-56 (2) money received from the Health and Human Services
 2-57 Commission as a refund of an intergovernmental transfer from the
 2-58 county to the state for the purpose of providing the nonfederal
 2-59 share of Medicaid supplemental payment program payments, provided
 2-60 that the intergovernmental transfer does not receive a federal
 2-61 matching payment; and

2-62 (3) the earnings of the fund.

2-63 (c) Money deposited to the local provider participation
 2-64 fund may be used only to:

2-65 (1) fund intergovernmental transfers from the county
 2-66 to the state to provide the nonfederal share of a Medicaid
 2-67 supplemental payment program authorized under the state Medicaid
 2-68 plan, the Texas Healthcare Transformation and Quality Improvement
 2-69 Program waiver issued under Section 1115 of the federal Social

3-1 Security Act (42 U.S.C. Section 1315), or a successor waiver
 3-2 program authorizing similar Medicaid supplemental payment
 3-3 programs;

3-4 (2) subsidize indigent programs;

3-5 (3) pay the administrative expenses of the county
 3-6 solely for activities under this chapter;

3-7 (4) refund a portion of a mandatory payment collected
 3-8 in error from a paying hospital; and

3-9 (5) refund to paying hospitals the proportionate share
 3-10 of money received by the county from the Health and Human Services
 3-11 Commission that is not used to fund the nonfederal share of Medicaid
 3-12 supplemental payment program payments.

3-13 (d) Money in the local provider participation fund may not
 3-14 be commingled with other county funds.

3-15 (e) An intergovernmental transfer of funds described by
 3-16 Subsection (c)(1) and any funds received by the county as a result
 3-17 of an intergovernmental transfer described by that subsection may
 3-18 not be used by the county or any other entity to expand Medicaid
 3-19 eligibility under the Patient Protection and Affordable Care Act
 3-20 (Pub. L. No. 111-148) as amended by the Health Care and Education
 3-21 Reconciliation Act of 2010 (Pub. L. No. 111-152).

3-22 SUBCHAPTER D. MANDATORY PAYMENTS

3-23 Sec. 296.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
 3-24 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
 3-25 commissioners court of a county that collects a mandatory payment
 3-26 authorized under this chapter may require an annual mandatory
 3-27 payment to be assessed on the net patient revenue of each
 3-28 institutional health care provider located in the county. The
 3-29 commissioners court may provide for the mandatory payment to be
 3-30 assessed quarterly. In the first year in which the mandatory
 3-31 payment is required, the mandatory payment is assessed on the net
 3-32 patient revenue of an institutional health care provider as
 3-33 determined by the data reported to the Department of State Health
 3-34 Services under Sections 311.032 and 311.033 in the fiscal year
 3-35 ending in 2013 or, if the institutional health care provider did not
 3-36 report any data under those sections in that fiscal year, as
 3-37 determined by the institutional health care provider's Medicare
 3-38 cost report submitted for the 2013 fiscal year or for the closest
 3-39 subsequent fiscal year for which the provider submitted the
 3-40 Medicare cost report. The county shall update the amount of the
 3-41 mandatory payment on an annual basis.

3-42 (b) The amount of a mandatory payment authorized under this
 3-43 chapter must be uniformly proportionate with the amount of net
 3-44 patient revenue generated by each paying hospital in the county. A
 3-45 mandatory payment authorized under this chapter may not hold
 3-46 harmless any institutional health care provider, as required under
 3-47 42 U.S.C. Section 1396b(w).

3-48 (c) The commissioners court of a county that collects a
 3-49 mandatory payment authorized under this chapter shall set the
 3-50 amount of the mandatory payment. The amount of the mandatory
 3-51 payment required of each paying hospital may not exceed an amount
 3-52 that, when added to the amount of the mandatory payments required
 3-53 from all other paying hospitals in the county, equals an amount of
 3-54 revenue that exceeds six percent of the aggregate net patient
 3-55 revenue of all paying hospitals in the county.

3-56 (d) Subject to the maximum amount prescribed by Subsection
 3-57 (c), the commissioners court of a county that collects a mandatory
 3-58 payment authorized under this chapter shall set the mandatory
 3-59 payments in amounts that in the aggregate will generate sufficient
 3-60 revenue to cover the administrative expenses of the county for
 3-61 activities under this chapter, to fund an intergovernmental
 3-62 transfer described by Section 296.103(c)(1), and to pay for
 3-63 indigent programs, except that the amount of revenue from mandatory
 3-64 payments used for administrative expenses of the county for
 3-65 activities under this chapter in a year may not exceed the lesser of
 3-66 four percent of the total revenue generated from the mandatory
 3-67 payment or \$20,000.

3-68 (e) A paying hospital may not add a mandatory payment
 3-69 required under this section as a surcharge to a patient.

4-1 Sec. 296.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-2 PAYMENTS. (a) Except as provided by Subsection (b), the county tax
4-3 assessor-collector shall collect the mandatory payment authorized
4-4 under this chapter. The county tax assessor-collector shall charge
4-5 and deduct from mandatory payments collected for the county a fee
4-6 for collecting the mandatory payment in an amount determined by the
4-7 commissioners court of the county, not to exceed the county tax
4-8 assessor-collector's usual and customary charges.

4-9 (b) If determined by the commissioners court to be
4-10 appropriate, the commissioners court may contract for the
4-11 assessment and collection of mandatory payments in the manner
4-12 provided by Title 1, Tax Code, for the assessment and collection of
4-13 ad valorem taxes.

4-14 (c) Revenue from a fee charged by a county tax
4-15 assessor-collector for collecting the mandatory payment shall be
4-16 deposited in the county general fund and, if appropriate, shall be
4-17 reported as fees of the county tax assessor-collector.

4-18 Sec. 296.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-19 Interest, penalties, and discounts on mandatory payments required
4-20 under this chapter are governed by the law applicable to county ad
4-21 valorem taxes.

4-22 Sec. 296.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-23 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-24 by collecting from institutional health care providers a mandatory
4-25 payment to be used to provide the nonfederal share of a Medicaid
4-26 supplemental payment program.

4-27 (b) To the extent any provision or procedure under this
4-28 chapter causes a mandatory payment authorized under this chapter to
4-29 be ineligible for federal matching funds, the county may provide by
4-30 rule for an alternative provision or procedure that conforms to the
4-31 requirements of the federal Centers for Medicare and Medicaid
4-32 Services.

4-33 SECTION 2. If before implementing any provision of this Act
4-34 a state agency determines that a waiver or authorization from a
4-35 federal agency is necessary for implementation of that provision,
4-36 the agency affected by the provision shall request the waiver or
4-37 authorization and may delay implementing that provision until the
4-38 waiver or authorization is granted.

4-39 SECTION 3. This Act takes effect immediately if it receives
4-40 a vote of two-thirds of all the members elected to each house, as
4-41 provided by Section 39, Article III, Texas Constitution. If this
4-42 Act does not receive the vote necessary for immediate effect, this
4-43 Act takes effect September 1, 2015.

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