

By: Creighton

S.B. No. 1387

A BILL TO BE ENTITLED

AN ACT

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

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 295 to read as follows:

CHAPTER 295. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM

IN CERTAIN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 295.001. DEFINITIONS. In this chapter:

(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.

(3) "Program" means the municipal health care provider participation program authorized by this chapter.

Sec. 295.002. APPLICABILITY. This chapter applies only to a municipality that:

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

(2) is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico; and

(3) has a population of more than 117,000 and less than

1 145,000.

2 Sec. 295.003. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION  
3 PROGRAM; PARTICIPATION IN PROGRAM. (a) A municipal health care  
4 provider participation program authorizes a municipality to  
5 collect a mandatory payment from each institutional health care  
6 provider located in the municipality to be deposited in a local  
7 provider participation fund established by the municipality. Money  
8 in the fund may be used by the municipality to fund certain  
9 intergovernmental transfers and indigent care programs as provided  
10 by this chapter.

11 (b) The governing body of a municipality may adopt an  
12 ordinance authorizing a municipality to participate in the program,  
13 subject to the limitations provided by this chapter.

14 SUBCHAPTER B. POWERS AND DUTIES OF GOVERNING BODY OF MUNICIPALITY

15 Sec. 295.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
16 PAYMENT. The governing body of a municipality may require a  
17 mandatory payment authorized under this chapter by an institutional  
18 health care provider in the municipality only in the manner  
19 provided by this chapter.

20 Sec. 295.052. MAJORITY VOTE REQUIRED. The governing body  
21 of a municipality may not authorize the municipality to collect a  
22 mandatory payment authorized under this chapter without an  
23 affirmative vote of a majority of the members of the governing body.

24 Sec. 295.053. RULES AND PROCEDURES. After the governing  
25 body of a municipality has voted to require a mandatory payment  
26 authorized under this chapter, the governing body may adopt rules  
27 relating to the administration of the mandatory payment.

1       Sec. 295.054. INSTITUTIONAL HEALTH CARE PROVIDER  
2 REPORTING; INSPECTION OF RECORDS. (a) The governing body of a  
3 municipality that collects a mandatory payment authorized under  
4 this chapter shall require each institutional health care provider  
5 to submit to the municipality a copy of any financial and  
6 utilization data required by and reported to the Department of  
7 State Health Services under Sections 311.032 and 311.033 and any  
8 rules adopted by the executive commissioner of the Health and Human  
9 Services Commission to implement those sections.

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

15               SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

16       Sec. 295.101. HEARING. (a) Each year, the governing body  
17 of a municipality that collects a mandatory payment authorized  
18 under this chapter shall hold a public hearing on the amounts of any  
19 mandatory payments that the governing body intends to require  
20 during the year and how the revenue derived from those payments is  
21 to be spent.

22       (b) Not later than the 10th day before the date of the  
23 hearing required under Subsection (a), the governing body of the  
24 municipality shall publish notice of the hearing in a newspaper of  
25 general circulation in the municipality.

26       (c) A representative of a paying hospital is entitled to  
27 appear at the time and place designated in the public notice and to

1 be heard regarding any matter related to the mandatory payments  
2 authorized under this chapter.

3 Sec. 295.102. DEPOSITORY. (a) The governing body of each  
4 municipality that collects a mandatory payment authorized under  
5 this chapter by resolution shall designate one or more banks  
6 located in the municipality as the depository for mandatory  
7 payments received by the municipality. A bank designated as a  
8 depository serves for two years or until a successor is designated.

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

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

17 Sec. 295.103. LOCAL PROVIDER PARTICIPATION FUND;  
18 AUTHORIZED USES OF MONEY. (a) Each municipality that collects a  
19 mandatory payment authorized under this chapter shall create a  
20 local provider participation fund.

21 (b) The local provider participation fund of a municipality  
22 consists of:

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

27 (2) money received from the Health and Human Services

1 Commission as a refund of an intergovernmental transfer from the  
2 municipality to the state for the purpose of providing the  
3 nonfederal share of Medicaid supplemental payment program  
4 payments, provided that the intergovernmental transfer does not  
5 receive a federal matching payment; and

6 (3) the earnings of the fund.

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

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

17 (2) subsidize indigent programs;

18 (3) pay the administrative expenses of the  
19 municipality solely for activities under this chapter;

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

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

26 (d) Money in the local provider participation fund may not  
27 be commingled with other municipal funds.

1       (e) An intergovernmental transfer of funds described by  
2 Subsection (c)(1) and any funds received by the municipality as a  
3 result of an intergovernmental transfer described by that  
4 subsection may not be used by the municipality or any other entity  
5 to expand Medicaid eligibility under the Patient Protection and  
6 Affordable Care Act (Pub. L. No. 111-148) as amended by the Health  
7 Care and Education Reconciliation Act of 2010 (Pub. L.  
8 No. 111-152).

9                   SUBCHAPTER D. MANDATORY PAYMENTS

10       Sec. 295.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
11 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),  
12 the governing body of a municipality that collects a mandatory  
13 payment authorized under this chapter may require an annual  
14 mandatory payment to be assessed on the net patient revenue of each  
15 institutional health care provider located in the municipality.  
16 The governing body may provide for the mandatory payment to be  
17 assessed quarterly. In the first year in which the mandatory  
18 payment is required, the mandatory payment is assessed on the net  
19 patient revenue of an institutional health care provider as  
20 determined by the data reported to the Department of State Health  
21 Services under Sections [311.032](#) and [311.033](#) in the fiscal year  
22 ending in 2013 or, if the institutional health care provider did not  
23 report any data under those sections in that fiscal year, as  
24 determined by the institutional health care provider's Medicare  
25 cost report submitted for the 2013 fiscal year or for the closest  
26 subsequent fiscal year for which the provider submitted the  
27 Medicare cost report. The municipality shall update the amount of

1 the mandatory payment on an annual basis.

2 (b) The amount of a mandatory payment authorized under this  
3 chapter must be uniformly proportionate with the amount of net  
4 patient revenue generated by each paying hospital in the  
5 municipality. A mandatory payment authorized under this chapter  
6 may not hold harmless any institutional health care provider, as  
7 required under 42 U.S.C. Section 1396b(w).

8 (c) The governing body of a municipality that collects a  
9 mandatory payment authorized under this chapter shall set the  
10 amount of the mandatory payment. The amount of the mandatory  
11 payment required of each paying hospital may not exceed an amount  
12 that, when added to the amount of the mandatory payments required  
13 from all other paying hospitals in the municipality, equals an  
14 amount of revenue that exceeds six percent of the aggregate net  
15 patient revenue of all paying hospitals in the municipality.

16 (d) Subject to the maximum amount prescribed by Subsection  
17 (c), the governing body of a municipality that collects a mandatory  
18 payment authorized under this chapter shall set the mandatory  
19 payments in amounts that in the aggregate will generate sufficient  
20 revenue to cover the administrative expenses of the municipality  
21 for activities under this chapter, to fund the nonfederal share of a  
22 Medicaid supplemental payment program, and to pay for indigent  
23 programs, except that the amount of revenue from mandatory payments  
24 used for administrative expenses of the municipality for activities  
25 under this chapter in a year may not exceed the lesser of four  
26 percent of the total revenue generated from the mandatory payment  
27 or \$20,000.

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

3       Sec. 295.152. ASSESSMENT AND COLLECTION OF MANDATORY  
4 PAYMENTS. (a) Except as provided by Subsection (b), the municipal  
5 tax assessor-collector shall collect the mandatory payment  
6 authorized under this chapter. The municipal tax  
7 assessor-collector shall charge and deduct from mandatory payments  
8 collected for the municipality a fee for collecting the mandatory  
9 payment in an amount determined by the governing body of the  
10 municipality, not to exceed the municipal tax assessor-collector's  
11 usual and customary charges.

12       (b) If determined by the governing body to be appropriate,  
13 the governing body may contract for the assessment and collection  
14 of mandatory payments in the manner provided by Title 1, Tax Code,  
15 for the assessment and collection of ad valorem taxes.

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

20       Sec. 295.153. INTEREST, PENALTIES, AND DISCOUNTS.  
21 Interest, penalties, and discounts on mandatory payments required  
22 under this chapter are governed by the law applicable to municipal  
23 ad valorem taxes.

24       Sec. 295.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
25 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
26 by collecting from institutional health care providers a mandatory  
27 payment to be used to provide the nonfederal share of a Medicaid



1 supplemental payment program.

2 (b) To the extent any provision or procedure under this  
3 chapter causes a mandatory payment authorized under this chapter to  
4 be ineligible for federal matching funds, the municipality may  
5 provide by rule for an alternative provision or procedure that  
6 conforms to the requirements of the federal Centers for Medicare  
7 and Medicaid Services.

8 SECTION 2. If before implementing any provision of this Act  
9 a state agency determines that a waiver or authorization from a  
10 federal agency is necessary for implementation of that provision,  
11 the agency affected by the provision shall request the waiver or  
12 authorization and may delay implementing that provision until the  
13 waiver or authorization is granted.

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