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S.B. No. 1587

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 292 to read as follows:

CHAPTER 292. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292.001. 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 county health care provider participation program authorized by this chapter.

Sec. 292.002. APPLICABILITY. This chapter applies only to a county that is not served by a hospital district and:

(1) is located in the Texas-Louisiana border region, as that region is defined by Section 2056.002, Government Code, and has a population of more than 90,000 but less than 200,000; or

(2) has a population of less than 51,000 and is adjacent to a county with a population of more than 200,000 but less

1 than 220,000.

2 Sec. 292.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
3 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
4 provider participation program authorizes a county to collect a  
5 mandatory payment from each institutional health care provider  
6 located in the county to be deposited in a local provider  
7 participation fund established by the county. Money in the fund may  
8 be used by the county to fund certain intergovernmental transfers  
9 and indigent care programs as provided by this chapter.

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

13 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

14 Sec. 292.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
15 PAYMENT. The commissioners court of a county may require a  
16 mandatory payment authorized under this chapter by an institutional  
17 health care provider in the county only in the manner provided by  
18 this chapter.

19 Sec. 292.052. MAJORITY VOTE REQUIRED. The commissioners  
20 court of a county may not authorize the county to collect a  
21 mandatory payment authorized under this chapter without an  
22 affirmative vote of a majority of the members of the commissioners  
23 court.

24 Sec. 292.053. RULES AND PROCEDURES. After the  
25 commissioners court has voted to require a mandatory payment  
26 authorized under this chapter, the commissioners court may adopt  
27 rules relating to the administration of the mandatory payment.

1       Sec. 292.054. INSTITUTIONAL HEALTH CARE PROVIDER  
2 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of  
3 a county that collects a mandatory payment authorized under this  
4 chapter shall require each institutional health care provider to  
5 submit to the county a copy of any financial and utilization data  
6 required by and reported to the Department of State Health Services  
7 under Sections 311.032 and 311.033 and any rules adopted by the  
8 executive commissioner of the Health and Human Services Commission  
9 to implement those sections.

10       (b) The commissioners court of a county 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. 292.101. HEARING. (a) Each year, the commissioners  
17 court of a county 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 commissioners court 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 commissioners court of  
24 the county shall publish notice of the hearing in a newspaper of  
25 general circulation in the county.

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

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

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

17 Sec. 292.103. LOCAL PROVIDER PARTICIPATION FUND;  
18 AUTHORIZED USES OF MONEY. (a) Each county 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 county  
22 consists of:

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

26 (2) money received from the Health and Human Services  
27 Commission as a refund of an intergovernmental transfer from the

1 county to the state for the purpose of providing the nonfederal  
2 share of Medicaid supplemental payment program payments, provided  
3 that the intergovernmental transfer does not receive a federal  
4 matching payment; and

5 (3) the earnings of the fund.

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

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

16 (2) subsidize indigent programs;

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

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

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

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

27 (e) An intergovernmental transfer of funds described by

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

7 SUBCHAPTER D. MANDATORY PAYMENTS

8 Sec. 292.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
9 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),  
10 the commissioners court of a county that collects a mandatory  
11 payment authorized under this chapter may require an annual  
12 mandatory payment to be assessed on the net patient revenue of each  
13 institutional health care provider located in the county. The  
14 commissioners court may provide for the mandatory payment to be  
15 assessed quarterly. In the first year in which the mandatory  
16 payment is required, the mandatory payment is assessed on the net  
17 patient revenue of an institutional health care provider as  
18 determined by the data reported to the Department of State Health  
19 Services under Sections [311.032](#) and [311.033](#) in the fiscal year  
20 ending in 2013 or, if the institutional health care provider did not  
21 report any data under those sections in that fiscal year, as  
22 determined by the institutional health care provider's Medicare  
23 cost report submitted for the 2013 fiscal year or for the closest  
24 subsequent fiscal year for which the provider submitted the  
25 Medicare cost report. The county shall update the amount of the  
26 mandatory payment on an annual basis.

27 (b) The amount of a mandatory payment authorized under this

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

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

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

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

27 Sec. 292.152. ASSESSMENT AND COLLECTION OF MANDATORY

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

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

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

17 Sec. 292.153. INTEREST, PENALTIES, AND DISCOUNTS.  
18 Interest, penalties, and discounts on mandatory payments required  
19 under this chapter are governed by the law applicable to county ad  
20 valorem taxes.

21 Sec. 292.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
22 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
23 by collecting from institutional health care providers a mandatory  
24 payment to be used to provide the nonfederal share of a Medicaid  
25 supplemental payment program.

26 (b) To the extent any provision or procedure under this  
27 chapter causes a mandatory payment authorized under this chapter to



1 be ineligible for federal matching funds, the county may provide by  
2 rule for an alternative provision or procedure that conforms to the  
3 requirements of the federal Centers for Medicare and Medicaid  
4 Services.

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

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