

1-1 By: Eltife S.B. No. 1587
1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 23, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 23, 2015, sent to printer.)

1-7 COMMITTEE VOTE

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

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1587 By: Garcia

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the creation and operations of health care provider
1-20 participation programs in certain counties.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
1-23 amended by adding Chapter 292 to read as follows:

1-24 CHAPTER 292. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
1-25 CERTAIN COUNTIES

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 292.001. DEFINITIONS. In this chapter:

1-28 (1) "Institutional health care provider" means a
1-29 nonpublic hospital that provides inpatient hospital services.

1-30 (2) "Paying hospital" means an institutional health
1-31 care provider required to make a mandatory payment under this
1-32 chapter.

1-33 (3) "Program" means the county health care provider
1-34 participation program authorized by this chapter.

1-35 Sec. 292.002. APPLICABILITY. This chapter applies only to
1-36 a county that is not served by a hospital district and:

1-37 (1) is located in the Texas-Louisiana border region,
1-38 as that region is defined by Section 2056.002, Government Code, and
1-39 has a population of more than 90,000 but less than 200,000; or

1-40 (2) has a population of less than 51,000 and is
1-41 adjacent to a county with a population of more than 200,000 but less
1-42 than 220,000.

1-43 Sec. 292.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
1-44 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
1-45 provider participation program authorizes a county to collect a
1-46 mandatory payment from each institutional health care provider
1-47 located in the county to be deposited in a local provider
1-48 participation fund established by the county. Money in the fund may
1-49 be used by the county to fund certain intergovernmental transfers
1-50 and indigent care programs as provided by this chapter.

1-51 (b) The commissioners court may adopt an order authorizing a
1-52 county to participate in the program, subject to the limitations
1-53 provided by this chapter.

1-54 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-55 Sec. 292.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
1-56 PAYMENT. The commissioners court of a county may require a
1-57 mandatory payment authorized under this chapter by an institutional
1-58 health care provider in the county only in the manner provided by
1-59 this chapter.

1-60 Sec. 292.052. MAJORITY VOTE REQUIRED. The commissioners

2-1 court of a county may not authorize the county to collect a
2-2 mandatory payment authorized under this chapter without an
2-3 affirmative vote of a majority of the members of the commissioners
2-4 court.

2-5 Sec. 292.053. RULES AND PROCEDURES. After the
2-6 commissioners court has voted to require a mandatory payment
2-7 authorized under this chapter, the commissioners court may adopt
2-8 rules relating to the administration of the mandatory payment.

2-9 Sec. 292.054. INSTITUTIONAL HEALTH CARE PROVIDER
2-10 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of
2-11 a county that collects a mandatory payment authorized under this
2-12 chapter shall require each institutional health care provider to
2-13 submit to the county a copy of any financial and utilization data
2-14 required by and reported to the Department of State Health Services
2-15 under Sections 311.032 and 311.033 and any rules adopted by the
2-16 executive commissioner of the Health and Human Services Commission
2-17 to implement those sections.

2-18 (b) The commissioners court of a county that collects a
2-19 mandatory payment authorized under this chapter may inspect the
2-20 records of an institutional health care provider to the extent
2-21 necessary to ensure compliance with the requirements of Subsection
2-22 (a).

2-23 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-24 Sec. 292.101. HEARING. (a) Each year, the commissioners
2-25 court of a county that collects a mandatory payment authorized
2-26 under this chapter shall hold a public hearing on the amounts of any
2-27 mandatory payments that the commissioners court intends to require
2-28 during the year and how the revenue derived from those payments is
2-29 to be spent.

2-30 (b) Not later than the 10th day before the date of the
2-31 hearing required under Subsection (a), the commissioners court of
2-32 the county shall publish notice of the hearing in a newspaper of
2-33 general circulation in the county.

2-34 (c) A representative of a paying hospital is entitled to
2-35 appear at the time and place designated in the public notice and to
2-36 be heard regarding any matter related to the mandatory payments
2-37 authorized under this chapter.

2-38 Sec. 292.102. DEPOSITORY. (a) The commissioners court of
2-39 each county that collects a mandatory payment authorized under this
2-40 chapter by resolution shall designate one or more banks located in
2-41 the county as the depository for mandatory payments received by the
2-42 county. A bank designated as a depository serves for two years or
2-43 until a successor is designated.

2-44 (b) All income received by a county under this chapter,
2-45 including the revenue from mandatory payments remaining after
2-46 discounts and fees for assessing and collecting the payments are
2-47 deducted, shall be deposited with the county depository in the
2-48 county's local provider participation fund and may be withdrawn
2-49 only as provided by this chapter.

2-50 (c) All funds under this chapter shall be secured in the
2-51 manner provided for securing county funds.

2-52 Sec. 292.103. LOCAL PROVIDER PARTICIPATION FUND;
2-53 AUTHORIZED USES OF MONEY. (a) Each county that collects a
2-54 mandatory payment authorized under this chapter shall create a
2-55 local provider participation fund.

2-56 (b) The local provider participation fund of a county
2-57 consists of:

2-58 (1) all revenue received by the county attributable to
2-59 mandatory payments authorized under this chapter, including any
2-60 penalties and interest attributable to delinquent payments;

2-61 (2) money received from the Health and Human Services
2-62 Commission as a refund of an intergovernmental transfer from the
2-63 county to the state for the purpose of providing the nonfederal
2-64 share of Medicaid supplemental payment program payments, provided
2-65 that the intergovernmental transfer does not receive a federal
2-66 matching payment; and

2-67 (3) the earnings of the fund.

2-68 (c) Money deposited to the local provider participation
2-69 fund may be used only to:

3-1 (1) fund intergovernmental transfers from the county
3-2 to the state to provide the nonfederal share of a Medicaid
3-3 supplemental payment program authorized under the state Medicaid
3-4 plan, the Texas Healthcare Transformation and Quality Improvement
3-5 Program waiver issued under Section 1115 of the federal Social
3-6 Security Act (42 U.S.C. Section 1315), or a successor waiver
3-7 program authorizing similar Medicaid supplemental payment
3-8 programs;

3-9 (2) subsidize indigent programs;

3-10 (3) pay the administrative expenses of the county
3-11 solely for activities under this chapter;

3-12 (4) refund a portion of a mandatory payment collected
3-13 in error from a paying hospital; and

3-14 (5) refund to paying hospitals the proportionate share
3-15 of money received by the county from the Health and Human Services
3-16 Commission that is not used to fund the nonfederal share of Medicaid
3-17 supplemental payment program payments.

3-18 (d) Money in the local provider participation fund may not
3-19 be commingled with other county funds.

3-20 (e) An intergovernmental transfer of funds described by
3-21 Subsection (c)(1) and any funds received by the county as a result
3-22 of an intergovernmental transfer described by that subsection may
3-23 not be used by the county or any other entity to expand Medicaid
3-24 eligibility under the Patient Protection and Affordable Care Act
3-25 (Pub. L. No. 111-148) as amended by the Health Care and Education
3-26 Reconciliation Act of 2010 (Pub. L. No. 111-152).

3-27 SUBCHAPTER D. MANDATORY PAYMENTS

3-28 Sec. 292.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
3-29 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),
3-30 the commissioners court of a county that collects a mandatory
3-31 payment authorized under this chapter may require an annual
3-32 mandatory payment to be assessed on the net patient revenue of each
3-33 institutional health care provider located in the county. The
3-34 commissioners court may provide for the mandatory payment to be
3-35 assessed quarterly. In the first year in which the mandatory
3-36 payment is required, the mandatory payment is assessed on the net
3-37 patient revenue of an institutional health care provider as
3-38 determined by the data reported to the Department of State Health
3-39 Services under Sections 311.032 and 311.033 in the fiscal year
3-40 ending in 2013 or, if the institutional health care provider did not
3-41 report any data under those sections in that fiscal year, as
3-42 determined by the institutional health care provider's Medicare
3-43 cost report submitted for the 2013 fiscal year or for the closest
3-44 subsequent fiscal year for which the provider submitted the
3-45 Medicare cost report. The county shall update the amount of the
3-46 mandatory payment on an annual basis.

3-47 (b) The amount of a mandatory payment authorized under this
3-48 chapter must be uniformly proportionate with the amount of net
3-49 patient revenue generated by each paying hospital in the county. A
3-50 mandatory payment authorized under this chapter may not hold
3-51 harmless any institutional health care provider, as required under
3-52 42 U.S.C. Section 1396b(w).

3-53 (c) The commissioners court of a county that collects a
3-54 mandatory payment authorized under this chapter shall set the
3-55 amount of the mandatory payment. The amount of the mandatory
3-56 payment required of each paying hospital may not exceed an amount
3-57 that, when added to the amount of the mandatory payments required
3-58 from all other paying hospitals in the county, equals an amount of
3-59 revenue that exceeds six percent of the aggregate net patient
3-60 revenue of all paying hospitals in the county.

3-61 (d) Subject to the maximum amount prescribed by Subsection
3-62 (c), the commissioners court of a county that collects a mandatory
3-63 payment authorized under this chapter shall set the mandatory
3-64 payments in amounts that in the aggregate will generate sufficient
3-65 revenue to cover the administrative expenses of the county for
3-66 activities under this chapter, to fund the nonfederal share of a
3-67 Medicaid supplemental payment program, and to pay for indigent
3-68 programs, except that the amount of revenue from mandatory payments
3-69 used for administrative expenses of the county for activities under

4-1 this chapter in a year may not exceed the lesser of four percent of
4-2 the total revenue generated from the mandatory payment or \$20,000.

4-3 (e) A paying hospital may not add a mandatory payment
4-4 required under this section as a surcharge to a patient.

4-5 Sec. 292.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-6 PAYMENTS. (a) Except as provided by Subsection (b), the county
4-7 tax assessor-collector shall collect the mandatory payment
4-8 authorized under this chapter. The county tax assessor-collector
4-9 shall charge and deduct from mandatory payments collected for the
4-10 county a fee for collecting the mandatory payment in an amount
4-11 determined by the commissioners court of the county, not to exceed
4-12 the county tax assessor-collector's usual and customary charges.

4-13 (b) If determined by the commissioners court to be
4-14 appropriate, the commissioners court may contract for the
4-15 assessment and collection of mandatory payments in the manner
4-16 provided by Title 1, Tax Code, for the assessment and collection of
4-17 ad valorem taxes.

4-18 (c) Revenue from a fee charged by a county tax
4-19 assessor-collector for collecting the mandatory payment shall be
4-20 deposited in the county general fund and, if appropriate, shall be
4-21 reported as fees of the county tax assessor-collector.

4-22 Sec. 292.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-23 Interest, penalties, and discounts on mandatory payments required
4-24 under this chapter are governed by the law applicable to county ad
4-25 valorem taxes.

4-26 Sec. 292.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-27 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-28 by collecting from institutional health care providers a mandatory
4-29 payment to be used to provide the nonfederal share of a Medicaid
4-30 supplemental payment program.

4-31 (b) To the extent any provision or procedure under this
4-32 chapter causes a mandatory payment authorized under this chapter to
4-33 be ineligible for federal matching funds, the county may provide by
4-34 rule for an alternative provision or procedure that conforms to the
4-35 requirements of the federal Centers for Medicare and Medicaid
4-36 Services.

4-37 SECTION 2. If before implementing any provision of this Act
4-38 a state agency determines that a waiver or authorization from a
4-39 federal agency is necessary for implementation of that provision,
4-40 the agency affected by the provision shall request the waiver or
4-41 authorization and may delay implementing that provision until the
4-42 waiver or authorization is granted.

4-43 SECTION 3. This Act takes effect immediately if it receives
4-44 a vote of two-thirds of all the members elected to each house, as
4-45 provided by Section 39, Article III, Texas Constitution. If this
4-46 Act does not receive the vote necessary for immediate effect, this
4-47 Act takes effect September 1, 2015.

4-48 * * * * *