

BILL ANALYSIS

Senate Research Center
85R20434 MEW-F

H.B. 3398
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Agriculture, Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties assert are concerned that communities without hospital districts may be disadvantaged with respect to certain Medicaid-related programs. H.B. 3398 seeks to address these concerns by authorizing certain counties without a hospital district, such as Tom Green County, to create a county health care provider participation program.

H.B. 3398 amends current law relating to the creation and operations of health care provider participation programs in certain counties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioners court of certain counties in SECTION 1 (Section 293A.053, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to certain counties in SECTION 1 (Section 293A.154, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 4, Health and Safety Code, by adding Chapter 293A, as follows:

CHAPTER 293A. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES INCLUDING PORTION OF CONCHO RIVER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 293A.001. DEFINITIONS. Defines "institutional health care provider," "paying hospital," and "program."

Sec. 293A.002. APPLICABILITY. Provides that this chapter applies only to a county that is not served by a hospital district or a public hospital, has a population of more than 1000,000, and includes a portion of the Concho River.

Sec. 293A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM. (a) Provides that a county health care provider participation program authorizes a county to collect a mandatory payment from each institutional health care provider (provider) located in the county to be deposited in a local provider participation fund established by the county. Authorizes money in the fund to be used by the county to fund certain intergovernmental transfers and indigent care programs as provided by this chapter.

(b) Authorizes the commissioners court of a county (commissioners court) to adopt an order authorizing the county to participate in the program, subject to the limitations provided by this chapter.

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

Sec. 293A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the commissioners court to require a mandatory payment authorized under this chapter by a provider in the county only in the manner provided by this chapter.

Sec. 293A.052. MAJORITY VOTE REQUIRED. Prohibits the commissioners court from authorizing the county to collect a mandatory payment authorized under this chapter without an affirmative vote of a majority of the members of the commissioners court.

Sec. 293A.053. RULES AND PROCEDURES. Authorizes the commissioners court, after the commissioners court has voted to require a mandatory payment authorized under this chapter, to adopt rules relating to the administration of the mandatory payment.

Sec. 293A.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS. (a) Requires the commissioners court that collects a mandatory payment authorized under this chapter to require each provider located in the county to submit to the county a copy of any financial and utilization data required by and reported to the Department of State Health Services (DSHS) under Sections 311.032 (Department Administration of Hospital Reporting and Collection System) and 311.033 (Financial and Utilization Data Required) and any rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to implement those sections.

(b) Authorizes the commissioners court that collects a mandatory payment authorized under this chapter to inspect the records of a provider to the extent necessary to ensure compliance with the requirements of Subsection (a).

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 293A.101. HEARING. (a) Requires the commissioners court, that collects a mandatory payment authorized under this chapter, each year, to hold a public hearing on the amounts of any mandatory payments that the commissioners court intends to require during the year.

(b) Requires the commissioners court, not later than the fifth day before the date of the hearing required under Subsection (a), to publish notice of the hearing in a newspaper of general circulation in the county.

(c) Provides that a representative of a paying hospital is entitled to appear at the public hearing and be heard regarding any matter related to the mandatory payments authorized under this chapter.

Sec. 293A.102. DEPOSITORY. (a) Requires the commissioners court that collects a mandatory payment authorized under this chapter by resolution to designate one or more banks located in the county as the depository for mandatory payments received by the county.

(b) Requires that all income received by a county under this chapter, including the revenue from mandatory payments remaining after discounts and fees for assessing and collecting the payments are deducted, be deposited with the county depository in the county's local provider participation fund and is authorized to be withdrawn only as provided by this chapter.

(c) Requires that all funds under this chapter to be secured in the manner provided for securing county funds.

Sec. 293A.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires that each county that collects a mandatory payment authorized under this chapter create a local provider participation fund.

(b) Provides that the local provider participation fund of a county consists of:

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

(2) money received from HHSC as a refund of an intergovernmental transfer from the county to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the fund.

(c) Authorizes that money deposited to the local provider participation fund to be used only for certain financial obligations.

(d) Prohibits money in the local provider participation fund from being commingled with other county funds.

(e) Prohibits an intergovernmental transfer of funds described by Subsection (c)(1) (relating to using money deposited the local provider participation fund to fund certain intergovernmental transfers) and any funds received by the county as a result of an intergovernmental transfer described by that subsection from being used by the county or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 293A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Authorizes the commissioners court that collects a mandatory payment authorized under this chapter, except as provided by Subsection (e), to require an annual mandatory payment to be assessed on the net patient revenue of each provider located in the county. Authorizes the commissioners court to provide for the mandatory payment to be assessed quarterly. Provides that in the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of a provider as determined by the data reported to DSHS under Sections 311.032 and 311.033 in the fiscal year ending in 2015 or, if the provider did not report any data under those sections in that fiscal year, as determined by the provider's Medicare cost report submitted for the 2015 fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. Requires the county to update the amount of the mandatory payment on an annual basis.

(b) Requires the amount of a mandatory payment authorized under this chapter to be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county. Prohibits a mandatory payment authorized under this chapter from holding harmless any provider, as required under 42 U.S.C. Section 1396b(w).

(c) Requires the commissioners court that collects a mandatory payment authorized under this chapter to set the amount of the mandatory payment. Prohibits the amount of the mandatory payment required of each paying hospital from exceeding six percent of the paying hospital's net patient revenue.

(d) Requires the commissioners court that collects a mandatory payment authorized under this chapter, subject to the maximum amount prescribed by Subsection (c), to set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter, to fund an intergovernmental transfer described

by Section 293A.103(c)(1), and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the county for activities under this chapter in a year is prohibited from exceeding the lesser of four percent of the total revenue generated from the mandatory payment or \$20,000.

(e) Prohibits a paying hospital from adding a mandatory payment required under this section as a surcharge to a patient.

Sec. 293A.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. Authorizes the county to collect or contract for the assessment and collection of mandatory payments authorized under this chapter.

Sec. 293A.153. INTEREST, PENALTIES, AND DISCOUNTS. Provides that interests, penalties, and discounts on mandatory payments required under this chapter are governed by the law applicable to county ad valorem taxes.

Sec. 293A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) Provides that the purpose of this chapter is to generate revenue by collecting from providers a mandatory payment to be used to provide an intergovernmental transfer described by Section 293A.103(c)(1).

(b) Authorizes the county, to the extent any provision or procedure under this chapter causes a mandatory payment authorized under this chapter to be ineligible for federal matching funds, to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: upon passage or September 1, 2017.