

## **BILL ANALYSIS**

Senate Research Center  
85R12627 MEW-F

S.B. 1429  
By: Perry  
Agriculture, Water & Rural Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2011, Texas pursued a Health Care Transformation and Quality Improvement Program Medicaid Section 1115 Waiver (waiver) at the direction of the Texas Legislature. The waiver empowers local communities to transform the delivery of health care by establishing local projects tailored to meet communities' unique health care needs. However, the waiver requires local government funds to support waiver payments. As such, communities without hospital districts are disadvantaged because they lack a mechanism to generate funds for intergovernmental transfers (IGT) to draw down federal dollars. Earlier this year, the Health and Human Services Commission announced the availability of a new Uniform Hospital Rate Increase Program (UHRIP) for hospital services. Like the waiver, UHRIP requires local government funds and communities without hospital districts are disadvantaged.

Tom Green County hospitals provide a tremendous amount of uncompensated care, but Tom Green does not have a hospital district to IGT for federal funds. A local provider participation fund (LPPF) in Tom Green County would allow local providers to access more funds under the waiver and UHRIP and would help ensure access to care and reduce the level of uncompensated care in this community.

LPPFs provide the residents of disadvantaged cities and counties the opportunity to solve local problems with a local solution, without burdening local taxpayers, requiring state general revenue, or increasing health care cost for patients. S.B. 1429 grants Tom Green County the authority to create an LPPF in order to draw down more federal dollars. The county will retain the discretion to approve an LPPF for Tom Green County.

As proposed, S.B. 1429 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 a county in SECTION 1 (Section 293A.053, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to a county 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 public hospital, has a population of more than 100,000, 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 located in the county to be deposited in a local provider participation fund (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 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 an institutional health care 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 court.

Sec. 293A.053. RULES AND PROCEDURES. Authorizes the commissioners court, after voting 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 a commissioners court that collects a mandatory payment authorized under this chapter to require each institutional health care 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 (HHSC) to implement those sections.

(b) Authorizes a commissioners court that collects a mandatory payment authorized under this chapter to inspect the records of an institutional health care 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 a commissioners court that collects a mandatory payment authorized under this chapter to, each year, hold a public hearing on the amounts of any mandatory payments that the court intends to require during the year.

(b) 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 a commissioners court that collects a mandatory payment by resolution to designate one or more banks located in the county as the depository for mandatory payments received by the county.

(b) Requires 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, to be deposited with the county depository in the county's local provider participation fund and authorizes this income to be withdrawn only as provided by this chapter.

(c) Requires 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 each county that collects an authorized mandatory payment to create a participation fund.

(b) Provides that the participation fund of a county consists of all revenue received by the county attributable to authorized mandatory payments, including any penalties and interest attributable to delinquent payments, 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 the earnings of the participation fund.

(c) Authorizes money deposited to the participation fund to be used only to:

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

(2) subsidize indigent programs;

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

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

(5) refund to paying hospitals the proportionate share of money received by the county that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.

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

(e) Prohibits an intergovernmental transfer of funds described by Subsection (c)(1) 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 a 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

institutional health care provider located in the county. Authorizes the 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 a certain formula.

(b) Requires the amount of an authorized 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 an authorized mandatory payment from holding harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) Requires a commissioners court that collects an authorized mandatory payment 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 a commissioners court that collects a mandatory payment, 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 the nonfederal share of a Medicaid supplemental payment program as 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 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 authorized payments.

Sec. 293A.153. INTEREST, PENALTIES, AND DISCOUNTS. Provides that interest, 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 institutional health care providers a mandatory payment to be used to provide the nonfederal share of a Medicaid supplemental payment program.

(b) Authorizes the county, to the extent any provision or procedure under this chapter causes a mandatory authorized payment 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.