

1-1 By: Phillips (Senate Sponsor - Estes) H.B. No. 2062  
 1-2 (In the Senate - Received from the House May 1, 2017;  
 1-3 May 5, 2017, read first time and referred to Committee on Health &  
 1-4 Human Services; May 16, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0, 1  
 1-6 present not voting; May 16, 2017, 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	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2062 By: Buckingham

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the creation and operations of health care provider  
 1-22 participation programs in certain counties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is  
 1-25 amended by adding Chapter 292A to read as follows:

1-26 CHAPTER 292A. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN  
 1-27 CERTAIN COUNTIES BORDERING RED RIVER

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 292A.001. DEFINITIONS. In this chapter:

1-30 (1) "Institutional health care provider" means a  
 1-31 nonpublic hospital that provides inpatient hospital services.

1-32 (2) "Paying hospital" means an institutional health  
 1-33 care provider required to make a mandatory payment under this  
 1-34 chapter.

1-35 (3) "Program" means the county health care provider  
 1-36 participation program authorized by this chapter.

1-37 Sec. 292A.002. APPLICABILITY. This chapter applies only to  
 1-38 a county that:

1-39 (1) is not served by a hospital district or a public  
 1-40 hospital;

1-41 (2) has a population of more than 100,000;

1-42 (3) contains at least two municipalities, each of  
 1-43 which has a population of more than 15,000; and

1-44 (4) borders the Red River.

1-45 Sec. 292A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
 1-46 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
 1-47 provider participation program authorizes a county to collect a  
 1-48 mandatory payment from each institutional health care provider  
 1-49 located in the county to be deposited in a local provider  
 1-50 participation fund established by the county. Money in the fund may  
 1-51 be used by the county to fund certain intergovernmental transfers  
 1-52 and indigent care programs as provided by this chapter.

1-53 (b) The commissioners court may adopt an order authorizing a  
 1-54 county to participate in the program, subject to the limitations  
 1-55 provided by this chapter.

1-56 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-57 Sec. 292A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
 1-58 PAYMENT. The commissioners court of a county may require a  
 1-59 mandatory payment authorized under this chapter by an institutional  
 1-60 health care provider in the county only in the manner provided by

2-1 this chapter.  
2-2 Sec. 292A.052. MAJORITY VOTE REQUIRED. The commissioners  
2-3 court of a county may not authorize the county to collect a  
2-4 mandatory payment authorized under this chapter without an  
2-5 affirmative vote of a majority of the members of the commissioners  
2-6 court.

2-7 Sec. 292A.053. RULES AND PROCEDURES. After the  
2-8 commissioners court has voted to require a mandatory payment  
2-9 authorized under this chapter, the commissioners court may adopt  
2-10 rules relating to the administration of the mandatory payment.

2-11 Sec. 292A.054. INSTITUTIONAL HEALTH CARE PROVIDER  
2-12 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a  
2-13 county that collects a mandatory payment authorized under this  
2-14 chapter shall require each institutional health care provider to  
2-15 submit to the county a copy of any financial and utilization data  
2-16 required by and reported to the Department of State Health Services  
2-17 under Sections 311.032 and 311.033 and any rules adopted by the  
2-18 executive commissioner of the Health and Human Services Commission  
2-19 to implement those sections.

2-20 (b) The commissioners court of a county that collects a  
2-21 mandatory payment authorized under this chapter may inspect the  
2-22 records of an institutional health care provider to the extent  
2-23 necessary to ensure compliance with the requirements of Subsection  
2-24 (a).

2-25 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-26 Sec. 292A.101. HEARING. (a) Each year, the commissioners  
2-27 court of a county that collects a mandatory payment authorized  
2-28 under this chapter shall hold a public hearing on the amounts of any  
2-29 mandatory payments that the commissioners court intends to require  
2-30 during the year.

2-31 (b) Not later than the fifth day before the date of the  
2-32 hearing required under Subsection (a), the commissioners court of  
2-33 the county shall publish notice of the hearing in a newspaper of  
2-34 general circulation in the county.

2-35 (c) A representative of a paying hospital is entitled to  
2-36 appear at the time and place designated in the public notice and to  
2-37 be heard regarding any matter related to the mandatory payments  
2-38 authorized under this chapter.

2-39 Sec. 292A.102. DEPOSITORY. (a) The commissioners court of  
2-40 each county that collects a mandatory payment authorized under this  
2-41 chapter by resolution shall designate one or more banks located in  
2-42 the county as the depository for mandatory payments received by the  
2-43 county.

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. 292A.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:  
3-3 (A) the nonfederal share of a Medicaid  
3-4 supplemental payment program authorized under the state Medicaid  
3-5 plan, the Texas Healthcare Transformation and Quality Improvement  
3-6 Program waiver issued under Section 1115 of the federal Social  
3-7 Security Act (42 U.S.C. Section 1315), or a successor waiver  
3-8 program authorizing similar Medicaid supplemental payment  
3-9 programs; or  
3-10 (B) payments to Medicaid managed care  
3-11 organizations that are dedicated for payment to hospitals;  
3-12 (2) subsidize indigent programs;  
3-13 (3) pay the administrative expenses of the county  
3-14 solely for activities under this chapter;  
3-15 (4) refund a portion of a mandatory payment collected  
3-16 in error from a paying hospital; and  
3-17 (5) refund to paying hospitals the proportionate share  
3-18 of money received by the county that is not used to fund the  
3-19 nonfederal share of Medicaid supplemental payment program  
3-20 payments.  
3-21 (d) Money in the local provider participation fund may not  
3-22 be commingled with other county funds.  
3-23 (e) An intergovernmental transfer of funds described by  
3-24 Subsection (c)(1) and any funds received by the county as a result  
3-25 of an intergovernmental transfer described by that subsection may  
3-26 not be used by the county or any other entity to expand Medicaid  
3-27 eligibility under the Patient Protection and Affordable Care Act  
3-28 (Pub. L. No. 111-148) as amended by the Health Care and Education  
3-29 Reconciliation Act of 2010 (Pub. L. No. 111-152).  
3-30 SUBCHAPTER D. MANDATORY PAYMENTS  
3-31 Sec. 292A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
3-32 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
3-33 commissioners court of a county that collects a mandatory payment  
3-34 authorized under this chapter may require an annual mandatory  
3-35 payment to be assessed on the net patient revenue of each  
3-36 institutional health care provider located in the county. The  
3-37 commissioners court may provide for the mandatory payment to be  
3-38 assessed quarterly. In the first year in which the mandatory  
3-39 payment is required, the mandatory payment is assessed on the net  
3-40 patient revenue of an institutional health care provider as  
3-41 determined by the data reported to the Department of State Health  
3-42 Services under Sections 311.032 and 311.033 in the fiscal year  
3-43 ending in 2015 or, if the institutional health care provider did not  
3-44 report any data under those sections in that fiscal year, as  
3-45 determined by the institutional health care provider's Medicare  
3-46 cost report submitted for the 2015 fiscal year or for the closest  
3-47 subsequent fiscal year for which the provider submitted the  
3-48 Medicare cost report. The county shall update the amount of the  
3-49 mandatory payment on an annual basis.  
3-50 (b) The amount of a mandatory payment authorized under this  
3-51 chapter must be uniformly proportionate with the amount of net  
3-52 patient revenue generated by each paying hospital in the county. A  
3-53 mandatory payment authorized under this chapter may not hold  
3-54 harmless any institutional health care provider, as required under  
3-55 42 U.S.C. Section 1396b(w).  
3-56 (c) The commissioners court of a county that collects a  
3-57 mandatory payment authorized under this chapter shall set the  
3-58 amount of the mandatory payment. The amount of the mandatory  
3-59 payment required of each paying hospital may not exceed six percent  
3-60 of the paying hospital's net patient revenue.  
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 an intergovernmental  
3-67 transfer described by Section 292A.103(c)(1), and to pay for  
3-68 indigent programs, except that the amount of revenue from mandatory  
3-69 payments used for administrative expenses of the county for

4-1 activities under this chapter in a year may not exceed the lesser of  
4-2 four percent of the total revenue generated from the mandatory  
4-3 payment or \$20,000.

4-4 (e) A paying hospital may not add a mandatory payment  
4-5 required under this section as a surcharge to a patient.

4-6 Sec. 292A.152. ASSESSMENT AND COLLECTION OF MANDATORY  
4-7 PAYMENTS. The county may collect or contract for the assessment and  
4-8 collection of mandatory payments authorized under this chapter.

4-9 Sec. 292A.153. INTEREST, PENALTIES, AND DISCOUNTS.  
4-10 Interest, penalties, and discounts on mandatory payments required  
4-11 under this chapter are governed by the law applicable to county ad  
4-12 valorem taxes.

4-13 Sec. 292A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
4-14 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
4-15 by collecting from institutional health care providers a mandatory  
4-16 payment to be used to provide the nonfederal share of a Medicaid  
4-17 supplemental payment program.

4-18 (b) To the extent any provision or procedure under this  
4-19 chapter causes a mandatory payment authorized under this chapter to  
4-20 be ineligible for federal matching funds, the county may provide by  
4-21 rule for an alternative provision or procedure that conforms to the  
4-22 requirements of the federal Centers for Medicare and Medicaid  
4-23 Services.

4-24 SECTION 2. If before implementing any provision of this Act  
4-25 a state agency determines that a waiver or authorization from a  
4-26 federal agency is necessary for implementation of that provision,  
4-27 the agency affected by the provision shall request the waiver or  
4-28 authorization and may delay implementing that provision until the  
4-29 waiver or authorization is granted.

4-30 SECTION 3. This Act takes effect immediately if it receives  
4-31 a vote of two-thirds of all the members elected to each house, as  
4-32 provided by Section 39, Article III, Texas Constitution. If this  
4-33 Act does not receive the vote necessary for immediate effect, this  
4-34 Act takes effect September 1, 2017.

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