

By: Darby

H.B. No. 3398

Substitute the following for H.B. No. 3398:

By: Uresti

C.S.H.B. No. 3398

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 293A to read 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. 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 a county health care provider participation program authorized by this chapter.

Sec. 293A.002. APPLICABILITY. This chapter applies only to a county that:

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

(2) has a population of more than 100,000; and

(3) includes a portion of the Concho River.

Sec. 293A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION

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

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

11 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

12 Sec. 293A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
13 PAYMENT. The commissioners court of a county may require a
14 mandatory payment authorized under this chapter by an institutional
15 health care provider in the county only in the manner provided by
16 this chapter.

17 Sec. 293A.052. MAJORITY VOTE REQUIRED. The commissioners
18 court of a county may not authorize the county to collect a
19 mandatory payment authorized under this chapter without an
20 affirmative vote of a majority of the members of the commissioners
21 court.

22 Sec. 293A.053. RULES AND PROCEDURES. After the
23 commissioners court of a county has voted to require a mandatory
24 payment authorized under this chapter, the commissioners court may
25 adopt rules relating to the administration of the mandatory
26 payment.

27 Sec. 293A.054. INSTITUTIONAL HEALTH CARE PROVIDER

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

9 (b) The commissioners court of a county that collects a
10 mandatory payment authorized under this chapter may inspect the
11 records of an institutional health care provider to the extent
12 necessary to ensure compliance with the requirements of Subsection
13 (a).

14 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

15 Sec. 293A.101. HEARING. (a) Each year, the commissioners
16 court of a county that collects a mandatory payment authorized
17 under this chapter shall hold a public hearing on the amounts of any
18 mandatory payments that the commissioners court intends to require
19 during the year.

20 (b) Not later than the fifth day before the date of the
21 hearing required under Subsection (a), the commissioners court of
22 the county shall publish notice of the hearing in a newspaper of
23 general circulation in the county.

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

27 Sec. 293A.102. DEPOSITORY. (a) The commissioners court of

1 each county that collects a mandatory payment authorized under this
2 chapter by resolution shall designate one or more banks located in
3 the county as the depository for mandatory payments received by the
4 county.

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

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

13 Sec. 293A.103. LOCAL PROVIDER PARTICIPATION FUND;
14 AUTHORIZED USES OF MONEY. (a) Each county that collects a
15 mandatory payment authorized under this chapter shall create a
16 local provider participation fund.

17 (b) The local provider participation fund of a county
18 consists of:

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

22 (2) money received from the Health and Human Services
23 Commission as a refund of an intergovernmental transfer from the
24 county to the state for the purpose of providing the nonfederal
25 share of Medicaid supplemental payment program payments, provided
26 that the intergovernmental transfer does not receive a federal
27 matching payment; and

1 (3) the earnings of the fund.

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

4 (1) fund intergovernmental transfers from the county
5 to the state to provide:

6 (A) the nonfederal share of a Medicaid
7 supplemental payment program authorized under the state Medicaid
8 plan, the Texas Healthcare Transformation and Quality Improvement
9 Program waiver issued under Section 1115 of the federal Social
10 Security Act (42 U.S.C. Section 1315), or a successor waiver
11 program authorizing similar Medicaid supplemental payment
12 programs; or

13 (B) payments to Medicaid managed care
14 organizations that are dedicated for payment to hospitals;

15 (2) subsidize indigent programs;

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

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

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

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

26 (e) An intergovernmental transfer of funds described by
27 Subsection (c)(1) and any funds received by the county as a result

of an intergovernmental transfer described by that subsection may not be 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) Except as provided by Subsection (e), the commissioners court of a county that collects a mandatory payment authorized under this chapter may require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the county. The commissioners court may provide for the mandatory payment to be assessed quarterly. In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to the Department of State Health Services under Sections [311.032](#) and [311.033](#) in the fiscal year ending in 2015 or, if the institutional health care provider did not report any data under those sections in that fiscal year, as determined by the institutional health care 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. The county shall update the amount of the mandatory payment on an annual basis.

(b) The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the amount of net

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

5 (c) The commissioners court of a county that collects a
6 mandatory payment authorized under this chapter shall set the
7 amount of the mandatory payment. The amount of the mandatory
8 payment required of each paying hospital may not exceed six percent
9 of the paying hospital's net patient revenue.

10 (d) Subject to the maximum amount prescribed by Subsection
11 (c), the commissioners court of a county that collects a mandatory
12 payment authorized under this chapter shall set the mandatory
13 payments in amounts that in the aggregate will generate sufficient
14 revenue to cover the administrative expenses of the county for
15 activities under this chapter, to fund an intergovernmental
16 transfer described by Section 293A.103(c)(1), and to pay for
17 indigent programs, except that the amount of revenue from mandatory
18 payments used for administrative expenses of the county for
19 activities under this chapter in a year may not exceed the lesser of
20 four percent of the total revenue generated from the mandatory
21 payment or \$20,000.

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

24 Sec. 293A.152. ASSESSMENT AND COLLECTION OF MANDATORY
25 PAYMENTS. The county may collect or contract for the assessment and
26 collection of mandatory payments authorized under this chapter.

27 Sec. 293A.153. INTEREST, PENALTIES, AND DISCOUNTS.

1 Interest, penalties, and discounts on mandatory payments required
2 under this chapter are governed by the law applicable to county ad
3 valorem taxes.

4 Sec. 293A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
5 PROCEDURE. (a) The purpose of this chapter is to generate revenue
6 by collecting from institutional health care providers a mandatory
7 payment to be used to provide an intergovernmental transfer
8 described by Section 293A.103(c)(1).

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

15 SECTION 2. If before implementing any provision of this Act
16 a state agency determines that a waiver or authorization from a
17 federal agency is necessary for implementation of that provision,
18 the agency affected by the provision shall request the waiver or
19 authorization and may delay implementing that provision until the
20 waiver or authorization is granted.

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