

By: Coleman

H.B. No. 4180

A BILL TO BE ENTITLED

AN ACT

relating to issues affecting counties and certain other governmental entities and residents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 264, Health and Safety Code, is amended by adding Section 264.004 to read as follows:

Sec. 264.004. DISSOLUTION. (a) The commissioners court of a county by order may dissolve an authority created by the commissioners court if the commissioners court and the authority provide for the sale or transfer of the authority's assets and liabilities to the county.

(b) The dissolution of an authority and the sale or transfer of the authority's assets and liabilities may not:

(1) violate a trust indenture or bond resolution relating to the outstanding bonds of the authority; or

(2) diminish or impair the rights of the holders of outstanding bonds, warrants, or other obligations of the authority.

(c) An order dissolving an authority takes effect on the 31st day after the date the commissioners court adopts the order.

(d) All records of the authority remaining when the authority is dissolved shall be transferred to the county clerk of the county in which the authority is located.

SECTION 2. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 291A to read as follows:

1 CHAPTER 291A. COUNTY HEALTH CARE PROVIDER PARTICIPATION

2 PROGRAM IN CERTAIN COUNTIES BORDERING OR INCLUDING THE SAM RAYBURN

3 RESERVOIR

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 291A.001. DEFINITIONS. In this chapter:

6 (1) "Institutional health care provider" means a
7 nonpublic hospital that provides inpatient hospital services.

8 (2) "Paying hospital" means an institutional health
9 care provider required to make a mandatory payment under this
10 chapter.

11 (3) "Program" means the county health care provider
12 participation program authorized by this chapter.

13 Sec. 291A.002. APPLICABILITY. This chapter applies only to
14 a county that:

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

17 (2) has a population of more than 75,000; and

18 (3) borders or includes a portion of the Sam Rayburn
19 Reservoir.

20 Sec. 291A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION

21 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care

22 provider participation program authorizes a county to collect a

23 mandatory payment from each institutional health care provider

24 located in the county to be deposited in a local provider

25 participation fund established by the county. Money in the fund may

26 be used by the county to fund certain intergovernmental transfers

27 and indigent care programs as provided by this chapter.

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

4 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

5 Sec. 291A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
6 PAYMENT. The commissioners court of a county may require a
7 mandatory payment authorized under this chapter by an institutional
8 health care provider in the county only in the manner provided by
9 this chapter.

10 Sec. 291A.052. MAJORITY VOTE REQUIRED. The commissioners
11 court of a county may not authorize the county to collect a
12 mandatory payment authorized under this chapter without an
13 affirmative vote of a majority of the members of the commissioners
14 court.

15 Sec. 291A.053. RULES AND PROCEDURES. After the
16 commissioners court of a county has voted to require a mandatory
17 payment authorized under this chapter, the commissioners court may
18 adopt rules relating to the administration of the mandatory
19 payment.

20 Sec. 291A.054. INSTITUTIONAL HEALTH CARE PROVIDER
21 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
22 county that collects a mandatory payment authorized under this
23 chapter shall require each institutional health care provider to
24 submit to the county a copy of any financial and utilization data
25 required by and reported to the Department of State Health Services
26 under Sections [311.032](#) and [311.033](#) and any rules adopted by the
27 executive commissioner of the Health and Human Services Commission

1 to implement those sections.

2 (b) The commissioners court of a county that collects a
3 mandatory payment authorized under this chapter may inspect the
4 records of an institutional health care provider to the extent
5 necessary to ensure compliance with the requirements of Subsection
6 (a).

7 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

8 Sec. 291A.101. HEARING. (a) Each year, the commissioners
9 court of a county that collects a mandatory payment authorized
10 under this chapter shall hold a public hearing on the amounts of any
11 mandatory payments that the commissioners court intends to require
12 during the year and how the revenue derived from those payments is
13 to be spent.

14 (b) Not later than the 10th day before the date of the
15 hearing required under Subsection (a), the commissioners court of
16 the county shall publish notice of the hearing in a newspaper of
17 general circulation in the county.

18 (c) A representative of a paying hospital is entitled to
19 appear at the time and place designated in the public notice and to
20 be heard regarding any matter related to the mandatory payments
21 authorized under this chapter.

22 Sec. 291A.102. DEPOSITORY. (a) The commissioners court of
23 each county that collects a mandatory payment authorized under this
24 chapter by resolution shall designate one or more banks located in
25 the county as the depository for mandatory payments received by the
26 county. A bank designated as a depository serves for two years or
27 until a successor is designated.

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

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

9 Sec. 291A.103. LOCAL PROVIDER PARTICIPATION FUND;
10 AUTHORIZED USES OF MONEY. (a) Each county that collects a
11 mandatory payment authorized under this chapter shall create a
12 local provider participation fund.

13 (b) The local provider participation fund of a county
14 consists of:

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

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

24 (3) the earnings of the fund.

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

27 (1) fund intergovernmental transfers from the county

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

9 (2) subsidize indigent programs;

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

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

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

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

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

1 SUBCHAPTER D. MANDATORY PAYMENTS

2 Sec. 291A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
3 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
4 commissioners court of a county that collects a mandatory payment
5 authorized under this chapter may require an annual mandatory
6 payment to be assessed on the net patient revenue of each
7 institutional health care provider located in the county. The
8 commissioners court may provide for the mandatory payment to be
9 assessed quarterly. In the first year in which the mandatory
10 payment is required, the mandatory payment is assessed on the net
11 patient revenue of an institutional health care provider as
12 determined by the data reported to the Department of State Health
13 Services under Sections 311.032 and 311.033 in the fiscal year
14 ending in 2015 or, if the institutional health care provider did not
15 report any data under those sections in that fiscal year, as
16 determined by the institutional health care provider's Medicare
17 cost report submitted for the 2015 fiscal year or for the closest
18 subsequent fiscal year for which the provider submitted the
19 Medicare cost report. The county shall update the amount of the
20 mandatory payment on an annual basis.

21 (b) The amount of a mandatory payment authorized under this
22 chapter must be uniformly proportionate with the amount of net
23 patient revenue generated by each paying hospital in the county. A
24 mandatory payment authorized under this chapter may not hold
25 harmless any institutional health care provider, as required under
26 42 U.S.C. Section 1396b(w).

27 (c) The commissioners court of a county that collects a

1 mandatory payment authorized under this chapter shall set the
2 amount of the mandatory payment. The amount of the mandatory
3 payment required of each paying hospital may not exceed an amount
4 that, when added to the amount of the mandatory payments required
5 from all other paying hospitals in the county, equals an amount of
6 revenue that exceeds six percent of the aggregate net patient
7 revenue of all paying hospitals in the county.

8 (d) Subject to the maximum amount prescribed by Subsection
9 (c), the commissioners court of a county that collects a mandatory
10 payment authorized under this chapter shall set the mandatory
11 payments in amounts that in the aggregate will generate sufficient
12 revenue to cover the administrative expenses of the county for
13 activities under this chapter, to fund the nonfederal share of a
14 Medicaid supplemental payment program as described by Section
15 291A.103(c)(1), and to pay for indigent programs, except that the
16 amount of revenue from mandatory payments used for administrative
17 expenses of the county for activities under this chapter in a year
18 may not exceed the lesser of four percent of the total revenue
19 generated from the mandatory payment or \$20,000.

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

22 Sec. 291A.152. ASSESSMENT AND COLLECTION OF MANDATORY
23 PAYMENTS. The county may collect or contract for the assessment and
24 collection of mandatory payments authorized under this chapter.

25 Sec. 291A.153. INTEREST, PENALTIES, AND DISCOUNTS.
26 Interest, penalties, and discounts on mandatory payments required
27 under this chapter are governed by the law applicable to county ad

1 valorem taxes.

2 Sec. 291A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
3 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4 by collecting from institutional health care providers a mandatory
5 payment to be used to provide the nonfederal share of a Medicaid
6 supplemental payment program.

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

13 SECTION 3. Subchapter C, Chapter 775, Health and Safety
14 Code, is amended by adding Section 775.0341 to read as follows:

15 Sec. 775.0341. APPOINTMENT OF BOARD IN CERTAIN DISTRICTS
16 LOCATED IN MORE THAN ONE COUNTY. (a) This section applies only to a
17 district that was authorized to have a board of emergency services
18 commissioners appointed under former Section 776.0345 and that is
19 located:

20 (1) partly in a county with a population of less than
21 22,000; and

22 (2) partly in a county with a population of more than
23 54,000.

24 (b) A five-member board of emergency services commissioners
25 appointed under this section serves as the district's governing
26 body. A commissioner serves a two-year term.

27 (c) The commissioners court of the smallest county in which

1 the district is located shall appoint two commissioners to the
2 board. The commissioners court of the largest county in which the
3 district is located shall appoint three commissioners to the board.

4 (d) To be eligible for appointment as an emergency services
5 commissioner under this section, a person must be at least 18 years
6 of age and reside in the district. Two commissioners must reside in
7 the smallest county in which the district is located, and three
8 commissioners must reside in the largest county in which the
9 district is located.

10 (e) On January 1 of each year, a commissioners court shall
11 appoint a successor for each emergency services commissioner
12 appointed by that commissioners court whose term has expired.

13 (f) The appropriate commissioners court shall fill a
14 vacancy on the board for the remainder of the unexpired term.

15 SECTION 4. Section 775.035, Health and Safety Code, is
16 amended by adding Subsection (j) to read as follows:

17 (j) This section does not apply to a district described by
18 Section 775.0341.

19 SECTION 5. Section 775.036, Health and Safety Code, is
20 amended by adding Subsection (a-1) to read as follows:

21 (a-1) Notwithstanding Subsection (a)(1), the board for a
22 district located wholly in a county with a population of 75,000 or
23 less may by resolution determine to hold the board's regular
24 meetings less frequently than prescribed by that subsection. The
25 resolution must require the board to meet either quarterly or every
26 other month. The board shall meet as required by the resolution.

27 SECTION 6. Subchapter Z, Chapter 271, Local Government

1 Code, is amended by adding Section 271.909 to read as follows:

2 Sec. 271.909. PURCHASES: DEVICES THAT UTILIZE ELECTRONIC
3 CAPTURE. As it relates to purchases by local governmental entities
4 and notwithstanding any provision under Texas law, devices that
5 utilize electronic capture to produce a physical record shall be
6 considered interchangeable with devices that utilize electronic
7 capture to produce an electronic record.

8 SECTION 7. Section 81.001(b), Local Government Code, is
9 amended to read as follows:

10 (b) If present, the county judge is the presiding officer of
11 the commissioners court. This subsection does not apply to a
12 meeting held under Section 551.127, Government Code, if the county
13 judge is not located at the physical space made available to the
14 public for the meeting.

15 SECTION 8. (a) All governmental acts and proceedings of an
16 emergency services district to which former Section 776.0345,
17 Health and Safety Code, applied before that section was repealed
18 and that relate to the selection of emergency services
19 commissioners of the district and that were taken between January
20 1, 2012, and the effective date of this Act are validated, ratified,
21 and confirmed in all respects as if they had been taken as
22 authorized by law.

23 (b) This section does not apply to any matter that on the
24 effective date of this Act:

25 (1) is involved in litigation if the litigation
26 ultimately results in the matter being held invalid by a final court
27 judgment; or

1 (2) has been held invalid by a final court judgment.

2 SECTION 9. Section 250.006(b), Local Government Code, is
3 repealed.

4 SECTION 10. If before implementing any provision of Chapter
5 291A, Health and Safety Code, as added by this Act, a state agency
6 determines that a waiver or authorization from a federal agency is
7 necessary for implementation of that provision, the agency affected
8 by the provision shall request the waiver or authorization and may
9 delay implementing that provision until the waiver or authorization
10 is granted.

11 SECTION 11. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2017.