

By: Coleman

H.B. No. 4180

Substitute the following for H.B. No. 4180:

By: Springer

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

CHAPTER 291A. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING OR INCLUDING THE SAM RAYBURN RESERVOIR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 291A.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 the county health care provider participation program authorized by this chapter.

Sec. 291A.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 75,000; and

(3) borders or includes a portion of the Sam Rayburn

1 Reservoir.

2 Sec. 291A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
3 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
4 provider participation program authorizes a county to collect a
5 mandatory payment from each institutional health care provider
6 located in the county to be deposited in a local provider
7 participation fund established by the county. Money in the fund may
8 be used by the county to fund certain intergovernmental transfers
9 and indigent care programs as provided by this chapter.

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

13 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

14 Sec. 291A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
15 PAYMENT. The commissioners court of a county may require a
16 mandatory payment authorized under this chapter by an institutional
17 health care provider in the county only in the manner provided by
18 this chapter.

19 Sec. 291A.052. MAJORITY VOTE REQUIRED. The commissioners
20 court of a county may not authorize the county to collect a
21 mandatory payment authorized under this chapter without an
22 affirmative vote of a majority of the members of the commissioners
23 court.

24 Sec. 291A.053. RULES AND PROCEDURES. After the
25 commissioners court of a county has voted to require a mandatory
26 payment authorized under this chapter, the commissioners court may
27 adopt rules relating to the administration of the mandatory

1 payment.

2 Sec. 291A.054. INSTITUTIONAL HEALTH CARE PROVIDER
3 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
4 county that collects a mandatory payment authorized under this
5 chapter shall require each institutional health care provider to
6 submit to the county a copy of any financial and utilization data
7 required by and reported to the Department of State Health Services
8 under Sections 311.032 and 311.033 and any rules adopted by the
9 executive commissioner of the Health and Human Services Commission
10 to implement those sections.

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

16 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

17 Sec. 291A.101. HEARING. (a) Each year, the commissioners
18 court of a county that collects a mandatory payment authorized
19 under this chapter shall hold a public hearing on the amounts of any
20 mandatory payments that the commissioners court intends to require
21 during the year and how the revenue derived from those payments is
22 to be spent.

23 (b) Not later than the 10th day before the date of the
24 hearing required under Subsection (a), the commissioners court of
25 the county shall publish notice of the hearing in a newspaper of
26 general circulation in the county.

27 (c) A representative of a paying hospital is entitled to

1 appear at the time and place designated in the public notice and to
2 be heard regarding any matter related to the mandatory payments
3 authorized under this chapter.

4 Sec. 291A.102. DEPOSITORY. (a) The commissioners court of
5 each county that collects a mandatory payment authorized under this
6 chapter by resolution shall designate one or more banks located in
7 the county as the depository for mandatory payments received by the
8 county. A bank designated as a depository serves for two years or
9 until a successor is designated.

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

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

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

22 (b) The local provider participation fund of a county
23 consists of:

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

27 (2) money received from the Health and Human Services

1 Commission as a refund of an intergovernmental transfer from the
2 county to the state for the purpose of providing the nonfederal
3 share of Medicaid supplemental payment program payments, provided
4 that the intergovernmental transfer does not receive a federal
5 matching payment; and

6 (3) the earnings of the fund.

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

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

18 (2) subsidize indigent programs;

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

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

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

27 (d) Money in the local provider participation fund may not

1 be commingled with other county funds.

2 (e) An intergovernmental transfer of funds described by
3 Subsection (c)(1) and any funds received by the county as a result
4 of an intergovernmental transfer described by that subsection may
5 not be used by the county or any other entity to expand Medicaid
6 eligibility under the Patient Protection and Affordable Care Act
7 (Pub. L. No. 111-148) as amended by the Health Care and Education
8 Reconciliation Act of 2010 (Pub. L. No. 111-152).

9 SUBCHAPTER D. MANDATORY PAYMENTS

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

1 mandatory payment on an annual basis.

2 (b) The amount of a mandatory payment authorized under this
3 chapter must be uniformly proportionate with the amount of net
4 patient revenue generated by each paying hospital in the county. A
5 mandatory payment authorized under this chapter may not hold
6 harmless any institutional health care provider, as required under
7 42 U.S.C. Section 1396b(w).

8 (c) The commissioners court of a county that collects a
9 mandatory payment authorized under this chapter shall set the
10 amount of the mandatory payment. The amount of the mandatory
11 payment required of each paying hospital may not exceed an amount
12 that, when added to the amount of the mandatory payments required
13 from all other paying hospitals in the county, equals an amount of
14 revenue that exceeds six percent of the aggregate net patient
15 revenue of all paying hospitals in the county.

16 (d) Subject to the maximum amount prescribed by Subsection
17 (c), the commissioners court of a county that collects a mandatory
18 payment authorized under this chapter shall set the mandatory
19 payments in amounts that in the aggregate will generate sufficient
20 revenue to cover the administrative expenses of the county for
21 activities under this chapter, to fund the nonfederal share of a
22 Medicaid supplemental payment program as described by Section
23 291A.103(c)(1), and to pay for indigent programs, except that the
24 amount of revenue from mandatory payments used for administrative
25 expenses of the county for activities under this chapter in a year
26 may not exceed the lesser of four percent of the total revenue
27 generated from the mandatory payment or \$20,000.

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

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

6 Sec. 291A.153. INTEREST, PENALTIES, AND DISCOUNTS.
7 Interest, penalties, and discounts on mandatory payments required
8 under this chapter are governed by the law applicable to county ad
9 valorem taxes.

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

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

21 SECTION 2. Subchapter C, Chapter 775, Health and Safety
22 Code, is amended by adding Section 775.0341 to read as follows:

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

1 (1) partly in a county with a population of less than
2 22,000; and

3 (2) partly in a county with a population of more than
4 54,000.

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

8 (c) The commissioners court of the smallest county in which
9 the district is located shall appoint two commissioners to the
10 board. The commissioners court of the largest county in which the
11 district is located shall appoint three commissioners to the board.

12 (d) To be eligible for appointment as an emergency services
13 commissioner under this section, a person must be at least 18 years
14 of age and reside in the district. Two commissioners must reside in
15 the smallest county in which the district is located, and three
16 commissioners must reside in the largest county in which the
17 district is located.

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

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

23 SECTION 3. Section [775.035](#), Health and Safety Code, is
24 amended by adding Subsection (j) to read as follows:

25 (j) This section does not apply to a district described by
26 Section [775.0341](#).

27 SECTION 4. Section [775.036](#), Health and Safety Code, is

1 amended by adding Subsection (a-1) to read as follows:

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

8 SECTION 5. 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 6. (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 7. Section 250.006(b), Local Government Code, is
3 repealed.

4 SECTION 8. 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 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2017.