

R E S O L U T I O N

BE IT RESOLVED by the House of Representatives of the State of Texas, 85th Legislature, Regular Session, 2017, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on Senate Bill 1462 (the creation and operation of certain local health care provider participation programs) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following SECTIONS to the bill:

SECTION 28. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 298B to read as follows:

CHAPTER 298B. TARRANT COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER

PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298B.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of hospital managers of the district.

(2) "District" means the Tarrant County Hospital District.

(3) "Institutional health care provider" means a nonpublic hospital located in the district that provides inpatient hospital services.

1           (4) "Paying provider" means an institutional health  
2 care provider required to make a mandatory payment under this  
3 chapter.

4           (5) "Program" means the health care provider  
5 participation program authorized by this chapter.

6           Sec. 298B.002. APPLICABILITY. This chapter applies only to  
7 the Tarrant County Hospital District.

8           Sec. 298B.003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;  
9 PARTICIPATION IN PROGRAM. The board may authorize the district to  
10 participate in a health care provider participation program on the  
11 affirmative vote of a majority of the board, subject to the  
12 provisions of this chapter.

13           Sec. 298B.004. EXPIRATION OF AUTHORITY. (a) Subject to  
14 Sections 298B.153(d) and 298B.154, the authority of the district to  
15 administer and operate a program under this chapter expires  
16 December 31, 2019.

17           (b) Subsection (a) does not affect the authority of the  
18 district to require and collect a mandatory payment under Section  
19 298B.154 after December 31, 2019, if necessary.

20           SUBCHAPTER B. POWERS AND DUTIES OF BOARD

21           Sec. 298B.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
22 PAYMENT. The board may require a mandatory payment authorized  
23 under this chapter by an institutional health care provider in the  
24 district only in the manner provided by this chapter.

25           Sec. 298B.052. RULES AND PROCEDURES. The board may adopt  
26 rules relating to the administration of the program, including  
27 collection of the mandatory payments, expenditures, audits, and any

other administrative aspects of the program.

Sec. 298B.053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. If the board authorizes the district to participate in a program under this chapter, the board shall require each institutional health care provider to submit to the district a copy of any financial and utilization data required by and reported to the Department of State Health Services under Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 298B.101. HEARING. (a) In each year that the board authorizes a program under this chapter, the board shall hold a public hearing on the amounts of any mandatory payments that the board intends to require during the year and how the revenue derived from those payments is to be spent.

(b) Not later than the fifth day before the date of the hearing required under Subsection (a), the board shall publish notice of the hearing in a newspaper of general circulation in the district and provide written notice of the hearing to each institutional health care provider in the district.

Sec. 298B.102. DEPOSITORY. (a) If the board requires a mandatory payment authorized under this chapter, the board shall designate one or more banks as a depository for the district's local provider participation fund.

(b) All funds collected under this chapter shall be secured in the manner provided for securing other district funds.

Sec. 298B.103. LOCAL PROVIDER PARTICIPATION FUND;

1 AUTHORIZED USES OF MONEY. (a) If the district requires a mandatory  
2 payment authorized under this chapter, the district shall create a  
3 local provider participation fund.

4 (b) The local provider participation fund consists of:

5 (1) all revenue received by the district attributable  
6 to mandatory payments authorized under this chapter;

7 (2) money received from the Health and Human Services  
8 Commission as a refund of an intergovernmental transfer under the  
9 program, provided that the intergovernmental transfer does not  
10 receive a federal matching payment; and

11 (3) the earnings of the fund.

12 (c) Money deposited to the local provider participation  
13 fund of the district may be used only to:

14 (1) fund intergovernmental transfers from the  
15 district to the state to provide the nonfederal share of Medicaid  
16 payments for:

17 (A) uncompensated care payments to nonpublic  
18 hospitals affiliated with the district, if those payments are  
19 authorized under the Texas Healthcare Transformation and Quality  
20 Improvement Program waiver issued under Section 1115 of the federal  
21 Social Security Act (42 U.S.C. Section 1315);

22 (B) uniform rate enhancements for nonpublic  
23 hospitals in the Medicaid managed care service area in which the  
24 district is located;

25 (C) payments available under another waiver  
26 program authorizing payments that are substantially similar to  
27 Medicaid payments to nonpublic hospitals described by Paragraph (A)

1 or (B); or

2 (D) any reimbursement to nonpublic hospitals for  
3 which federal matching funds are available;

4 (2) subject to Section 298B.151(d), pay the  
5 administrative expenses of the district in administering the  
6 program, including collateralization of deposits;

7 (3) refund a mandatory payment collected in error from  
8 a paying provider;

9 (4) refund to paying providers a proportionate share  
10 of the money that the district:

11 (A) receives from the Health and Human Services  
12 Commission that is not used to fund the nonfederal share of Medicaid  
13 supplemental payment program payments; or

14 (B) determines cannot be used to fund the  
15 nonfederal share of Medicaid supplemental payment program  
16 payments;

17 (5) transfer funds to the Health and Human Services  
18 Commission if the district is legally required to transfer the  
19 funds to address a disallowance of federal matching funds with  
20 respect to programs for which the district made intergovernmental  
21 transfers described by Subdivision (1); and

22 (6) reimburse the district if the district is required  
23 by the rules governing the uniform rate enhancement program  
24 described by Subdivision (1)(B) to incur an expense or forego  
25 Medicaid reimbursements from the state because the balance of the  
26 local provider participation fund is not sufficient to fund that  
27 rate enhancement program.

1        (d) Money in the local provider participation fund may not  
2 be commingled with other district funds.

3        (e) Notwithstanding any other provision of this chapter,  
4 with respect to an intergovernmental transfer of funds described by  
5 Subsection (c)(1) made by the district, any funds received by the  
6 state, district, or other entity as a result of that transfer may  
7 not be used by the state, district, or any other entity to:

8            (1) expand Medicaid eligibility under the Patient  
9 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended  
10 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.  
11 No. 111-152); or

12           (2) fund the nonfederal share of payments to nonpublic  
13 hospitals available through the Medicaid disproportionate share  
14 hospital program or the delivery system reform incentive payment  
15 program.

16                    SUBCHAPTER D. MANDATORY PAYMENTS

17        Sec. 298B.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER  
18 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if  
19 the board authorizes a health care provider participation program  
20 under this chapter, the board may require an annual mandatory  
21 payment to be assessed on the net patient revenue of each  
22 institutional health care provider located in the district. The  
23 board may provide for the mandatory payment to be assessed  
24 quarterly. In the first year in which the mandatory payment is  
25 required, the mandatory payment is assessed on the net patient  
26 revenue of an institutional health care provider as determined by  
27 the data reported to the Department of State Health Services under

1 Sections 311.032 and 311.033 in the most recent fiscal year for  
2 which that data was reported. If the institutional health care  
3 provider did not report any data under those sections, the  
4 provider's net patient revenue is the amount of that revenue as  
5 contained in the provider's Medicare cost report submitted for the  
6 previous fiscal year or for the closest subsequent fiscal year for  
7 which the provider submitted the Medicare cost report. If the  
8 mandatory payment is required, the district shall update the amount  
9 of the mandatory payment on an annual basis.

10 (b) The amount of a mandatory payment authorized under this  
11 chapter must be uniformly proportionate with the amount of net  
12 patient revenue generated by each paying provider in the district  
13 as permitted under federal law. A health care provider  
14 participation program authorized under this chapter may not hold  
15 harmless any institutional health care provider, as required under  
16 42 U.S.C. Section 1396b(w).

17 (c) If the board requires a mandatory payment authorized  
18 under this chapter, the board shall set the amount of the mandatory  
19 payment, subject to the limitations of this chapter. The aggregate  
20 amount of the mandatory payments required of all paying providers  
21 in the district may not exceed six percent of the aggregate net  
22 patient revenue from hospital services provided by all paying  
23 providers in the district.

24 (d) Subject to Subsection (c), if the board requires a  
25 mandatory payment authorized under this chapter, the board shall  
26 set the mandatory payments in amounts that in the aggregate will  
27 generate sufficient revenue to cover the administrative expenses of

1 the district for activities under this chapter and to fund an  
2 intergovernmental transfer described by Section 298B.103(c)(1).  
3 The annual amount of revenue from mandatory payments that shall be  
4 paid for administrative expenses by the district is \$150,000, plus  
5 the cost of collateralization of deposits, regardless of actual  
6 expenses.

7 (e) A paying provider may not add a mandatory payment  
8 required under this section as a surcharge to a patient.

9 (f) A mandatory payment assessed under this chapter is not a  
10 tax for hospital purposes for purposes of Section 4, Article IX,  
11 Texas Constitution, or Section 281.045.

12 Sec. 298B.152. ASSESSMENT AND COLLECTION OF MANDATORY  
13 PAYMENTS. (a) The district may designate an official of the  
14 district or contract with another person to assess and collect the  
15 mandatory payments authorized under this chapter.

16 (b) The person charged by the district with the assessment  
17 and collection of mandatory payments shall charge and deduct from  
18 the mandatory payments collected for the district a collection fee  
19 in an amount not to exceed the person's usual and customary charges  
20 for like services.

21 (c) If the person charged with the assessment and collection  
22 of mandatory payments is an official of the district, any revenue  
23 from a collection fee charged under Subsection (b) shall be  
24 deposited in the district general fund and, if appropriate, shall  
25 be reported as fees of the district.

26 Sec. 298B.153. PURPOSE; CORRECTION OF INVALID PROVISION OR  
27 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this chapter



1 is to authorize the district to establish a program to enable the  
2 district to collect mandatory payments from institutional health  
3 care providers to fund the nonfederal share of a Medicaid  
4 supplemental payment program or the Medicaid managed care rate  
5 enhancements for nonpublic hospitals to support the provision of  
6 health care by institutional health care providers to district  
7 residents in need of health care.

8 (b) This chapter does not authorize the district to collect  
9 mandatory payments for the purpose of raising general revenue or  
10 any amount in excess of the amount reasonably necessary to fund the  
11 nonfederal share of a Medicaid supplemental payment program or  
12 Medicaid managed care rate enhancements for nonpublic hospitals and  
13 to cover the administrative expenses of the district associated  
14 with activities under this chapter.

15 (c) 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 board 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. A rule adopted under this section may not create, impose,  
21 or materially expand the legal or financial liability or  
22 responsibility of the district or an institutional health care  
23 provider in the district beyond the provisions of this chapter.  
24 This section does not require the board to adopt a rule.

25 (d) The district may only assess and collect a mandatory  
26 payment authorized under this chapter if a waiver program, uniform  
27 rate enhancement, or reimbursement described by Section

1 298B.103(c)(1) is available to the district.

2 Sec. 298B.154. FEDERAL DISALLOWANCE. Notwithstanding any  
3 other provision of this chapter, if the Centers for Medicare and  
4 Medicaid Services issues a disallowance of federal matching funds  
5 for a purpose for which intergovernmental transfers described by  
6 Section 298B.103(c)(1) were made and the Health and Human Services  
7 Commission demands repayment from the district of federal funds  
8 paid to the district for that purpose, the district may require and  
9 collect mandatory payments from each paying provider that received  
10 those federal funds in an amount sufficient to satisfy the  
11 repayment demand made by the commission. The percentage limitation  
12 prescribed by Section 298B.151(c) does not apply to a mandatory  
13 payment required under this section.

14 SECTION 29. As soon as practicable after the expiration of  
15 the authority of the Tarrant County Hospital District to administer  
16 and operate a health care provider participation program under  
17 Chapter 298B, Health and Safety Code, as added by this Act, the  
18 board of hospital managers of the Tarrant County Hospital District  
19 shall transfer to each institutional health care provider in the  
20 district that provider's proportionate share of any remaining funds  
21 in any local provider participation fund created by the district  
22 under Section 298B.103, Health and Safety Code, as added by this  
23 Act.

24 SECTION 30. If before implementing any provision of Chapter  
25 298B, Health and Safety Code, as added by this Act, a state agency  
26 determines that a waiver or authorization from a federal agency is  
27 necessary for implementation of that provision, the agency affected

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1 by the provision shall request the waiver or authorization and may  
2 delay implementing that provision until the waiver or authorization  
3 is granted.

4 Explanation: The added language is necessary to allow the  
5 Tarrant County Hospital District to create and operate a health  
6 care provider participation program in Tarrant County.

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Speaker of the House

I certify that H.R. No. 2597 was adopted by the House on May 28, 2017, by the following vote: Yeas 138, Nays 7, 1 present, not voting.

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Chief Clerk of the House