

By: Nichols

S.B. No. 1578

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 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 may adopt an order authorizing a
11 county to participate in the program, subject to the limitations
12 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 has voted to require a mandatory payment
26 authorized under this chapter, the commissioners court may adopt
27 rules relating to the administration of the mandatory payment.

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

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

15 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

26 (c) A representative of a paying hospital is entitled to
27 appear at the time and place designated in the public notice and to

1 be heard regarding any matter related to the mandatory payments
2 authorized under this chapter.

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

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

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

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

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

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

26 (2) money received from the Health and Human Services
27 Commission as a refund of an intergovernmental transfer from the

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

5 (3) the earnings of the fund.

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

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

17 (2) subsidize indigent programs;

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

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

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

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

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

8 SUBCHAPTER D. MANDATORY PAYMENTS

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

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

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

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

27 (e) A paying hospital may not add a mandatory payment

1 required under this section as a surcharge to a patient.

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

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

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

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

20 SECTION 2. If before implementing any provision of this Act
21 a state agency determines that a waiver or authorization from a
22 federal agency is necessary for implementation of that provision,
23 the agency affected by the provision shall request the waiver or
24 authorization and may delay implementing that provision until the
25 waiver or authorization is granted.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2017.