

1-1 By: Lambert (Senate Sponsor - Buckingham) H.B. No. 1142
 1-2 (In the Senate - Received from the House April 16, 2019;
 1-3 April 17, 2019, read first time and referred to Committee on
 1-4 Intergovernmental Relations; May 6, 2019, reported favorably by
 1-5 the following vote: Yeas 7, Nays 0; May 6, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation and operations of health care provider
 1-18 participation programs in certain counties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
 1-21 amended by adding Chapter 293C to read as follows:

1-22 CHAPTER 293C. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
 1-23 CERTAIN COUNTIES NOT BORDERING CERTAIN POPULOUS COUNTIES

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 293C.001. DEFINITIONS. In this chapter:

1-26 (1) "Institutional health care provider" means a
 1-27 nonpublic hospital that provides inpatient hospital services.

1-28 (2) "Paying hospital" means an institutional health
 1-29 care provider required to make a mandatory payment under this
 1-30 chapter.

1-31 (3) "Program" means a county health care provider
 1-32 participation program authorized by this chapter.

1-33 Sec. 293C.002. APPLICABILITY. This chapter applies only to
 1-34 a county that:

1-35 (1) is not served by a hospital district or a public
 1-36 hospital;

1-37 (2) has a population of more than 125,000 and less than
 1-38 140,000; and

1-39 (3) is not adjacent to a county with a population of
 1-40 one million or more.

1-41 Sec. 293C.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
 1-42 PROGRAM. (a) A county health care provider participation program
 1-43 authorizes a county to collect a mandatory payment from each
 1-44 institutional health care provider located in the county to be
 1-45 deposited in a local provider participation fund established by the
 1-46 county. Money in the fund may be used by the county to fund certain
 1-47 intergovernmental transfers and indigent care programs as provided
 1-48 by this chapter.

1-49 (b) The commissioners court of a county may adopt an order
 1-50 authorizing the county to participate in the program, subject to
 1-51 the limitations provided by this chapter.

1-52 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-53 Sec. 293C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
 1-54 PAYMENT. The commissioners court of a county may require a
 1-55 mandatory payment authorized under this chapter by an institutional
 1-56 health care provider in the county only in the manner provided by
 1-57 this chapter.

1-58 Sec. 293C.052. MAJORITY VOTE REQUIRED. The commissioners
 1-59 court of a county may not authorize the county to collect a
 1-60 mandatory payment authorized under this chapter without an
 1-61 affirmative vote of a majority of the members of the commissioners

2-1 court.

2-2 Sec. 293C.053. RULES AND PROCEDURES. After the
 2-3 commissioners court of a county has voted to require a mandatory
 2-4 payment authorized under this chapter, the commissioners court may
 2-5 adopt rules relating to the administration of the mandatory
 2-6 payment.

2-7 Sec. 293C.054. INSTITUTIONAL HEALTH CARE PROVIDER
 2-8 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
 2-9 county that collects a mandatory payment authorized under this
 2-10 chapter shall require each institutional health care provider
 2-11 located in the county to submit to the county a copy of any
 2-12 financial and utilization data required by and reported to the
 2-13 Department of State Health Services under Sections 311.032 and
 2-14 311.033 and any rules adopted by the executive commissioner of the
 2-15 Health and Human Services Commission to implement those sections.

2-16 (b) The commissioners court of a county that collects a
 2-17 mandatory payment authorized under this chapter may inspect the
 2-18 records of an institutional health care provider to the extent
 2-19 necessary to ensure compliance with the requirements of Subsection
 2-20 (a).

2-21 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-22 Sec. 293C.101. HEARING. (a) Each year, the commissioners
 2-23 court of a county that collects a mandatory payment authorized
 2-24 under this chapter shall hold a public hearing on the amounts of any
 2-25 mandatory payments that the commissioners court intends to require
 2-26 during the year.

2-27 (b) Not later than the fifth day before the date of the
 2-28 hearing required under Subsection (a), the commissioners court of
 2-29 the county shall publish notice of the hearing in a newspaper of
 2-30 general circulation in the county.

2-31 (c) A representative of a paying hospital is entitled to
 2-32 appear at the public hearing and be heard regarding any matter
 2-33 related to the mandatory payments authorized under this chapter.

2-34 Sec. 293C.102. DEPOSITORY. (a) The commissioners court of
 2-35 each county that collects a mandatory payment authorized under this
 2-36 chapter by resolution shall designate one or more banks located in
 2-37 the county as the depository for mandatory payments received by the
 2-38 county.

2-39 (b) All income received by a county under this chapter,
 2-40 including the revenue from mandatory payments remaining after
 2-41 discounts and fees for assessing and collecting the payments are
 2-42 deducted, shall be deposited with the county depository in the
 2-43 county's local provider participation fund and may be withdrawn
 2-44 only as provided by this chapter.

2-45 (c) All funds under this chapter shall be secured in the
 2-46 manner provided for securing county funds.

2-47 Sec. 293C.103. LOCAL PROVIDER PARTICIPATION FUND;
 2-48 AUTHORIZED USES OF MONEY. (a) Each county that collects a
 2-49 mandatory payment authorized under this chapter shall create a
 2-50 local provider participation fund.

2-51 (b) The local provider participation fund of a county
 2-52 consists of:

2-53 (1) all revenue received by the county attributable to
 2-54 mandatory payments authorized under this chapter, including any
 2-55 penalties and interest attributable to delinquent payments;

2-56 (2) money received from the Health and Human Services
 2-57 Commission as a refund of an intergovernmental transfer from the
 2-58 county to the state for the purpose of providing the nonfederal
 2-59 share of Medicaid supplemental payment program payments, provided
 2-60 that the intergovernmental transfer does not receive a federal
 2-61 matching payment; and

2-62 (3) the earnings of the fund.

2-63 (c) Money deposited to the local provider participation
 2-64 fund may be used only to:

2-65 (1) fund intergovernmental transfers from the county
 2-66 to the state to provide:

2-67 (A) the nonfederal share of a Medicaid
 2-68 supplemental payment program authorized under the state Medicaid
 2-69 plan, the Texas Healthcare Transformation and Quality Improvement

3-1 Program waiver issued under Section 1115 of the federal Social
 3-2 Security Act (42 U.S.C. Section 1315), or a successor waiver
 3-3 program authorizing similar Medicaid supplemental payment
 3-4 programs; or

3-5 (B) payments to Medicaid managed care
 3-6 organizations that are dedicated for payment to hospitals;

3-7 (2) subsidize indigent programs;

3-8 (3) pay the administrative expenses of the county
 3-9 solely for activities under this chapter;

3-10 (4) refund a portion of a mandatory payment collected
 3-11 in error from a paying hospital; and

3-12 (5) refund to paying hospitals the proportionate share
 3-13 of money received by the county that is not used to fund the
 3-14 nonfederal share of Medicaid supplemental payment program
 3-15 payments.

3-16 (d) Money in the local provider participation fund may not
 3-17 be commingled with other county funds.

3-18 (e) An intergovernmental transfer of funds described by
 3-19 Subsection (c)(1) and any funds received by the county as a result
 3-20 of an intergovernmental transfer described by that subsection may
 3-21 not be used by the county or any other entity to expand Medicaid
 3-22 eligibility under the Patient Protection and Affordable Care Act
 3-23 (Pub. L. No. 111-148) as amended by the Health Care and Education
 3-24 Reconciliation Act of 2010 (Pub. L. No. 111-152).

3-25 SUBCHAPTER D. MANDATORY PAYMENTS

3-26 Sec. 293C.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
 3-27 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
 3-28 commissioners court of a county that collects a mandatory payment
 3-29 authorized under this chapter may require an annual mandatory
 3-30 payment to be assessed on the net patient revenue of each
 3-31 institutional health care provider located in the county. The
 3-32 commissioners court may provide for the mandatory payment to be
 3-33 assessed quarterly. In the first year in which the mandatory
 3-34 payment is required, the mandatory payment is assessed on the net
 3-35 patient revenue of an institutional health care provider as
 3-36 determined by the data reported to the Department of State Health
 3-37 Services under Sections 311.032 and 311.033 in the fiscal year
 3-38 ending in 2017 or, if the institutional health care provider did not
 3-39 report any data under those sections in that fiscal year, as
 3-40 determined by the institutional health care provider's Medicare
 3-41 cost report submitted for the 2017 fiscal year or for the closest
 3-42 subsequent fiscal year for which the provider submitted the
 3-43 Medicare cost report. The county shall update the amount of the
 3-44 mandatory payment on an annual basis.

3-45 (b) The amount of a mandatory payment authorized under this
 3-46 chapter must be uniformly proportionate with the amount of net
 3-47 patient revenue generated by each paying hospital in the county. A
 3-48 mandatory payment authorized under this chapter may not hold
 3-49 harmless any institutional health care provider, as required under
 3-50 42 U.S.C. Section 1396b(w).

3-51 (c) The commissioners court of a county that collects a
 3-52 mandatory payment authorized under this chapter shall set the
 3-53 amount of the mandatory payment. The amount of the mandatory
 3-54 payment required of each paying hospital may not exceed six percent
 3-55 of the hospital's net patient revenue.

3-56 (d) Subject to the maximum amount prescribed by Subsection
 3-57 (c), the commissioners court of a county that collects a mandatory
 3-58 payment authorized under this chapter shall set the mandatory
 3-59 payments in amounts that in the aggregate will generate sufficient
 3-60 revenue to cover the administrative expenses of the county for
 3-61 activities under this chapter, to fund an intergovernmental
 3-62 transfer described by Section 293C.103(c)(1), and to pay for
 3-63 indigent programs, except that the amount of revenue from mandatory
 3-64 payments used for administrative expenses of the county for
 3-65 activities under this chapter in a year may not exceed the lesser of
 3-66 four percent of the total revenue generated from the mandatory
 3-67 payment or \$20,000.

3-68 (e) A paying hospital may not add a mandatory payment
 3-69 required under this section as a surcharge to a patient.

4-1 Sec. 293C.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-2 PAYMENTS. The county may collect or contract for the assessment and
4-3 collection of mandatory payments authorized under this chapter.

4-4 Sec. 293C.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-5 Interest, penalties, and discounts on mandatory payments required
4-6 under this chapter are governed by the law applicable to county ad
4-7 valorem taxes.

4-8 Sec. 293C.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-9 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-10 by collecting from institutional health care providers a mandatory
4-11 payment to be used to provide an intergovernmental transfer
4-12 described by Section 293C.103(c)(1).

4-13 (b) To the extent any provision or procedure under this
4-14 chapter causes a mandatory payment authorized under this chapter to
4-15 be ineligible for federal matching funds, the county may provide by
4-16 rule for an alternative provision or procedure that conforms to the
4-17 requirements of the federal Centers for Medicare and Medicaid
4-18 Services.

4-19 SECTION 2. If before implementing any provision of this Act
4-20 a state agency determines that a waiver or authorization from a
4-21 federal agency is necessary for implementation of that provision,
4-22 the agency affected by the provision shall request the waiver or
4-23 authorization and may delay implementing that provision until the
4-24 waiver or authorization is granted.

4-25 SECTION 3. This Act takes effect immediately if it receives
4-26 a vote of two-thirds of all the members elected to each house, as
4-27 provided by Section 39, Article III, Texas Constitution. If this
4-28 Act does not receive the vote necessary for immediate effect, this
4-29 Act takes effect September 1, 2019.

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