

By: Coleman, Raymond, Muñoz, Jr., Walle,
Zerwas

H.B. No. 4289

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of certain local governments to create
3 and operate health care provider participation programs.

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

5 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
6 amended by adding Chapter 300 to read as follows:

7 CHAPTER 300. HEALTH CARE PROVIDER PARTICIPATION PROGRAMS IN CERTAIN
8 POLITICAL SUBDIVISIONS IN THIS STATE

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 300.0001. PURPOSE. The purpose of this chapter is to
11 authorize a hospital district, county, or municipality in this
12 state to administer a health care provider participation program to
13 provide additional compensation to certain hospitals located in the
14 hospital district, county, or municipality by collecting mandatory
15 payments from each of those hospitals to be used to provide the
16 nonfederal share of a Medicaid supplemental payment program and for
17 other purposes as authorized under this chapter.

18 Sec. 300.0002. DEFINITIONS. In this chapter:

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

21 (2) "Local government" means a hospital district,
22 county, or municipality to which this chapter applies.

23 (3) "Paying hospital" means an institutional health
24 care provider required to make a mandatory payment under this

1 chapter.

2 (4) "Program" means a health care provider
3 participation program authorized by this chapter.

4 Sec. 300.0003. APPLICABILITY. This chapter applies only
5 to:

6 (1) a hospital district that is not participating in a
7 health care provider participation program authorized by another
8 chapter of this subtitle; and

9 (2) a county or municipality that:

10 (A) is not participating in a health care
11 provider participation program authorized by another chapter of
12 this subtitle; and

13 (B) is not served by a hospital district or a
14 public hospital.

15 Sec. 300.0004. LOCAL JURISDICTION HEALTH CARE PROVIDER
16 PARTICIPATION PROGRAM; ORDER REQUIRED FOR PARTICIPATION. The
17 governing body of a local government may only adopt an order or
18 ordinance authorizing that local government to participate in a
19 health care provider participation program after an affirmative
20 vote of the majority of the governing body.

21 SUBCHAPTER B. POWERS AND DUTIES OF GOVERNING BODY

22 Sec. 300.0051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
23 PAYMENT. The governing body of a local government may require a
24 mandatory payment authorized under this chapter by an institutional
25 health care provider located in that hospital district, county, or
26 municipality, as applicable, only in the manner provided by this
27 chapter.

1 Sec. 300.0052. RULES AND PROCEDURES. The governing body of
2 a local government may adopt rules relating to the administration
3 of the health care provider participation program in the local
4 government, including collection of the mandatory payments,
5 expenditures, audits, and any other administrative aspects of the
6 program.

7 Sec. 300.0053. INSTITUTIONAL HEALTH CARE PROVIDER
8 REPORTING. If the governing body of a local government authorizes
9 the local government to participate in a health care provider
10 participation program under this chapter, the governing body shall
11 require each institutional health care provider to submit to the
12 local government a copy of any financial and utilization data
13 required by and reported to the Department of State Health Services
14 under Sections 311.032 and 311.033 and any rules adopted by the
15 executive commissioner of the Health and Human Services Commission
16 to implement those sections.

17 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

18 Sec. 300.0101. HEARING. (a) In each year that the
19 governing body of a local government authorizes a health care
20 provider participation program under this chapter, the governing
21 body shall hold a public hearing on the amounts of any mandatory
22 payments that the governing body intends to require during the year
23 and how the revenue derived from those payments is to be spent.

24 (b) Not later than the fifth day before the date of the
25 hearing required under Subsection (a), the governing body shall
26 publish notice of the hearing in a newspaper of general circulation
27 in the hospital district, county, or municipality, as applicable,

1 and provide written notice of the hearing to the chief operating
2 officer of each institutional health care provider located in the
3 hospital district, county, or municipality, as applicable.

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

8 Sec. 300.0102. LOCAL PROVIDER PARTICIPATION FUND;
9 DEPOSITORY. (a) Each governing body of a local government that
10 collects a mandatory payment authorized under this chapter shall
11 create a local provider participation fund.

12 (b) If a governing body of a local government creates a
13 local provider participation fund, the governing body shall
14 designate one or more banks as a depository for the mandatory
15 payments received by the local government.

16 (c) The governing body of a local government may withdraw or
17 use money in the local provider participation fund of the local
18 government only for a purpose authorized under this chapter.

19 (d) All funds collected under this chapter shall be secured
20 in the manner provided for securing other funds of the local
21 government.

22 Sec. 300.0103. LOCAL PROVIDER PARTICIPATION FUND;
23 AUTHORIZED USES OF MONEY. (a) The local provider participation
24 fund established by a local government under Section 300.0102
25 consists of:

26 (1) all revenue received by the local government
27 attributable to mandatory payments authorized under this chapter;

1 (2) money received from the Health and Human Services
2 Commission as a refund of an intergovernmental transfer from the
3 local government to the state for the purpose of providing the
4 nonfederal share of Medicaid supplemental payment program
5 payments, provided that the intergovernmental transfer does not
6 receive a federal matching payment; and

7 (3) the earnings of the fund.

8 (b) Money deposited to the local provider participation
9 fund of a local government may be used only to:

10 (1) fund intergovernmental transfers from the local
11 government to the state to provide the nonfederal share of Medicaid
12 payments for:

13 (A) uncompensated care payments to nonpublic
14 hospitals, if those payments are authorized under the Texas
15 Healthcare Transformation and Quality Improvement Program waiver
16 issued under Section 1115 of the federal Social Security Act (42
17 U.S.C. Section 1315);

18 (B) uniform rate enhancements for nonpublic
19 hospitals in the Medicaid managed care service area in which the
20 local government is located;

21 (C) payments available under another waiver
22 program authorizing payments that are substantially similar to
23 Medicaid payments to nonpublic hospitals described by Paragraph (A)
24 or (B); or

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

27 (2) subject to Section 300.0151(d), pay the

1 administrative expenses of the local government in administering
2 the program, including collateralization of deposits;

3 (3) refund all or a portion of a mandatory payment
4 collected in error from a paying hospital;

5 (4) refund to paying hospitals a proportionate share
6 of the money that the local government:

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

10 (B) determines cannot be used to fund the
11 nonfederal share of Medicaid supplemental payment program
12 payments;

13 (5) transfer funds to the Health and Human Services
14 Commission if the local government is required by law to transfer
15 the funds to address a disallowance of federal matching funds with
16 respect to payments, rate enhancements, and reimbursements for
17 which the local government made intergovernmental transfers
18 described by Subdivision (1); and

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

25 (c) Money in the local provider participation fund of a
26 local government may not be commingled with other funds of the local
27 government.

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

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

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

15 SUBCHAPTER D. MANDATORY PAYMENTS

16 Sec. 300.0151. MANDATORY PAYMENTS. (a) Except as provided
17 by Subsection (e), if the governing body of a local government
18 authorizes a health care provider participation program under this
19 chapter, the governing body shall require an annual mandatory
20 payment to be assessed on the net patient revenue of each
21 institutional health care provider located in the hospital
22 district, county, or municipality, as applicable. The governing
23 body of the local government shall provide that the mandatory
24 payment is to be assessed at least annually, but not more often than
25 quarterly. In the first year in which the mandatory payment is
26 required, the mandatory payment is assessed on the net patient
27 revenue of an institutional health care provider located in the

1 hospital district, county, or municipality, as applicable, as
2 determined by the data reported to the Department of State Health
3 Services under Sections 311.032 and 311.033 in the most recent
4 fiscal year for which that data was reported. If the institutional
5 health care provider did not report any data under those sections,
6 the provider's net patient revenue is the amount of that revenue as
7 contained in the provider's Medicare cost report submitted for the
8 previous fiscal year or for the closest subsequent fiscal year for
9 which the provider submitted the Medicare cost report. The local
10 government shall update the amount of the mandatory payment on an
11 annual basis.

12 (b) The amount of a mandatory payment authorized under this
13 chapter for a local government must be uniformly proportionate with
14 the amount of net patient revenue generated by each paying hospital
15 in the hospital district, county, or municipality, as applicable,
16 as permitted under federal law. A health care provider
17 participation program authorized under this chapter may not hold
18 harmless any institutional health care provider, as required under
19 42 U.S.C. Section 1396b(w).

20 (c) The governing body of a local government that authorizes
21 a program under this chapter shall set the amount of the mandatory
22 payment. The aggregate amount of the mandatory payments required
23 of all paying hospitals in the hospital district, county, or
24 municipality, as applicable, may not exceed six percent of the
25 aggregate net patient revenue from hospital services provided by
26 all paying hospitals in the hospital district, county, or
27 municipality, as applicable.

1 (d) Subject to Subsection (c), the governing body of a local
2 government shall set the mandatory payments in amounts that in the
3 aggregate will generate sufficient revenue to cover the
4 administrative expenses of the local government for activities
5 under this chapter and to fund an intergovernmental transfer
6 described by Section 300.0103(b)(1). The annual amount of revenue
7 from mandatory payments that shall be paid for administrative
8 expenses for activities under this chapter by the local government
9 may not exceed \$150,000, plus the cost of collateralization of
10 deposits, regardless of actual expenses.

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

13 (f) A mandatory payment required by the governing body of a
14 hospital district under this chapter is not a tax for purposes of
15 the applicable provision of Article IX, Texas Constitution.

16 Sec. 300.0152. ASSESSMENT AND COLLECTION OF MANDATORY
17 PAYMENTS. (a) A hospital district may designate an official of the
18 district or contract with another person to assess and collect the
19 mandatory payments authorized under this chapter.

20 (b) A county or municipality may collect or, using a
21 competitive bidding process, contract for the assessment and
22 collection of mandatory payments authorized under this chapter.

23 (c) The person charged by the local government with the
24 assessment and collection of mandatory payments shall charge and
25 deduct from the mandatory payments collected for the local
26 government a collection fee in an amount not to exceed the person's
27 usual and customary charges for like services.

1 (d) If the person charged with the assessment and collection
2 of mandatory payments is an official of the local government, any
3 revenue from a collection fee charged under Subsection (c) shall be
4 deposited in the local government general fund and, if appropriate,
5 shall be reported as fees of the local government.

6 Sec. 300.0153. CORRECTION OF INVALID PROVISION OR
7 PROCEDURE. (a) This chapter does not authorize a local government
8 to collect mandatory payments for the purpose of raising general
9 revenue or any amount in excess of the amount reasonably necessary
10 to fund the nonfederal share of a Medicaid supplemental payment
11 program or Medicaid managed care rate enhancements for nonpublic
12 hospitals and to cover the administrative expenses of the local
13 government associated with activities under this chapter and other
14 uses of the fund described by Section 300.0103(b).

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 local government may
18 provide by rule for an alternative provision or procedure that
19 conforms to the requirements of the federal Centers for Medicare
20 and Medicaid Services. A rule adopted under this section may not
21 create, impose, or materially expand the legal or financial
22 liability or responsibility of the local government or an
23 institutional health care provider in the local hospital district,
24 county, or municipality, as applicable, beyond the provisions of
25 this chapter. This section does not require the governing body of a
26 local government to adopt a rule.

27 (c) The local government may only assess and collect a

1 mandatory payment authorized under this chapter if a waiver
2 program, uniform rate enhancement, or reimbursement described by
3 Section 300.0103(b)(1) is available to the local government.

4 Sec. 300.0154. REPORTING REQUIREMENTS. (a) The governing
5 body of each local government that authorizes a program under this
6 chapter shall report information to the Health and Human Services
7 Commission regarding the program on a schedule determined by the
8 commission.

9 (b) The information must include:

10 (1) the amount of the mandatory payments required and
11 collected in each year the program is authorized;

12 (2) any expenditure of money attributable to mandatory
13 payments collected under this chapter, including:

14 (A) any contract with an entity for the
15 administration or operation of a program authorized by this
16 chapter; or

17 (B) a contract with a person for the assessment
18 and collection of a mandatory payment as authorized under Section
19 300.0152; and

20 (3) the amount of money attributable to mandatory
21 payments collected under this chapter that is used for any other
22 purpose.

23 (c) The executive commissioner of the Health and Human
24 Services Commission shall adopt rules to administer this section.

25 Sec. 300.0155. EXPIRATION OF AUTHORITY. The authority of a
26 local government to administer and operate a program under this
27 chapter expires on September 1 following the second anniversary of

1 the date the governing body of the local government adopted the
2 order or ordinance authorizing the local government to participate
3 in the program as provided by Section 300.0004.

4 Sec. 300.0156. AUTHORITY TO REFUSE FOR VIOLATION. The
5 Health and Human Services Commission may refuse to accept money
6 from a local provider participation fund established under this
7 chapter if the commission determines that doing so may violate
8 federal law.

9 SECTION 2. Subtitle D, Title 4, Health and Safety Code, is
10 amended by adding Chapter 300A to read as follows:

11 CHAPTER 300A. HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
12 DISTRICTS COMPOSED OF CERTAIN LOCAL GOVERNMENTS

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 300A.0001. PURPOSE. The purpose of this chapter is to
15 authorize certain local governments to create a district to
16 administer a health care provider participation program to provide
17 additional compensation to certain hospitals in the district by
18 collecting mandatory payments from each of those hospitals in the
19 district to be used to provide the nonfederal share of a Medicaid
20 supplemental payment program and for other purposes as authorized
21 under this chapter.

22 Sec. 300A.0002. DEFINITIONS. In this chapter:

23 (1) "Board" means the board of directors of a
24 district.

25 (2) "Director" means a member of the board.

26 (3) "District" means a health care provider
27 participation district created under this chapter.

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

3 (5) "Local government" means a hospital district,
4 county, or municipality to which this chapter applies.

5 (6) "Paying hospital" means an institutional health
6 care provider required to make a mandatory payment under this
7 chapter.

8 (7) "Program" means a health care provider
9 participation program authorized by this chapter.

10 Sec. 300A.0003. APPLICABILITY. This chapter applies only
11 to:

12 (1) a hospital district that:

13 (A) is not participating in a health care
14 provider participation program authorized by another chapter of
15 this subtitle; and

16 (B) has only one institutional health care
17 provider located in the district; and

18 (2) a county or municipality that:

19 (A) is not participating in a health care
20 provider participation program authorized by another chapter of
21 this subtitle;

22 (B) is not served by a hospital district or a
23 public hospital; and

24 (C) has only one institutional health care
25 provider located in the county or municipality.

26 SUBCHAPTER B. CREATION, OPERATION, AND DISSOLUTION OF DISTRICT

27 Sec. 300A.0021. CREATION BY CONCURRENT ORDERS. (a) A local

1 government and one or more other local governments may create a
2 district by adopting concurrent orders.

3 (b) A concurrent order to create a district must:

4 (1) be approved by the governing body of each creating
5 local government;

6 (2) contain identical provisions; and

7 (3) define the boundaries of the district to be
8 coextensive with the combined boundaries of each creating local
9 government.

10 Sec. 300A.0022. POWERS. A district may authorize and
11 administer a health care provider participation program in
12 accordance with this chapter.

13 Sec. 300A.0023. BOARD OF DIRECTORS. (a) If three or more
14 local governments create a district, the presiding officer of the
15 governing body of each local government that creates the district
16 shall appoint one director.

17 (b) If two local governments create a district:

18 (1) the presiding officer of the governing body of the
19 most populous local government shall appoint two directors; and

20 (2) the presiding officer of the governing body of the
21 other local government shall appoint one director.

22 (c) Directors serve staggered two-year terms, with as near
23 as possible to one-half of the directors' terms expiring each year.

24 (d) A vacancy in the office of director shall be filled for
25 the unexpired term in the same manner as the original appointment.

26 (e) The board shall elect from among its members a
27 president. The president may vote and may cast an additional vote

1 to break a tie.

2 (f) The board shall also elect from among its members a vice
3 president.

4 (g) The board shall appoint a secretary, who need not be a
5 director.

6 (h) Each officer of the board serves for a term of one year.

7 (i) The board shall fill a vacancy in a board office for the
8 unexpired term.

9 (j) A majority of the members of the board voting must
10 concur in a matter relating to the business of the district.

11 Sec. 300A.0024. QUALIFICATIONS FOR OFFICE. (a) To be
12 eligible to serve as a director, a person must be a resident of the
13 local government that appoints the person under Section 300A.0023.

14 (b) An employee of the district may not serve as a director.

15 Sec. 300A.0025. COMPENSATION. (a) Directors and officers
16 serve without compensation but may be reimbursed for actual
17 expenses incurred in the performance of official duties.

18 (b) Expenses reimbursed under this section must be:

19 (1) reported in the district's minute book or other
20 district records; and

21 (2) approved by the board.

22 Sec. 300A.0026. AUTHORITY TO SUE AND BE SUED. The board may
23 sue and be sued on behalf of the district.

24 Sec. 300A.0027. DISTRICT FINANCES. Subchapter F, Chapter
25 287, other than Sections 287.129 and 287.130, applies to the
26 district in the same manner that those provisions apply to a health
27 services district created under Chapter 287. This section does not

1 authorize the district to issue bonds.

2 Sec. 300A.0028. DISSOLUTION. A district shall be dissolved
3 if the local governments that created the district adopt concurrent
4 orders to dissolve the district and the concurrent orders contain
5 identical provisions.

6 Sec. 300A.0029. ADMINISTRATION OF PROPERTY, DEBTS, AND
7 ASSETS AFTER DISSOLUTION. (a) After dissolution of a district
8 under Section 300A.0028, the board shall continue to control and
9 administer any property, debts, and assets of the district until
10 all funds have been disposed of and all district debts have been
11 paid or settled.

12 (b) As soon as practicable after the dissolution of the
13 district, the board shall transfer to each institutional health
14 care provider in the district the provider's proportionate share of
15 any remaining funds in any local provider participation fund
16 created by the district under Section 300A.0102.

17 (c) If, after administering any property and assets, the
18 board determines that the district's property and assets are
19 insufficient to pay the debts of the district, the district shall
20 transfer the remaining debts to the local governments that created
21 the district in proportion to the funds contributed to the district
22 by each local government, including a paying hospital in the local
23 government.

24 (d) If, after complying with Subsections (b) and (c) and
25 administering the property and assets, the board determines that
26 unused funds remain, the board shall transfer the unused funds to
27 the local governments that created the district in proportion to

1 the funds contributed to the district by each local government,
2 including a paying hospital in the local government.

3 Sec. 300A.0030. ACCOUNTING AFTER DISSOLUTION. After the
4 district has paid all its debts and has disposed of all its assets
5 and funds as prescribed by Section 300A.0029, the board shall
6 provide an accounting to each local government that created the
7 district. The accounting must show the manner in which the assets
8 and debts of the district were distributed.

9 SUBCHAPTER C. HEALTH CARE PROVIDER PARTICIPATION PROGRAM; POWERS
10 AND DUTIES OF DISTRICT BOARD

11 Sec. 300A.0051. HEALTH CARE PROVIDER PARTICIPATION
12 PROGRAM. The board of a district may authorize the district to
13 participate in a health care provider participation program on the
14 affirmative vote of a majority of the board, subject to the
15 provisions of this chapter.

16 Sec. 300A.0052. LIMITATION ON AUTHORITY TO REQUIRE
17 MANDATORY PAYMENT. The board may require a mandatory payment
18 authorized under this chapter by an institutional health care
19 provider in the district only in the manner provided by this
20 chapter.

21 Sec. 300A.0053. RULES AND PROCEDURES. The board may adopt
22 rules relating to the administration of the health care provider
23 participation program in the district, including collection of the
24 mandatory payments, expenditures, audits, and any other
25 administrative aspects of the program.

26 Sec. 300A.0054. INSTITUTIONAL HEALTH CARE PROVIDER
27 REPORTING. If the board authorizes the district to participate in a

1 health care provider participation program under this chapter, the
2 board shall require each institutional health care provider located
3 in the district to submit to the district a copy of any financial
4 and utilization data required by and reported to the Department of
5 State Health Services under Sections 311.032 and 311.033 and any
6 rules adopted by the executive commissioner of the Health and Human
7 Services Commission to implement those sections.

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. 300A.0101. HEARING. (a) In each year that the board
10 authorizes a health care provider participation program under this
11 chapter, the board shall hold a public hearing on the amounts of any
12 mandatory payments that the board intends to require during the
13 year and how the revenue derived from those payments is to be spent.

14 (b) Not later than the fifth day before the date of the
15 hearing required under Subsection (a), the board shall publish
16 notice of the hearing in a newspaper of general circulation in each
17 local government that creates the district and provide written
18 notice of the hearing to the chief operating officer of each
19 institutional health care provider in the district.

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

24 Sec. 300A.0102. LOCAL PROVIDER PARTICIPATION FUND;
25 DEPOSITORY. (a) If the board collects a mandatory payment
26 authorized under this chapter, the board shall create a local
27 provider participation fund in one or more banks designated by the

1 district as a depository for the mandatory payments received by the
2 district.

3 (b) The board may withdraw or use money in the local
4 provider participation fund of the district only for a purpose
5 authorized under this chapter.

6 (c) All funds collected under this chapter shall be secured
7 in the manner provided for securing public funds.

8 Sec. 300A.0103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

9 (a) The local provider participation fund established under
10 Section 300A.0102 consists of:

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

13 (2) money received from the Health and Human Services
14 Commission as a refund of an intergovernmental transfer from the
15 district to the state for the purpose of providing the nonfederal
16 share of Medicaid supplemental payment program payments, provided
17 that the intergovernmental transfer does not receive a federal
18 matching payment; and

19 (3) the earnings of the fund.

20 (b) Money deposited to the local provider participation
21 fund may be used only to:

22 (1) fund intergovernmental transfers from the
23 district to the state to provide the nonfederal share of Medicaid
24 payments for:

25 (A) uncompensated care payments to nonpublic
26 hospitals, if those payments are authorized under the Texas
27 Healthcare Transformation and Quality Improvement Program waiver

1 issued under Section 1115 of the federal Social Security Act (42
2 U.S.C. Section 1315);

3 (B) uniform rate enhancements for nonpublic
4 hospitals in the Medicaid managed care service area in which the
5 district is located;

6 (C) payments available under another waiver
7 program authorizing payments that are substantially similar to
8 Medicaid payments to nonpublic hospitals described by Paragraph (A)
9 or (B); or

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

12 (2) subject to Section 300A.0151(d), pay the
13 administrative expenses of the district in administering the
14 program, including collateralization of deposits;

15 (3) refund all or a portion of a mandatory payment
16 collected in error from a paying hospital;

17 (4) refund to paying hospitals a proportionate share
18 of the money that the district:

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

22 (B) determines cannot be used to fund the
23 nonfederal share of Medicaid supplemental payment program
24 payments;

25 (5) transfer funds to the Health and Human Services
26 Commission if the district is required by law to transfer the funds
27 to address a disallowance of federal matching funds with respect to

1 payments, rate enhancements, and reimbursements for which the
2 district made intergovernmental transfers described by Subdivision
3 (1); and

4 (6) reimburse the district if the district is required
5 by the rules governing the uniform rate enhancement program
6 described by Subdivision (1)(B) to incur an expense or forego
7 Medicaid reimbursements from the state because the balance of the
8 local provider participation fund is not sufficient to fund that
9 rate enhancement program.

10 (c) Money in the local provider participation fund may not
11 be commingled with other district funds or other funds of a local
12 government that creates the district.

13 (d) Notwithstanding any other provision of this chapter,
14 with respect to an intergovernmental transfer of funds described by
15 Subsection (b)(1) made by the district, any funds received by the
16 state, district, or other entity as a result of the transfer may not
17 be used by the state, district, or any other entity to:

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

22 (2) fund the nonfederal share of payments to nonpublic
23 hospitals available through the Medicaid disproportionate share
24 hospital program or the delivery system reform incentive payment
25 program.

26 Sec. 300A.0104. ACCOUNTING OF FUNDS. The district shall
27 maintain an accounting of the funds received from each local

1 government that creates the district, including a paying hospital
2 located in a hospital district, county, or municipality that
3 created the district, as applicable.

4 SUBCHAPTER E. MANDATORY PAYMENTS

5 Sec. 300A.0151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
6 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if
7 the board authorizes a health care provider participation program
8 under this chapter, the district shall require an annual mandatory
9 payment to be assessed on the net patient revenue of each
10 institutional health care provider located in the district. The
11 board shall provide that the mandatory payment is to be assessed at
12 least annually, but not more often than quarterly. In the first
13 year in which the mandatory payment is required, the mandatory
14 payment is assessed on the net patient revenue of an institutional
15 health care provider located in the district as determined by the
16 data reported to the Department of State Health Services under
17 Sections 311.032 and 311.033 in the most recent fiscal year for
18 which that data was reported. If the institutional health care
19 provider did not report any data under those sections, the
20 provider's net patient revenue is the amount of that revenue as
21 contained in the provider's Medicare cost report submitted for the
22 previous fiscal year or for the closest subsequent fiscal year for
23 which the provider submitted the Medicare cost report. The
24 district shall update the amount of the mandatory payment on an
25 annual basis.

26 (b) The amount of a mandatory payment authorized under this
27 chapter must be uniformly proportionate with the amount of net

1 patient revenue generated by each paying hospital in the district
2 as permitted under federal law. A health care provider
3 participation program authorized under this chapter may not hold
4 harmless any institutional health care provider, as required under
5 42 U.S.C. Section 1396b(w).

6 (c) The board shall set the amount of a mandatory payment
7 authorized under this chapter. The aggregate amount of the
8 mandatory payments required of all paying hospitals in the district
9 may not exceed six percent of the aggregate net patient revenue from
10 hospital services provided by all paying hospitals in the district.

11 (d) Subject to Subsection (c), the board shall set the
12 mandatory payments in amounts that in the aggregate will generate
13 sufficient revenue to cover the administrative expenses of the
14 district for activities under this chapter and to fund an
15 intergovernmental transfer described by Section 300A.0103(b)(1).
16 The annual amount of revenue from mandatory payments that shall be
17 paid for administrative expenses by the district for activities
18 under this chapter may not exceed \$150,000, plus the cost of
19 collateralization of deposits, regardless of actual expenses.

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

22 (f) For purposes of any hospital district that creates a
23 district under this chapter, a mandatory payment assessed under
24 this chapter is not a tax for hospital purposes for purposes of the
25 applicable provision of Article IX, Texas Constitution.

26 Sec. 300A.0152. ASSESSMENT AND COLLECTION OF MANDATORY
27 PAYMENTS. (a) The district may designate an official of the

1 district or contract with another person to assess and collect the
2 mandatory payments authorized under this chapter.

3 (b) The person charged by the district with the assessment
4 and collection of mandatory payments shall charge and deduct from
5 the mandatory payments collected for the district a collection fee
6 in an amount not to exceed the person's usual and customary charges
7 for like services.

8 (c) If the person charged with the assessment and collection
9 of mandatory payments is an official of the district, any revenue
10 from a collection fee charged under Subsection (b) shall be
11 deposited in the district general fund and, if appropriate, shall
12 be reported as fees of the district.

13 Sec. 300A.0153. CORRECTION OF INVALID PROVISION OR
14 PROCEDURE; LIMITATION OF AUTHORITY. (a) This chapter does not
15 authorize the district to collect mandatory payments for the
16 purpose of raising general revenue or any amount in excess of the
17 amount reasonably necessary to:

18 (1) fund the nonfederal share of a Medicaid
19 supplemental payment program or Medicaid managed care rate
20 enhancements for nonpublic hospitals; and

21 (2) cover the administrative expenses of the district
22 associated with activities under this chapter and other uses of the
23 fund described by Section 300A.0103(b).

24 (b) To the extent any provision or procedure under this
25 chapter causes a mandatory payment authorized under this chapter to
26 be ineligible for federal matching funds, the board may provide by
27 rule for an alternative provision or procedure that conforms to the

1 requirements of the federal Centers for Medicare and Medicaid
2 Services. A rule adopted under this section may not create, impose,
3 or materially expand the legal or financial liability or
4 responsibility of the district or an institutional health care
5 provider in the district beyond the provisions of this chapter.
6 This section does not require the board to adopt a rule.

7 (c) The district may only assess and collect a mandatory
8 payment authorized under this chapter if a waiver program, uniform
9 rate enhancement, or reimbursement described by Section
10 300A.0103(b)(1) is available to the district.

11 Sec. 300A.0154. REPORTING REQUIREMENTS. (a) The board of a
12 district that authorizes a program under this chapter shall report
13 information to the Health and Human Services Commission regarding
14 the program on a schedule determined by the commission.

15 (b) The information must include:

16 (1) the amount of the mandatory payments required and
17 collected in each year the program is authorized;

18 (2) any expenditure of money attributable to mandatory
19 payments collected under this chapter, including:

20 (A) any contract with an entity for the
21 administration or operation of a program authorized by this
22 chapter; or

23 (B) a contract with a person for the assessment
24 and collection of a mandatory payment as authorized under Section
25 300A.0152; and

26 (3) the amount of money attributable to mandatory
27 payments collected under this chapter that is used for any other

1 purpose.

2 (c) The executive commissioner of the Health and Human
3 Services Commission shall adopt rules to administer this section.

4 Sec. 300A.0155. EXPIRATION OF AUTHORITY. The authority of
5 a district to administer and operate a program under this chapter
6 expires on September 1 following the second anniversary of the date
7 the board of the district authorized the district to participate in
8 the program as provided by Section 300A.0051.

9 Sec. 300A.0156. AUTHORITY TO REFUSE FOR VIOLATION. The
10 Health and Human Services Commission may refuse to accept money
11 from a local provider participation fund established under this
12 chapter if the commission determines that doing so may violate
13 federal law.

14 SECTION 3. As soon as practicable after the expiration of
15 the authority of a local government to administer and operate a
16 health care provider participation program under Chapter 300 or
17 300A, Health and Safety Code, as added by this Act, the governing
18 body of the local government shall transfer to each institutional
19 health care provider in the boundaries of the local government that
20 provider's proportionate share of any remaining funds in any local
21 provider participation fund created by the local government under
22 Chapter 300 or 300A, Health and Safety Code, as added by this Act.

23 SECTION 4. If before implementing any provision of this Act
24 a state agency determines that a waiver or authorization from a
25 federal agency is necessary for implementation of that provision,
26 the agency affected by the provision shall request the waiver or
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2019.