

By: Burrows

H.B. No. 4648

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program by the Lubbock County Hospital District.

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 298C to read as follows:

CHAPTER 298C. LUBBOCK COUNTY HOSPITAL DISTRICT HEALTH CARE

PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298C.001. PURPOSE. The purpose of this chapter is to authorize the district to administer a health care provider participation program to provide additional compensation to nonpublic hospitals by collecting mandatory payments from each nonpublic hospital in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Sec. 298C.002. DEFINITIONS. In this chapter:

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

(2) "Commissioners court" means the Commissioners Court of Lubbock County.

(3) "County" means Lubbock County.

(4) "District" means the Lubbock County Hospital District of Lubbock County, Texas.

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

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

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

9           Sec. 298C.003. APPLICABILITY. This chapter applies only to  
10 the Lubbock County Hospital District of Lubbock County, Texas.

11           Sec. 298C.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;  
12 PARTICIPATION IN PROGRAM. The board 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                           SUBCHAPTER B. POWERS AND DUTIES

17           Sec. 298C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
18 PAYMENT. The board may authorize the collection of a mandatory  
19 payment authorized under this chapter from an institutional health  
20 care provider located in the district only in the manner provided by  
21 this chapter.

22           Sec. 298C.052. INSTITUTIONAL HEALTH CARE PROVIDER  
23 REPORTING. If the board authorizes the district to participate in a  
24 program under this chapter, the board shall require each  
25 institutional health care provider to submit to the district a copy  
26 of any financial and utilization data required by and reported to  
27 the Department of State Health Services under Sections [311.032](#) and

1 311.033 and any rules adopted by the executive commissioner of the  
2 Health and Human Services Commission to implement those sections.

3 Sec. 298C.053. PROGRAM ADMINISTRATION. (a) The board,  
4 subject to the approval of the commissioners court, shall delegate  
5 all administrative responsibilities of the program, including  
6 collection of mandatory payments, expenditures, and audits, to the  
7 county.

8 (b) The commissioners court may adopt rules relating to the  
9 administration of the program.

10 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

22 (c) Determination of the amount of any mandatory payments to  
23 be collected during the year shall be shown to be based on  
24 reasonable estimates of the amount of revenue necessary to meet and  
25 cover the nonfederal share of payments described by Section  
26 298C.103(b)(1) that is otherwise unfunded, and is subject to the  
27 final approval of the commissioners court.

1       Sec. 298C.102. LOCAL PROVIDER PARTICIPATION FUND;  
2 DEPOSITORY. (a) If the board authorizes the collection of a  
3 mandatory payment authorized under this chapter, and the  
4 commissioners court approves such collection, the commissioners  
5 court shall by resolution create a local provider participation  
6 fund in one or more banks located in the district that are  
7 designated by the commissioners court to serve as the depository  
8 for mandatory payments received by the county.

9       (b) All income received by the 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 collected under this chapter shall be secured  
16 in the manner provided by law for securing county funds.

17       Sec. 298C.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

18       (a) The local provider participation fund established under  
19 Section 298C.102 consists of:

20               (1) all mandatory payments authorized under this  
21 chapter and received by the county;

22               (2) money received from the Health and Human Services  
23 Commission as a refund of an intergovernmental transfer from the  
24 local provider participation fund to the state as the nonfederal  
25 share of Medicaid supplemental payment program payments, provided  
26 that the intergovernmental transfer does not receive a federal  
27 matching payment; and

1           (3) the earnings of the fund.

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

4           (1) fund intergovernmental transfers from the county  
5 to the state to provide the nonfederal share of:

6           (A) uncompensated care payments for nonpublic  
7 hospitals and delivery system reform incentive payments for  
8 nonpublic hospitals, if those payments are authorized under the  
9 Texas Healthcare Transformation and Quality Improvement Program  
10 waiver issued under Section 1115 of the federal Social Security Act  
11 (42 U.S.C. Section 1315);

12           (B) uniform rate enhancements for nonpublic  
13 hospitals in the Medicaid managed care service area in which the  
14 district is located;

15           (C) payments available to nonpublic hospitals  
16 under another waiver program authorizing payments that are  
17 substantially similar to Medicaid payments to nonpublic hospitals  
18 described by Paragraph (A) or (B); or

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

21           (2) subject to Section 298C.151(d), pay the  
22 administrative expenses of the county in administering the program,  
23 including collateralization of deposits;

24           (3) refund a portion of a mandatory payment collected  
25 in error from a paying hospital; and

26           (4) refund to paying hospitals a proportionate share  
27 of the money that the county:

1           (A) receives from the Health and Human Services  
2 Commission that is not used to fund the nonfederal share of payments  
3 described by Subdivision (1); or

4           (B) determines cannot be used to fund the  
5 nonfederal share of payments described by Subdivision (1).

6           (c) Money in the local provider participation fund may not  
7 be commingled with other county funds.

8           (d) An intergovernmental transfer of funds described by  
9 Subsection (b)(1) and any funds received by the county as a result  
10 of an intergovernmental transfer described by that subsection may  
11 not be used by the county or any other entity to expand Medicaid  
12 eligibility under the Patient Protection and Affordable Care Act  
13 (Pub. L. No. 111-148) as amended by the Health Care and Education  
14 Reconciliation Act of 2010 (Pub. L. No. 111-152).

15                           SUBCHAPTER D. MANDATORY PAYMENTS

16           Sec. 298C.151. MANDATORY PAYMENTS. (a) If the board  
17 authorizes a program under this chapter, the board, subject to the  
18 approval of the commissioners court, may require an annual  
19 mandatory payment to be assessed on the net patient revenue of each  
20 institutional health care provider located in the district. The  
21 commissioners court may provide that the mandatory payment is to be  
22 collected at least annually, but not more often than quarterly. In  
23 the first year in which the mandatory payment is required, the  
24 mandatory payment is assessed on the net patient revenue of an  
25 institutional health care provider as determined by the data  
26 reported to the Department of State Health Services under Sections  
27 311.032 and 311.033 in the most recent fiscal year for which that

1 data was reported. If the institutional health care provider did  
2 not report any data under those sections, the provider's net  
3 patient revenue is the amount of that revenue as contained in the  
4 provider's Medicare cost report submitted for the previous fiscal  
5 year or for the closest subsequent fiscal year for which the  
6 provider submitted the Medicare cost report.

7 (b) The amount of a mandatory payment authorized under this  
8 chapter must be a uniform percentage of the amount of net patient  
9 revenue generated by each paying hospital in the district. A  
10 mandatory payment authorized under this chapter may not hold  
11 harmless any institutional health care provider, as required under  
12 42 U.S.C. Section 1396b(w).

13 (c) The aggregate amount of the mandatory payments required  
14 of all paying hospitals in the district may not exceed six percent  
15 of the aggregate net patient revenue of all paying hospitals in the  
16 district.

17 (d) Subject to the maximum amount prescribed by Subsection  
18 (c), the board, with the approval of the commissioners court, shall  
19 set the mandatory payments in amounts that in the aggregate will  
20 generate sufficient revenue to cover the administrative expenses of  
21 the county for activities under this chapter, fund an  
22 intergovernmental transfer described by Section 298C.103(b)(1), or  
23 make other payments authorized under this chapter. The mandatory  
24 payment amounts must be set based on reasonable estimates of the  
25 amount of revenue necessary to fully meet and cover authorized  
26 expenses under this chapter. The amount of revenue from mandatory  
27 payments that may be used for administrative expenses by the county

1 in a year may not exceed \$25,000, plus the cost of collateralization  
2 of deposits. If the county demonstrates to the paying hospitals  
3 that the costs of administering the program under this chapter,  
4 excluding those costs associated with the collateralization of  
5 deposits, exceed \$25,000 in any year, on consent of a majority of  
6 all of the paying hospitals, the county may use additional revenue  
7 from mandatory payments received under this chapter to compensate  
8 the county for its administrative expenses. A paying hospital may  
9 not unreasonably withhold consent to compensate the county for  
10 administrative expenses.

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

13 (f) A mandatory payment under this chapter is not a tax for  
14 purposes of Section 4, Article IX, Texas Constitution, or Chapter  
15 1053, Special District Local Laws Code.

16 Sec. 298C.152. ASSESSMENT AND COLLECTION OF MANDATORY  
17 PAYMENTS. The county may collect or contract for the assessment and  
18 collection of mandatory payments authorized under this chapter.

19 Sec. 298C.153. CORRECTION OF INVALID PROVISION OR  
20 PROCEDURE. To the extent any provision or procedure under this  
21 chapter causes a mandatory payment authorized under this chapter to  
22 be ineligible for federal matching funds, the board may provide by  
23 rule for an alternative provision or procedure that conforms to the  
24 requirements of the federal Centers for Medicare and Medicaid  
25 Services. A rule adopted under this section may not create, impose,  
26 or materially expand the legal or financial liability or  
27 responsibility of the district or an institutional health care



1 provider in the district beyond the provisions of this chapter.

2 This section does not require the board to adopt a rule.

3         SECTION 2. If before implementing any provision of this Act  
4 a state agency determines that a waiver or authorization from a  
5 federal agency is necessary for implementation of that provision,  
6 the agency affected by the provision shall request the waiver or  
7 authorization and may delay implementing that provision until the  
8 waiver or authorization is granted.

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