

By: Zerwas

H.B. No. 4740

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of health care provider participation programs in certain counties bordering a populous county.

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 296B to read as follows:

CHAPTER 296B. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING A POPULOUS COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 296B.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. 296B.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital; and

(2) has a population of more than 550,000 and borders a county with a population of 3.3 million or more.

1       Sec. 296B.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
2 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
3 provider participation program authorizes a county to collect a  
4 mandatory payment from each institutional health care provider  
5 located in the county to be deposited in a local provider  
6 participation fund established by the county. Money in the fund may  
7 be used by the county to fund certain intergovernmental transfers  
8 and indigent care programs as provided by this chapter.

9       (b) The commissioners court may adopt an order authorizing a  
10 county to participate in the program, subject to the limitations  
11 provided by this chapter.

12       SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

13       Sec. 296B.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
14 PAYMENT. The commissioners court of a county may require a  
15 mandatory payment authorized under this chapter by an institutional  
16 health care provider in the county only in the manner provided by  
17 this chapter.

18       Sec. 296B.052. MAJORITY VOTE REQUIRED. The commissioners  
19 court of a county may not authorize the county to collect a  
20 mandatory payment authorized under this chapter without an  
21 affirmative vote of a majority of the members of the commissioners  
22 court.

23       Sec. 296B.053. RULES AND PROCEDURES. After the  
24 commissioners court has voted to require a mandatory payment  
25 authorized under this chapter, the commissioners court may adopt  
26 rules relating to the administration of the mandatory payment.

27       Sec. 296B.054. INSTITUTIONAL HEALTH CARE PROVIDER

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

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

14 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

15 Sec. 296B.101. HEARING. (a) Each year, the commissioners  
16 court of a county that collects a mandatory payment authorized  
17 under this chapter shall hold a public hearing on the amounts of any  
18 mandatory payments that the commissioners court intends to require  
19 during the year.

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

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

1       Sec. 296B.102. DEPOSITORY. (a) The commissioners court of  
2 each county that collects a mandatory payment authorized under this  
3 chapter by resolution shall designate one or more banks located in  
4 the county as the depository for mandatory payments received by the  
5 county.

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

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

14       Sec. 296B.103. LOCAL PROVIDER PARTICIPATION FUND;  
15 AUTHORIZED USES OF MONEY. (a) Each county that collects a  
16 mandatory payment authorized under this chapter shall create a  
17 local provider participation fund.

18       (b) The local provider participation fund of a county  
19 consists of:

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

23               (2) money received from the Health and Human Services  
24 Commission as a refund of an intergovernmental transfer from the  
25 county to the state for the purpose of providing the nonfederal  
26 share of Medicaid supplemental payment program payments, provided  
27 that the intergovernmental transfer does not receive a federal

1 matching payment; and

2 (3) the earnings of the fund.

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

5 (1) fund intergovernmental transfers from the county  
6 to the state to provide:

7 (A) the nonfederal share of a Medicaid  
8 supplemental payment program authorized under the state Medicaid  
9 plan, the Texas Healthcare Transformation and Quality Improvement  
10 Program waiver issued under Section 1115 of the federal Social  
11 Security Act (42 U.S.C. Section 1315), or a successor waiver  
12 program authorizing similar Medicaid supplemental payment  
13 programs; or

14 (B) payments to Medicaid managed care  
15 organizations that are dedicated for payment to hospitals;

16 (2) subsidize indigent programs;

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

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

21 (5) refund to paying hospitals the proportionate share  
22 of money received by the county that is not used to fund the  
23 nonfederal share of Medicaid supplemental payment program  
24 payments.

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

27 (e) An intergovernmental transfer of funds described by

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

7 SUBCHAPTER D. MANDATORY PAYMENTS

8 Sec. 296B.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
9 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
10 commissioners court of a county that collects a mandatory payment  
11 authorized under this chapter may require an annual mandatory  
12 payment to be assessed on the net patient revenue of each  
13 institutional health care provider located in the county. The  
14 commissioners court may provide for the mandatory payment to be  
15 assessed quarterly. In the first year in which the mandatory  
16 payment is required, the mandatory payment is assessed on the net  
17 patient revenue of an institutional health care provider as  
18 determined by the data reported to the Department of State Health  
19 Services under Sections 311.032 and 311.033 in the fiscal year  
20 ending in 2017 or, if the institutional health care provider did not  
21 report any data under those sections in that fiscal year, as  
22 determined by the institutional health care provider's Medicare  
23 cost report submitted for the 2017 fiscal year or for the closest  
24 subsequent fiscal year for which the provider submitted the  
25 Medicare cost report. The county shall update the amount of the  
26 mandatory payment on an annual basis.

27 (b) The amount of a mandatory payment authorized under this

1 chapter must be uniformly proportionate with the amount of net  
2 patient revenue generated by each paying hospital in the county. A  
3 mandatory payment 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 commissioners court of a county that collects a  
7 mandatory payment authorized under this chapter shall set the  
8 amount of the mandatory payment. The amount of the mandatory  
9 payment required of each paying hospital may not exceed six percent  
10 of the paying hospital's net patient revenue.

11 (d) Subject to the maximum amount prescribed by Subsection  
12 (c), the commissioners court of a county that collects a mandatory  
13 payment authorized under this chapter shall set the mandatory  
14 payments in amounts that in the aggregate will generate sufficient  
15 revenue to cover the administrative expenses of the county for  
16 activities under this chapter, to fund an intergovernmental  
17 transfer described by Section 296B.103(c)(1), and to pay for  
18 indigent programs, except that the amount of revenue from mandatory  
19 payments used for administrative expenses of the county for  
20 activities under this chapter in a year may not exceed the lesser of  
21 four percent of the total revenue generated from the mandatory  
22 payment or \$20,000.

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

25 Sec. 296B.152. ASSESSMENT AND COLLECTION OF MANDATORY  
26 PAYMENTS. The county may collect or contract for the assessment and  
27 collection of mandatory payments authorized under this chapter.

1       Sec. 296B.153. INTEREST, PENALTIES, AND DISCOUNTS.

2       Interest, penalties, and discounts on mandatory payments required  
3       under this chapter are governed by the law applicable to county ad  
4       valorem taxes.

5       Sec. 296B.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
6       PROCEDURE. (a) The purpose of this chapter is to generate revenue  
7       by collecting from institutional health care providers a mandatory  
8       payment to be used to provide the nonfederal share of a Medicaid  
9       supplemental payment program.

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

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

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