

By: Fallon
(Frank)

S.B. No. 2286

Substitute the following for S.B. No. 2286:

By: Dominguez

C.S.S.B. No. 2286

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 292C to read as follows:

CHAPTER 292C. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES WITH HOSPITAL DISTRICT BORDERING OKLAHOMA

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292C.001. DEFINITIONS. In this chapter:

(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services and that is not located within the boundaries of a hospital district.

(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. 292C.002. APPLICABILITY. This chapter applies only to a county that:

(1) contains a hospital district that is not countywide;

(2) has a population of more than 125,000; and

(3) borders Oklahoma.

1 Sec. 292C.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 as provided by this chapter.

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

12 Sec. 292C.004. EXPIRATION. The authority of a county to
13 administer and operate a program under this chapter expires
14 December 31, 2023.

15 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

16 Sec. 292C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
17 PAYMENT. The commissioners court of a county may require a
18 mandatory payment authorized under this chapter by an institutional
19 health care provider in the county only in the manner provided by
20 this chapter.

21 Sec. 292C.052. MAJORITY VOTE REQUIRED. The commissioners
22 court of a county may not authorize the county to collect a
23 mandatory payment authorized under this chapter without an
24 affirmative vote of a majority of the members of the commissioners
25 court.

26 Sec. 292C.053. RULES AND PROCEDURES. After the
27 commissioners court of a county has voted to require a mandatory

1 payment authorized under this chapter, the commissioners court may
2 adopt rules relating to the administration of the mandatory
3 payment.

4 Sec. 292C.054. INSTITUTIONAL HEALTH CARE PROVIDER
5 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
6 county that collects a mandatory payment authorized under this
7 chapter shall require each institutional health care provider
8 located in the county to submit to the county a copy of any
9 financial and utilization data required by and reported to the
10 Department of State Health Services under Sections 311.032 and
11 311.033 and any rules adopted by the executive commissioner of the
12 Health and Human Services Commission to implement those sections.

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

18 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

19 Sec. 292C.101. HEARING. (a) Each year, the commissioners
20 court of a county that collects a mandatory payment authorized
21 under this chapter shall hold a public hearing on the amounts of any
22 mandatory payments that the commissioners court intends to require
23 during the year.

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

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

5 Sec. 292C.102. DEPOSITORY. (a) The commissioners court of
6 each county that collects a mandatory payment authorized under this
7 chapter by resolution shall designate one or more banks located in
8 the county as the depository for mandatory payments received by the
9 county.

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

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

18 Sec. 292C.103. LOCAL PROVIDER PARTICIPATION FUND;
19 AUTHORIZED USES OF MONEY. (a) Each county that collects a
20 mandatory payment authorized under this chapter shall create a
21 local provider participation fund.

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

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

27 (2) money received from the Health and Human Services

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

6 (3) the earnings of the fund.

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

9 (1) fund intergovernmental transfers from the county
10 to the state to provide:

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

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

20 (2) pay the administrative expenses of the county
21 solely for activities under this chapter;

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

24 (4) refund to paying hospitals the proportionate share
25 of money received by the county that is not used to fund the
26 nonfederal share of Medicaid supplemental payment program
27 payments.

1 (d) Money deposited to the local provider participation
2 fund may not be used to pay for the services of a consultant or a
3 person required to register under Chapter 305, Government Code.

4 (e) Money in the local provider participation fund may not
5 be commingled with other county funds.

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

13 SUBCHAPTER D. MANDATORY PAYMENTS

14 Sec. 292C.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
15 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
16 commissioners court of a county that collects a mandatory payment
17 authorized under this chapter may require an annual mandatory
18 payment to be assessed on the net patient revenue of each
19 institutional health care provider located in the county. The
20 commissioners court may provide for the mandatory payment to be
21 assessed quarterly. In the first year in which the mandatory
22 payment is required, the mandatory payment is assessed on the net
23 patient revenue of an institutional health care provider as
24 determined by the data reported to the Department of State Health
25 Services under Sections 311.032 and 311.033 in the fiscal year
26 ending in 2017 or, if the institutional health care provider did not
27 report any data under those sections in that fiscal year, as

1 determined by the institutional health care provider's Medicare
2 cost report submitted for the 2017 fiscal year or for the closest
3 subsequent fiscal year for which the provider submitted the
4 Medicare cost report. The county shall update the amount of the
5 mandatory payment on an annual basis.

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

12 (c) The commissioners court of a county that collects a
13 mandatory payment authorized under this chapter shall set the
14 amount of the mandatory payment. The amount of the mandatory
15 payment required of each paying hospital may not exceed six percent
16 of the paying hospital's net patient revenue.

17 (d) Subject to the maximum amount prescribed by Subsection
18 (c), the commissioners court of a county that collects a mandatory
19 payment authorized under this chapter shall set the mandatory
20 payments in amounts that in the aggregate will generate sufficient
21 revenue to cover the administrative expenses of the county for
22 activities under this chapter and to fund an intergovernmental
23 transfer described by Section 292C.103(c)(1), except that the
24 amount of revenue from mandatory payments used for administrative
25 expenses of the county for activities under this chapter in a year
26 may not exceed \$20,000, plus the cost of collateralization of
27 deposits. If the county demonstrates to the paying hospitals that

1 the costs of administering the program under this chapter,
2 excluding those costs associated with the collateralization of
3 deposits, exceed \$20,000 in any year, on consent of a majority of
4 the paying hospitals, the county may use additional revenue from
5 mandatory payments received under this chapter to compensate the
6 county for its administrative expenses. A paying hospital may not
7 unreasonably withhold consent to compensate the county for
8 administrative expenses.

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

11 Sec. 292C.152. ASSESSMENT AND COLLECTION OF MANDATORY
12 PAYMENTS. The county may collect or contract for the assessment and
13 collection of mandatory payments authorized under this chapter.

14 Sec. 292C.153. INTEREST, PENALTIES, AND DISCOUNTS.
15 Interest, penalties, and discounts on mandatory payments required
16 under this chapter are governed by the law applicable to county ad
17 valorem taxes.

18 Sec. 292C.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
19 PROCEDURE. (a) The purpose of this chapter is to generate revenue
20 by collecting from institutional health care providers a mandatory
21 payment to be used to provide the nonfederal share of a Medicaid
22 supplemental payment program.

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

1 Services.

2 SECTION 2. As soon as practicable after the expiration of
3 the authority of a county to administer and operate a health care
4 provider participation program under Chapter 292C, Health and
5 Safety Code, as added by this Act, the commissioners court of the
6 county shall transfer to the institutional health care providers in
7 the county a proportionate share of any remaining funds in any local
8 provider participation fund created by the county under Section
9 292C.103, Health and Safety Code, as added by this Act.

10 SECTION 3. If before implementing any provision of this Act
11 a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

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