1-1 By: Perry S.B. No. 2448
1-2 (In the Senate - Filed March 18, 2019; March 27, 2019, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 11, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Lucio	X			
Schwertner	X			
Alvarado	X			
Campbell	X			
Fallon	X			
Menéndez	X			
Nichols	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2448 By: Fallon

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the creation and operations of a health care provider
1-20 participation program by the Lubbock County Hospital District of
1-21 Lubbock County, Texas.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
1-24 amended by adding Chapter 298C to read as follows:
1-25 CHAPTER 298C. LUBBOCK COUNTY HOSPITAL DISTRICT OF LUBBOCK COUNTY,
1-26 TEXAS: HEALTH CARE PROVIDER PARTICIPATION PROGRAM
1-27 SUBCHAPTER A. GENERAL PROVISIONS
1-28 Sec. 298C.001. PURPOSE. The purpose of this chapter is to
1-29 authorize the district to administer a health care provider
1-30 participation program to provide additional compensation to
1-31 nonpublic hospitals by collecting mandatory payments from each
1-32 nonpublic hospital in the district to be used to provide the
1-33 nonfederal share of a Medicaid supplemental payment program and for
1-34 other purposes as authorized under this chapter.
1-35 Sec. 298C.002. DEFINITIONS. In this chapter:
1-36 (1) "Board" means the board of hospital managers of
1-37 the district.
1-38 (2) "District" means the Lubbock County Hospital
1-39 District of Lubbock County, Texas.
1-40 (3) "Institutional health care provider" means a
1-41 nonpublic hospital located in the district that provides inpatient
1-42 hospital services.
1-43 (4) "Paying hospital" means an institutional health
1-44 care provider required to make a mandatory payment under this
1-45 chapter.
1-46 (5) "Program" means the health care provider
1-47 participation program authorized by this chapter.
1-48 Sec. 298C.003. APPLICABILITY. This chapter applies only to
1-49 the Lubbock County Hospital District of Lubbock County, Texas.
1-50 Sec. 298C.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;
1-51 PARTICIPATION IN PROGRAM. The board may authorize the district to
1-52 participate in a health care provider participation program on the
1-53 affirmative vote of a majority of the board, subject to the
1-54 provisions of this chapter.
1-55 SUBCHAPTER B. POWERS AND DUTIES OF BOARD
1-56 Sec. 298C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
1-57 PAYMENT. The board may require a mandatory payment authorized
1-58 under this chapter from an institutional health care provider in
1-59 the district only in the manner provided by this chapter.
1-60 Sec. 298C.052. INSTITUTIONAL HEALTH CARE PROVIDER

2-1 REPORTING. If the board authorizes the district to participate in a
2-2 program under this chapter, the board shall require each
2-3 institutional health care provider to submit to the district a copy
2-4 of any financial and utilization data required by and reported to
2-5 the Department of State Health Services under Sections 311.032 and
2-6 311.033 and any rules adopted by the executive commissioner of the
2-7 Health and Human Services Commission to implement those sections.
2-8 Sec. 298C.053. RULES AND PROCEDURES. The board may adopt
2-9 rules relating to the administration of the health care provider
2-10 participation program, including collection of the mandatory
2-11 payments, expenditures, audits, and any other administrative
2-12 aspects of the program.
2-13 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS
2-14 Sec. 298C.101. HEARING. (a) In each year that the board
2-15 authorizes a program under this chapter, the board shall hold a
2-16 public hearing on the amounts of any mandatory payments that the
2-17 board intends to require during the year and how the revenue derived
2-18 from those payments is to be spent.
2-19 (b) Not later than the fifth day before the date of the
2-20 hearing required under Subsection (a), the board shall publish
2-21 notice of the hearing in a newspaper of general circulation in the
2-22 district and provide written notice of the hearing to the chief
2-23 operating officer of each institutional health care provider in the
2-24 district.
2-25 (c) The board's determination of the amount of mandatory
2-26 payments to be collected during the year must be shown to be based
2-27 on reasonable estimates of the amount of revenue necessary to fund
2-28 intergovernmental transfers from the district to the state
2-29 providing the nonfederal share of payments described by Section
2-30 298C.103(b)(1) that is otherwise unfunded.
2-31 Sec. 298C.102. LOCAL PROVIDER PARTICIPATION FUND;
2-32 DEPOSITORY. (a) If the board collects a mandatory payment
2-33 authorized under this chapter, the board shall create a local
2-34 provider participation fund in one or more banks located in the
2-35 district that are designated by the district as a depository for
2-36 public funds.
2-37 (b) All money received by the district under this chapter,
2-38 including the amount of revenue from mandatory payments remaining
2-39 after deducting any discounts and fees for assessing and collecting
2-40 the payments, shall be deposited with a depository designated under
2-41 Subsection (a).
2-42 (c) The board may withdraw or use money in the fund only for
2-43 a purpose authorized under this chapter.
2-44 (d) All funds collected under this chapter shall be secured
2-45 in the manner provided by Chapter 1053, Special District Local Laws
2-46 Code, for securing public funds of the district.
2-47 Sec. 298C.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.
2-48 (a) The local provider participation fund established under
2-49 Section 298C.102 consists of:
2-50 (1) all mandatory payments authorized under this
2-51 chapter and received by the district;
2-52 (2) money received from the Health and Human Services
2-53 Commission as a refund of an intergovernmental transfer from the
2-54 district to the state as the nonfederal share of Medicaid
2-55 supplemental payment program payments, provided that the
2-56 intergovernmental transfer does not receive a federal matching
2-57 payment; and
2-58 (3) the earnings of the fund.
2-59 (b) Money deposited to the local provider participation
2-60 fund may be used only to:
2-61 (1) fund intergovernmental transfers from the
2-62 district to the state to provide the nonfederal share of Medicaid
2-63 payments for:
2-64 (A) uncompensated care and delivery system
2-65 reform incentive payments to nonpublic hospitals, if those payments
2-66 are authorized under the Texas Healthcare Transformation and
2-67 Quality Improvement Program waiver issued under Section 1115 of the
2-68 federal Social Security Act (42 U.S.C. Section 1315);
2-69 (B) uniform rate enhancements for nonpublic

3-1 hospitals in the Medicaid managed care service area in which the
3-2 district is located;
3-3 (C) payments available to nonpublic hospitals
3-4 under another waiver program authorizing payments that are
3-5 substantially similar to Medicaid payments to nonpublic hospitals
3-6 described by Paragraph (A) or (B); or
3-7 (D) any reimbursement to nonpublic hospitals for
3-8 which federal matching funds are available;
3-9 (2) subject to Section 298C.151(d), pay the
3-10 administrative expenses of the district in administering the
3-11 program, including collateralization of deposits;
3-12 (3) refund a portion of a mandatory payment collected
3-13 in error from a paying hospital; and
3-14 (4) refund to paying hospitals a proportionate share
3-15 of the money that the district:
3-16 (A) receives from the Health and Human Services
3-17 Commission that is not used to fund the nonfederal share of Medicaid
3-18 supplemental payment program payments described by Subdivision
3-19 (1); or
3-20 (B) determines cannot be used to fund the
3-21 nonfederal share of Medicaid supplemental payment program payments
3-22 described by Subdivision (1).
3-23 (c) Money in the local provider participation fund may not
3-24 be commingled with other district funds.
3-25 (d) An intergovernmental transfer of funds described by
3-26 Subsection (b)(1) and any funds received by the district as a result
3-27 of an intergovernmental transfer described by that subsection may
3-28 not be used by the district or any other entity to expand Medicaid
3-29 eligibility under the Patient Protection and Affordable Care Act
3-30 (Pub. L. No. 111-148) as amended by the Health Care and Education
3-31 Reconciliation Act of 2010 (Pub. L. No. 111-152).
3-32 SUBCHAPTER D. MANDATORY PAYMENTS
3-33 Sec. 298C.151. MANDATORY PAYMENTS. (a) If the board
3-34 authorizes a program under this chapter, the board shall require an
3-35 annual mandatory payment to be assessed on the net patient revenue
3-36 of each institutional health care provider located in the district.
3-37 The board may provide that the mandatory payment is to be collected
3-38 at least annually, but not more often than quarterly. In the first
3-39 year in which the mandatory payment is required, the mandatory
3-40 payment is assessed on the net patient revenue of an institutional
3-41 health care provider as determined by the data reported to the
3-42 Department of State Health Services under Sections 311.032 and
3-43 311.033 in the most recent fiscal year for which that data was
3-44 reported. If the institutional health care provider did not report
3-45 any data under those sections, the provider's net patient revenue
3-46 is the amount of that revenue as contained in the provider's
3-47 Medicare cost report submitted for the previous fiscal year or for
3-48 the closest subsequent fiscal year for which the provider submitted
3-49 the Medicare cost report. The district shall update the amount of
3-50 the mandatory payment on an annual basis and may update the amount
3-51 on a more frequent basis.
3-52 (b) The amount of a mandatory payment authorized under this
3-53 chapter must be a uniform percentage of the amount of net patient
3-54 revenue generated by each paying hospital in the district. A
3-55 mandatory payment authorized under this chapter may not hold
3-56 harmless any institutional health care provider, as required under
3-57 42 U.S.C. Section 1396b(w).
3-58 (c) The aggregate amount of the mandatory payments required
3-59 of all paying hospitals in the district may not exceed six percent
3-60 of the aggregate net patient revenue of all paying hospitals in the
3-61 district.
3-62 (d) Subject to the maximum amount prescribed by Subsection
3-63 (c) and this subsection, the board shall set the mandatory payments
3-64 in amounts that in the aggregate will generate sufficient revenue
3-65 to cover the administrative expenses of the district for activities
3-66 under this chapter, fund an intergovernmental transfer described by
3-67 Section 298C.103(b)(1), or make other payments authorized under
3-68 this chapter. The amount of the mandatory payments must be based on
3-69 reasonable estimates of the amount of revenue necessary to cover

4-1 the administrative expenses, intergovernmental transfers, and
4-2 other payments described by this subsection as authorized under
4-3 this chapter. The amount of revenue from mandatory payments that
4-4 may be used for administrative expenses by the district in a year
4-5 may not exceed $25,000, plus the cost of collateralization of
4-6 deposits. If the board demonstrates to the paying hospitals that
4-7 the costs of administering the program under this chapter,
4-8 excluding those costs associated with the collateralization of
4-9 deposits, exceed $25,000 in any year, on consent of all of the
4-10 paying hospitals, the district may use additional revenue from
4-11 mandatory payments received under this chapter to compensate the
4-12 district for its administrative expenses. A paying hospital may
4-13 not unreasonably withhold consent to compensate the district for
4-14 administrative expenses.
4-15 (e) A paying hospital may not add a mandatory payment
4-16 required under this section as a surcharge to a patient or insurer.
4-17 (f) A mandatory payment under this chapter is not a tax for
4-18 purposes of Section 9, Article IX, Texas Constitution, or Chapter
4-19 1053, Special District Local Laws Code.
4-20 Sec. 298C.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-21 PAYMENTS. The district may collect or contract for the assessment
4-22 and collection of mandatory payments authorized under this chapter.
4-23 Sec. 298C.153. CORRECTION OF INVALID PROVISION OR
4-24 PROCEDURE. To the extent any provision or procedure under this
4-25 chapter causes a mandatory payment authorized under this chapter to
4-26 be ineligible for federal matching funds, the board may provide by
4-27 rule for an alternative provision or procedure that conforms to the
4-28 requirements of the federal Centers for Medicare and Medicaid
4-29 Services. A rule adopted under this section may not create, impose,
4-30 or materially expand the legal or financial liability or
4-31 responsibility of the district or an institutional health care
4-32 provider in the district beyond the provisions of this chapter.
4-33 This section does not require the board to adopt a rule.
4-34 SECTION 2. If before implementing any provision of this Act
4-35 a state agency determines that a waiver or authorization from a
4-36 federal agency is necessary for implementation of that provision,
4-37 the agency affected by the provision shall request the waiver or
4-38 authorization and may delay implementing that provision until the
4-39 waiver or authorization is granted.
4-40 SECTION 3. This Act takes effect immediately if it receives
4-41 a vote of two-thirds of all the members elected to each house, as
4-42 provided by Section 39, Article III, Texas Constitution. If this
4-43 Act does not receive the vote necessary for immediate effect, this
4-44 Act takes effect September 1, 2019.

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