87R23010 TYPED

By:  Coleman H.B. No. 4140

Substitute the following for H.B. No. 4140:

By:  Anderson C.S.H.B. No. 4140

A BILL TO BE ENTITLED

AN ACT

relating to issues affecting counties and certain other governmental entities and residents.

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

SECTION 1.  Section 531.0991, Government Code, is amended by amending Subsections (h) and (k) and adding Subsection (n) to read as follows:

(h)  A community that receives a grant under this section is required to leverage funds in an amount:

(1)  equal to 25 [~~50~~] percent of the grant amount if the community mental health program is located in a county with a population of less than 100,000 [~~250,000~~];

(2)  equal to 50 percent of the grant amount if the community mental health program is located in a county with a population of 100,000 or more but less than 250,000;

(3)  equal to 100 percent of the grant amount if the community mental health program is located in a county with a population of at least 250,000; and

(4) [~~(3)~~]  equal to the percentage of the grant amount otherwise required by this subsection for the largest county in which a community mental health program is located if the community mental health program is located in more than one county.

(k)  Not later than December 1 of each even-numbered [~~calendar~~] year, the executive commissioner shall submit to the governor, the lieutenant governor, and each member of the legislature a report evaluating the success of the matching grant program created by this section.

(n)  A reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this section may be used by the commission to pay administrative costs of implementing this section.

SECTION 2.  Section 531.0992, Government Code, is amended by amending Subsections (d-1) and (d-2) and adding Subsection (g) to read as follows:

(d-1)  For services and treatment provided in a single county, the commission shall condition each grant provided under this section on a potential grant recipient providing funds from non-state sources in a total amount at least equal to:

(1)  25 [~~50~~] percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of less than 100,000 [~~250,000~~]; [~~or~~]

(2)  50 percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of 100,000 or more but less than 250,000; or

(3)  100 percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of 250,000 or more.

(d-2)  For a community mental health program that provides services and treatment in more than one county, the commission shall condition each grant provided under this section on a potential grant recipient providing funds from non-state sources in a total amount at least equal to:

(1)  25 [~~50~~] percent of the grant amount if the county with the largest population [~~county~~] in which the community mental health program to be supported by the grant provides services and treatment has a population of less than 100,000 [~~250,000~~]; [~~or~~]

(2)  50 [~~100~~] percent of the grant amount if the county with the largest population [~~county~~] in which the community mental health program to be supported by the grant provides services and treatment has a population of 100,000 or more but less than 250,000; or

(3)  100 percent of the grant amount if the county with the largest population in which the community mental health program to be supported by the grant provides services and treatment has a population of 250,000 or more.

(g)  A reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this section may be used by the commission to pay administrative costs of implementing this section.

SECTION 3.  Section 531.0993, Government Code, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c)  The commission shall condition each grant provided to a community collaborative under this section on the collaborative providing funds from non-state sources in a total amount at least equal to:

(1)  25 [~~50~~] percent of the grant amount if the collaborative includes a county with a population of less than 100,000 [~~250,000~~];

(2)  50 percent of the grant amount if the collaborative includes a county with a population of 100,000 or more but less than 250,000;

(3)  100 percent of the grant amount if the collaborative includes a county with a population of 250,000 or more; and

(4) [~~(3)~~]  the percentage of the grant amount otherwise required by this subsection for the largest county included in the collaborative, if the collaborative includes more than one county.

(j)  A reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this section may be used by the commission to pay administrative costs of implementing this section.

SECTION 4.  Sections 539.002(b) and (c), Government Code, are amended to read as follows:

(b)  Except as provided by Subsection (c), the department shall require each entity awarded a grant under this section to:

(1)  leverage additional funding or in-kind contributions from private contributors or local governments, excluding state or federal funds, [~~sources~~] in an amount that is at least equal to the amount of the grant awarded under this section;

(2)  provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3)  provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

(c)  The department may award a grant under this chapter to an entity for the purpose of establishing a community mental health program in a county with a population of less than 250,000, if the entity leverages additional funding or in-kind contributions from private contributors or local governments, excluding state or federal funds, [~~sources~~] in an amount equal to one-quarter of the amount of the grant to be awarded under this section, and the entity otherwise meets the requirements of Subsections (b)(2) and (3).

SECTION 5.  Section 539.003, Government Code, is amended to read as follows:

Sec. 539.003.  ACCEPTABLE USES OF GRANT MONEY. An entity shall use money received from a grant made by the department and private funding sources for the establishment or expansion of a community collaborative[~~, provided that the collaborative must be self-sustaining within seven years~~]. Acceptable uses for the money include:

(1)  the development of the infrastructure of the collaborative and the start-up costs of the collaborative;

(2)  the establishment, operation, or maintenance of other community service providers in the community served by the collaborative, including intake centers, detoxification units, sheltering centers for food, workforce training centers, microbusinesses, and educational centers;

(3)  the provision of clothing, hygiene products, and medical services to and the arrangement of transitional and permanent residential housing for persons served by the collaborative;

(4)  the provision of mental health services and substance abuse treatment not readily available in the community served by the collaborative;

(5)  the provision of information, tools, and resource referrals to assist persons served by the collaborative in addressing the needs of their children; and

(6)  the establishment and operation of coordinated intake processes, including triage procedures, to protect the public safety in the community served by the collaborative.

SECTION 6.  Section 539.007, Government Code, is amended to read as follows:

Sec. 539.007.  REDUCTION AND CESSATION OF FUNDING. The department shall establish processes by which the department may reduce or cease providing funding to an entity if the community collaborative operated by the entity does not meet the outcome measures selected by the entity for the collaborative under Section 539.005 [~~or is not self-sustaining after seven years~~]. The department shall redistribute any funds withheld from an entity under this section to other entities operating high-performing collaboratives on a competitive basis.

SECTION 7.  Chapter 539, Government Code, is amended by adding Section 539.009 to read as follows:

Sec. 539.009.  ADMINISTRATIVE COSTS. A reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this subchapter may be used by the commission to pay administrative costs of implementing this subchapter.

SECTION 8.  The heading to Section 152.1073, Human Resources Code, is amended to read as follows:

Sec. 152.1073.  HARRIS COUNTY BOARD OF RESOURCES [~~PROTECTIVE SERVICES~~] FOR CHILDREN AND ADULTS.

SECTION 9.  Section 152.1073(a)(1), Human Resources Code, is amended to read as follows:

(1)  "Board" means the Harris County Board of Resources [~~Protective Services~~] for Children and Adults.

SECTION 10.  Section 152.1073, Human Resources Code, is amended by amending Subsections (g) and (h) and adding Subsection (h-1) to read as follows:

(g)  In addition to the authority granted to the board by the commissioners court, the Health and Human Services Commission, and the [~~Texas~~] Department of Family and Protective [~~Human~~] Services, the board may:

(1)  disburse funds from sources other than the commissioners court, the commission, and the department [~~Texas Department of Human Services~~] to benefit children, eligible adults with disabilities, and eligible elderly persons under this section and to provide care, protection, evaluation, training, treatment, education, and recreation to those persons [~~children~~];

(2)  refuse to accept any funds the board considers to be inappropriate, incompatible, or burdensome to board policies or the provision of services;

(3)  accept a gift or grant of real or personal property or accept support under or an interest in a trust to benefit persons described by Subdivision (1) [~~children under this section~~] and hold the gift or grant directly or in trust;

(4)  use a gift or grant to benefit persons described by Subdivision (1) [~~children under this section~~] and to provide care, protection, education, or training to those persons [~~children~~];

(5)  accept and disburse as provided by Subdivision (1) fees and contributions from parents, guardians, and relatives of persons described by that subdivision [~~children~~] who are:

(A)  in county supported substitute care or custody, in the county guardianship program, in the county representative payee program, or receiving services from the county Senior Justice Assessment Center; or

(B)  being assisted by casework, day care, or homemaker services, by medical, psychological, dental, or other remedial help, or by teaching, training, or other services;

(6)  account for and spend funds the board receives as fees, contributions, payments made by guardians, or payments made to benefit a person described by Subdivision (1) who is [~~child~~] in the board's or the county's legal custody;

(7)  receive and disburse funds available to support or benefit a person described by Subdivision (1) who is [~~child~~] in the board's or the county's legal custody, including social security benefits, life insurance proceeds, survivors' pension or annuity benefits, or a beneficial interest in property; and

(8)  receive and use funds, grants, and assistance available to the board or the county from a federal or state department or agency to carry out the functions and programs of the department or agency that is designed to aid or extend programs and operations approved by the board.

(h)  The board shall designate the director or an assistant to apply for letters of guardianship if necessary to receive funds under Subsection (g)(7). The director or an assistant may:

(1)  apply for and disburse the funds to provide special items of support for children, eligible adults with disabilities, and eligible elderly persons under this section or to pay general administrative expenses relating to services under this section;

(2)  hold the funds in trust; or

(3)  apply the funds for a particular or more restricted purpose as required by law or the source of the funds.

(h-1)  The board may collaborate with state agencies to provide services for eligible adults with disabilities and eligible elderly persons who:

(1)  are residents of the county;

(2)  have been exploited, abused, or neglected; or

(3)  may be in need of a guardianship or assistance from a representative payee.

SECTION 11.  Section 299.001, Health and Safety Code, is amended by adding Subdivision (6) to read as follows:

(6)  "Qualifying assessment basis" means the health care item, health care service, or other health care-related basis consistent with 42 U.S.C. Section 1396b(w) on which the board requires mandatory payments to be assessed under this chapter.

SECTION 12.  Section 299.004, Health and Safety Code, is amended to read as follows:

Sec. 299.004.  EXPIRATION. (a) Subject to Section 299.153(d), the authority of the district to administer and operate a program under this chapter expires December 31, 2023 [~~2021~~].

(b)  This chapter expires December 31, 2023 [~~2021~~].

SECTION 13.  Section 299.053, Health and Safety Code, is amended to read as follows:

Sec. 299.053.  INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. If the board authorizes the district to participate in a program under this chapter, the board may [~~shall~~] require each institutional health care provider to submit to the district a copy of any financial and utilization data as reported in:

(1)  the provider's Medicare cost report [~~submitted~~] for the most recent [~~previous fiscal year or for the closest subsequent~~] fiscal year for which the provider submitted the Medicare cost report; or

(2)  a report other than the report described by Subdivision (1) that the board considers reliable and is submitted by or to the provider for the most recent fiscal year.

SECTION 14.  Section 299.103(c), Health and Safety Code, is amended to read as follows:

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

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

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

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

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

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

(2)  subject to Section 299.151(d), pay the administrative expenses of the district in administering the program, including collateralization of deposits;

(3)  refund a mandatory payment collected in error from a paying provider;

(4)  refund to a paying provider, in an amount that is proportionate to the mandatory payments made under this chapter by the provider during the 12 months preceding the date of the refund, [~~providers a proportionate share of~~] the money attributable to mandatory payments collected under this chapter that the district:

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

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

(5)  transfer funds to the Health and Human Services Commission if the district is legally required to transfer the funds to address a disallowance of federal matching funds with respect to programs for which the district made intergovernmental transfers described by Subdivision (1).

SECTION 15.  The heading to Section 299.151, Health and Safety Code, is amended to read as follows:

Sec. 299.151.  MANDATORY PAYMENTS [~~BASED ON PAYING PROVIDER NET PATIENT REVENUE~~].

SECTION 16.  Section 299.151, Health and Safety Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  If the board authorizes a health care provider participation program under this chapter, the board may require [~~a~~] mandatory payments [~~payment~~] to be assessed against each institutional health care provider located in the district, either annually or periodically throughout the year at the discretion of the board, on the basis of a health care item, health care service, or other health care-related basis that is consistent with the requirements of 42 U.S.C. Section 1396b(w) [~~the net patient revenue of each institutional health care provider located in the district~~]. The qualifying assessment basis must be the same for each institutional health care provider in the district. The board shall provide an institutional health care provider written notice of each assessment under this section [~~subsection~~], and the provider has 30 calendar days following the date of receipt of the notice to pay the assessment.

(a-1)  Except as otherwise provided by this subsection, the qualifying assessment basis must be determined by the board using information contained in an institutional health care provider's Medicare cost report for the most recent fiscal year for which the provider submitted the report. If the provider is not required to submit a Medicare cost report, or if the Medicare cost report submitted by the provider does not contain information necessary to determine the qualifying assessment basis, the qualifying assessment basis may be determined by the board using information contained in another report the board considers reliable that is submitted by or to the provider for the most recent fiscal year. To the extent practicable, the board shall use the same type of report to determine the qualifying assessment basis for each paying provider in the district.

(a-2)  [~~In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider, as determined by the provider's Medicare cost report submitted for the previous fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report.~~] If [~~the~~] mandatory payments are [~~payment is~~] required, the district shall update the amount of the mandatory payments [~~payment~~] on an annual basis and may update the amount on a more frequent basis.

(b)  The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the qualifying assessment basis for [~~amount of net patient revenue generated by~~] each paying provider in the district as permitted under federal law. A health care provider participation program authorized under this chapter may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c)  If the board requires a mandatory payment authorized under this chapter, the board shall set the amount of the mandatory payment, subject to the limitations of this chapter. The aggregate amount of the mandatory payments required of all paying providers in the district may not exceed six [~~four~~] percent of the aggregate net patient revenue from hospital services provided by all paying providers in the district.

SECTION 17.  Subchapter D, Chapter 299, Health and Safety Code, is amended by adding Section 299.154 to read as follows:

Sec. 299.154.  REQUEST FOR CERTAIN RELIEF. If 42 U.S.C. Section 1396b(w) or 42 C.F.R. Part 433 Subpart B is revised or interpreted in a manner that impedes the operations of a program under this chapter, and the operations may be improved by a request for relief under 42 C.F.R. Section 433.72, the board may request the Health and Human Services Commission to submit, and if requested the commission shall submit, a request to the Centers for Medicare and Medicaid Services for relief under 42 C.F.R. Section 433.72.

SECTION 18.  The heading to Chapter 180, Local Government Code, is amended to read as follows:

CHAPTER 180. MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF [~~MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER~~] LOCAL GOVERNMENT [~~GOVERNMENTS~~]

SECTION 19.  Chapter 180, Local Government Code, is amended by adding Section 180.008 to read as follows:

Sec. 180.008.  QUARANTINE LEAVE FOR FIRE FIGHTERS, PEACE OFFICERS, DETENTION OFFICERS, AND EMERGENCY MEDICAL TECHNICIANS. (a) In this section:

(1)  "Detention officer" means an individual appointed or employed by a political subdivision as a county jailer or other individual responsible for the care and custody of individuals incarcerated in a county or municipal jail.

(2)  "Emergency medical technician" means an individual who is:

(A)  certified as an emergency medical technician under Chapter 773, Health and Safety Code; and

(B)  employed by a political subdivision.

(3)  "Fire fighter" means a paid employee of a municipal fire department or emergency services district who:

(A)  holds a position that requires substantial knowledge of fire fighting;

(B)  has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and

(C)  performs a function listed in Section 143.003(4)(A).

(4)  "Peace officer" means an individual described by Article 2.12, Code of Criminal Procedure, who is elected for, employed by, or appointed by a political subdivision.

(b)  A political subdivision shall place on paid quarantine leave a fire fighter, peace officer, detention officer, or emergency medical technician employed by the political subdivision and ordered by a supervisor or a health authority to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

(c)  A political subdivision shall provide to a fire fighter, peace officer, detention officer, or emergency medical technician on quarantine leave:

(1)  all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits; and

(2)  costs related to the quarantine, including lodging, medical, and transportation costs.

(d)  A political subdivision may not reduce a fire fighter's, peace officer's, detention officer's, or emergency medical technician's sick leave balance, vacation leave balance, holiday leave balance, or other paid leave balance in connection with quarantine leave required by Subsection (b).

SECTION 20.  On the effective date of this Act, the Harris County Board of Protective Services for Children and Adults is redesignated as the Harris County Board of Resources for Children and Adults.

SECTION 21.  The changes in law made by this Act apply to a grant awarded on or after the effective date of this Act. A grant awarded under a provision amended by this Act is governed by the law in effect on the date the grant was awarded, and the former law is continued in effect for that purpose.

SECTION 22.  If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 23.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.