

## **BILL ANALYSIS**

C.S.H.B. 4835  
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County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Medicaid is a program that is jointly funded by the federal government and state governments. The federal government provides matching funds to states for a specific percentage of Medicaid expenditures. In Texas, some jurisdictions have chosen to implement a health care provider participation program, through which a health-care related tax is implemented on a local level. Such a program is administered by an existing unit of local government and is designed specifically to meet federal requirements regarding eligible local funds. The City of Beaumont has been authorized since 2015 to operate such a program. Local stakeholders have requested that the program's duties and operations be transferred to Jefferson County. C.S.H.B. 4835 seeks to address this issue by providing for a health care provider participation program for the county and repealing provisions that provide for such a program for the city.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4835 amends the Health and Safety Code to provide for a county health care provider participation program in a county that is not served by a hospital district, has a population of more than 250,000, and borders the Neches River. The bill establishes that such a program authorizes a county to collect a mandatory payment from each institutional health care provider located in the county to be deposited in a local provider participation fund established by the county. The bill authorizes the commissioners court to adopt an order authorizing a county to participate in the program, subject to certain limitations. The bill defines, among other terms, "institutional health care provider" as a nonpublic hospital that provides inpatient hospital services.

C.S.H.B. 4835 sets out the powers and duties of a commissioners court with respect to the county health care provider participation program. The bill provides for an annual public hearing on the amounts of any mandatory payments that the commissioners court intends to require during the year and how the revenue derived from those payments is to be spent. The bill provides for the designation of one or more local banks as the depository for mandatory payments and the creation of a county's local provider participation fund. The fund consists of, among other money, money received from the Health and Human Services Commission (HHSC) as a refund of an intergovernmental transfer from the county to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided

that the intergovernmental transfer does not receive a federal matching payment. The bill restricts the purposes for which money deposited to the fund may be used, which include, among other specified purposes, the following purposes:

- the funding of intergovernmental transfers from the county to the state to provide the nonfederal share of Medicaid payments for payments to Medicaid managed care organizations that are dedicated for payment to hospitals;
- the refunding to paying hospitals of a proportionate share of the money attributable to mandatory payments collected under the program that the county receives from HHSC that is not used to fund the nonfederal share of Medicaid supplemental payment program payments or that the county determines cannot be used to fund such nonfederal share; and
- the transferring of funds to HHSC if the county is legally required to transfer the funds to address a disallowance of federal matching funds with respect to payments, rate enhancements, and reimbursements for which the county made applicable intergovernmental transfers.

C.S.H.B. 4835 prohibits, with respect to an intergovernmental transfer of funds made by the county, any funds received by the state or county as a result of the transfer from being used by the state, county, or any other entity to do the following:

- expand Medicaid eligibility under the federal Patient Protection and Affordable Care Act as amended by the federal Health Care and Education Reconciliation Act of 2010; or
- fund the nonfederal share of payments to nonpublic hospitals available through the Medicaid disproportionate share hospital program.

C.S.H.B. 4835 provides for the amount, assessment, and collection of a mandatory payment and establishes that interest, penalties, and discounts on mandatory payments are governed by the law applicable to county property taxes. The bill authorizes the commissioners court, subject to a certain restriction, to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services to the extent any provision or procedure under applicable provisions of the bill causes a mandatory payment to be ineligible for federal matching funds.

C.S.H.B. 4835 conditions the county's authority to assess and collect a mandatory payment on an applicable waiver program, uniform rate enhancement, or reimbursement being available to the county. The bill's provisions relating to the county health care provider participation program take effect September 1, 2025.

C.S.H.B. 4835 exempts a municipality that is located in a county to which the bill's county health care provider participation program provisions apply from statutory provisions providing for a health care provider participation program that is applicable to the following:

- a hospital district that is not participating in another applicable health care provider participation program; and
- a county or municipality that is not served by a hospital district or a public hospital and that is not participating in another such program.

C.S.H.B. 4835 repeals provisions that provide for a municipal health care provider participation program for a municipality that meets the following qualifications:

- the municipality is not served by a hospital district or a public hospital;
- the municipality is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico; and
- the municipality has a population of more than 117,000 and less than 145,000.

C.S.H.B. 4835, if on the date those provisions are repealed a municipality to which those provisions apply has not transferred any remaining amount of mandatory payments assessed and collected by the municipality under those provisions before their repeal to HHSC, requires the municipality to refund to each paying hospital in the municipality that hospital's proportionate

share of the remaining amount of mandatory payments. These provisions of the bill expire September 1, 2025.

C.S.H.B. 4835 repeals Chapter 295, Health and Safety Code.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4835 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

With regard to the county health care provider participation program that the bill provides for, the substitute includes as a qualification for an applicable county that a county not be served by a hospital district, whereas the introduced did not include this qualification.

With regard to money in the local provider participation fund that is received from HHSC as a refund of an intergovernmental transfer from the county to the state, the substitute includes a specification that such money is received from HHSC as a refund of an intergovernmental transfer from the county to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, whereas the introduced did not include this specification.

With regard to the purposes for which money deposited to the local provider participation fund may be used:

- the substitute includes as such a purpose the funding of intergovernmental transfers from the county to the state to provide the nonfederal share of Medicaid payments for payments to Medicaid managed care organizations that are dedicated for payment to hospitals, whereas the introduced did not include this purpose;
- with regard to the purpose of refunding to paying hospitals a proportionate share of the money attributable to mandatory payments, the introduced specified as such money certain money that is not used to fund or that cannot be used to fund a program for which the county made applicable intergovernmental transfers, whereas the substitute does not include this specification but instead specifies as such money certain money that is not used to fund or that cannot be used to fund the nonfederal share of Medicaid supplemental payment program payments; and
- with regard to the purpose of transferring funds to HHSC if the county is legally required to transfer the funds to address a disallowance of federal matching funds, whereas the introduced specified a disallowance with respect to programs for which the district made applicable intergovernmental transfers, the substitute does not include that specification but instead specifies a disallowance with respect to payments, rate enhancements, and reimbursements for which the county made applicable intergovernmental transfers.

The substitute does not include a provision included in the introduced that prohibits, with respect to an applicable intergovernmental transfer of funds made by the county, any funds received by the state or county as a result of the transfer from being used by the state, county, or any other entity to fund the nonfederal share of payments to nonpublic hospitals available through the delivery system reform incentive payment program.

With regard to the bill's exemption of a municipality that is located in a county to which the bill's county health care provider participation program provisions apply from statutory provisions providing for a health care provider participation program that is applicable to a hospital district that is not participating in another applicable health care provider participation program and a

county or municipality that is not served by a hospital district or a public hospital and that is not participating in another such program, the introduced included as a qualification that the exempt municipality have a population of more than 100,000, whereas the substitute does not include this qualification.

The substitute does not include provisions included in the introduced that exempt a municipality that has a population of more than 100,000 and that is located in a county to which the bill's county health care provider participation program provisions apply from statutory provisions providing for a health care provider participation program that is applicable to the following:

- a hospital district that:
  - is not participating in another applicable health care provider participation program; and
  - has only one institutional health care provider located in the district; and
- a county or municipality that:
  - is not participating in another such program;
  - is not served by a hospital district or a public hospital; and
  - has only one institutional health care provider located in the county or municipality.

The substitute does not include a provision included in the introduced that provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

With regard to the bill's repeal of provisions that provide for a certain municipal health care provider participation program, the substitute includes provisions not included in the introduced that provide for the certain refund by a municipality to each paying hospital in the municipality of that hospital's proportionate share of the remaining amount of mandatory payments.