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H.B. No. 3348

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program 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 292E to read as follows:

CHAPTER 292E. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING TWO POPULOUS COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.

(2) "Paying provider" means an institutional health care provider required to make a mandatory payment under this chapter.

(3) "Program" means a county health care provider participation program authorized by this chapter.

Sec. 292E.002. APPLICABILITY. This chapter applies only to a county that:

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

(2) is either:

(A) a county that:

(i) has a population of more than 46,000 and less than 50,000; and

1 (ii) is adjacent to the county containing
2 the state capital;

3 (B) a county that:

4 (i) has a population of one million or more;
5 (ii) contains all or part of a municipality
6 with a population of one million or more; and

7 (iii) is adjacent to a county with a
8 population of 2.5 million or more; or

9 (C) a county that:

10 (i) has a population of 900,000 or more; and
11 (ii) borders two counties, each of which
12 has a population of two million or more.

13 Sec. 292E.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
14 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
15 provider participation program authorizes a county to collect a
16 mandatory payment from each institutional health care provider
17 located in the county to be deposited in a local provider
18 participation fund established by the county. Money in the fund may
19 be used by the county as provided by Section 292E.103(c).

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

23 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

24 Sec. 292E.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
25 PAYMENTS. The commissioners court of a county may require a
26 mandatory payment under this chapter by an institutional health
27 care provider in the county only in the manner provided by this

1 chapter.

2 Sec. 292E.052. MAJORITY VOTE REQUIRED. The commissioners
3 court of a county may not authorize the county to collect a
4 mandatory payment under this chapter without an affirmative vote of
5 a majority of the members of the commissioners court.

6 Sec. 292E.053. RULES AND PROCEDURES. After the
7 commissioners court of a county has voted to require a mandatory
8 payment authorized under this chapter, the commissioners court may
9 adopt rules relating to the administration of the program,
10 including the collection of a mandatory payment, expenditures, an
11 audit, and any other administrative aspect of the program.

12 Sec. 292E.054. INSTITUTIONAL HEALTH CARE PROVIDER
13 REPORTING. If the commissioners court of a county authorizes the
14 county to participate in a program under this chapter, the
15 commissioners court shall require each institutional health care
16 provider to submit to the county a copy of any financial and
17 utilization data required by and reported to the Department of
18 State Health Services under Sections [311.032](#) and [311.033](#) and any
19 rules adopted by the executive commissioner of the Health and Human
20 Services Commission to implement those sections.

21 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

22 Sec. 292E.101. HEARING. (a) In each year that the
23 commissioners court of a county authorizes a mandatory payment
24 under this chapter, the commissioners court shall hold a public
25 hearing on the amounts of any mandatory payments that the county
26 intends to require during the year and how the revenue derived from
27 those payments is to be spent.

1 (b) Not later than the fifth day before the date of the
2 hearing required under Subsection (a), the commissioners court
3 shall publish notice of the hearing in a newspaper of general
4 circulation in the county and provide written notice of the hearing
5 to each institutional health care provider located in the county.

6 (c) A representative of a paying provider is entitled to
7 appear at the public hearing and be heard regarding any matter
8 related to the mandatory payments authorized under this chapter.

9 Sec. 292E.102. DEPOSITORY. (a) The commissioners court of
10 a county that requires a mandatory payment under this chapter shall
11 designate one or more banks as the depository for the county's local
12 provider participation fund.

13 (b) All income received by a county under this chapter shall
14 be deposited with the depository designated under Subsection (a) in
15 the county's local provider participation fund and may be withdrawn
16 only as provided by this chapter.

17 (c) All money collected under this chapter shall be secured
18 in the manner provided for securing other county money.

19 Sec. 292E.103. LOCAL PROVIDER PARTICIPATION FUND;
20 AUTHORIZED USES OF MONEY. (a) A county that requires a mandatory
21 payment under this chapter shall create a local provider
22 participation fund.

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

25 (1) all revenue received by the county attributable to
26 mandatory payments authorized under this chapter;

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

Commission 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; and

(3) the earnings of the fund.

(c) Money deposited to a county's local provider participation fund may be used only to:

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

(A) uncompensated care payments to nonpublic hospitals 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), or a successor waiver program authorizing similar Medicaid supplemental payment programs;

(B) uniform rate enhancements or other directed payment programs for nonpublic hospitals;

(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 292E.151(e), pay the administrative expenses of the county in administering the program,

1 including collateralization of deposits;

2 (3) refund all or a portion of a mandatory payment
3 collected in error from a paying provider;

4 (4) refund to paying providers a proportionate share
5 of the money that the county:

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

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

12 (5) transfer funds to the Health and Human Services
13 Commission if the county is legally required to transfer the funds
14 to address a disallowance of federal matching funds with respect to
15 any intergovernmental transfers described by Subdivision (1).

16 (d) Money in the local provider participation fund may not
17 be commingled with other county money.

18 (e) Notwithstanding any other provision of this chapter,
19 with respect to an intergovernmental transfer of funds described by
20 Subsection (c)(1) made by the county, any funds received by the
21 state, county, or other entity as a result of the transfer may not
22 be used by the state, county, or entity to:

23 (1) expand Medicaid eligibility under the Patient
24 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended
25 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.
26 No. 111-152); or

27 (2) fund the nonfederal share of payments to nonpublic

hospitals available through the Medicaid disproportionate share hospital program.

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 292E.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER NET PATIENT REVENUE. (a) Except as provided by Subsection (f), if the commissioners court of a county authorizes a program under this chapter, the commissioners court may require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the county. The commissioners court may provide for the mandatory payment to be assessed quarterly. 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 data reported to the Department of State Health Services under Sections [311.032](#) and [311.033](#) in the most recent fiscal year for which that data was reported. If the institutional health care provider did not report any data under those sections, the provider's net patient revenue is the amount of that revenue as contained in the provider's Medicare cost report submitted for the most recent fiscal year for which the provider submitted the Medicare cost report. If the mandatory payment is required, the commissioners court shall update the amount of the mandatory payment on an annual basis.

(b) The commissioners court of a county that requires a mandatory payment under this chapter shall provide each institutional health care provider on which the payment will be assessed written notice of an assessment under this chapter. The

1 institutional health care provider must pay the assessment not
2 later than the 30th day after the date the provider receives the
3 written notice.

4 (c) The amount of a mandatory payment authorized under this
5 chapter must be uniformly proportionate with the amount of net
6 patient revenue generated by each paying provider in the county. A
7 mandatory payment authorized under this chapter may not hold
8 harmless any institutional health care provider, as required under
9 42 U.S.C. Section 1396b(w) and 42 C.F.R. Section 433.68.

10 (d) The commissioners court of a county that requires a
11 mandatory payment under this chapter shall set the amount of the
12 mandatory payment. The aggregate amount of the mandatory payment
13 required of all paying providers may not exceed six percent of the
14 aggregate net patient revenue from hospital services provided by
15 all paying providers in the county.

16 (e) Subject to Subsection (d), the commissioners court of a
17 county that requires a mandatory payment under this chapter shall
18 set the mandatory payments in amounts that in the aggregate will
19 generate sufficient revenue to cover the administrative expenses of
20 the county for activities under this chapter and to fund an
21 intergovernmental transfer described by Section 292E.103(c)(1).
22 The annual amount of revenue from mandatory payments that may be
23 used to pay the administrative expenses of the county for
24 activities under this chapter may not exceed \$150,000, plus the
25 cost of collateralization of deposits, regardless of actual
26 expenses.

27 (f) A paying provider may not add a mandatory payment

1 required under this section as a surcharge to a patient.

2 Sec. 292E.152. ASSESSMENT AND COLLECTION OF MANDATORY
3 PAYMENTS. (a) The county may collect or contract for the assessment
4 and collection of mandatory payments authorized under this chapter.

5 (b) The person charged by the county with the assessment and
6 collection of mandatory payments shall charge and deduct from the
7 mandatory payments collected for the county a collection fee in an
8 amount not to exceed the person's usual and customary charges for
9 like services.

10 (c) If the person charged with the assessment and collection
11 of mandatory payments is an official of the county, any revenue from
12 a collection fee charged under Subsection (b) shall be deposited in
13 the county general fund and, if appropriate, shall be reported as
14 fees of the county.

15 Sec. 292E.153. PURPOSE; CORRECTION OF INVALID PROVISION OR
16 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this
17 chapter is to authorize a county to establish a program to enable
18 the county to collect mandatory payments from institutional health
19 care providers to fund the nonfederal share of certain Medicaid
20 programs as described by Section 292E.103(c)(1).

21 (b) To the extent any provision or procedure under this
22 chapter causes a mandatory payment authorized under this chapter to
23 be ineligible for federal matching funds, the commissioners court
24 of the county administering the program may provide by rule for an
25 alternative provision or procedure that conforms to the
26 requirements of the federal Centers for Medicare and Medicaid
27 Services. A rule adopted under this section may not create, impose,

1 or materially expand the legal or financial liability or
2 responsibility of the county or an institutional health care
3 provider located in the county beyond the provisions of this
4 chapter. This section does not require the commissioners court of a
5 county to adopt a rule.

6 (c) A county administering a program may only assess and
7 collect a mandatory payment authorized under this chapter if a
8 waiver program, uniform rate enhancement, or reimbursement
9 described by Section 292E.103(c)(1) is available to the county.

10 (d) This chapter does not authorize a county administering a
11 program to collect mandatory payments for the purpose of raising
12 general revenue or any amount in excess of the amount reasonably
13 necessary to fund the nonfederal share of a Medicaid supplemental
14 payment program or Medicaid managed care rate enhancements for
15 nonpublic hospitals and to cover the administrative expenses of the
16 county associated with activities under this chapter.

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

23 SECTION 3. This Act takes effect September 1, 2025.