

By: Patterson

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;

(2) has a population of more than 900,000; and

(3) borders two counties, each of which has a population of two million or more.

Sec. 292E.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION

1 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
2 provider participation program authorizes a county to collect a
3 mandatory payment from each institutional health care provider
4 located in the county to be deposited in a local provider
5 participation fund established by the county. Money in the fund may
6 be used by the county as provided by Section 292E.103(c).

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

10 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

16 Sec. 292E.052. MAJORITY VOTE REQUIRED. The commissioners
17 court of a county may not authorize the county to collect a
18 mandatory payment under this chapter without an affirmative vote of
19 a majority of the members of the commissioners court.

20 Sec. 292E.053. RULES AND PROCEDURES. After the
21 commissioners court of a county has voted to require a mandatory
22 payment authorized under this chapter, the commissioners court may
23 adopt rules relating to the administration of the program,
24 including the collection of a mandatory payment, expenditures, an
25 audit, and any other administrative aspect of the program.

26 Sec. 292E.054. INSTITUTIONAL HEALTH CARE PROVIDER
27 REPORTING. If the commissioners court of a county authorizes the

1 county to participate in a program under this chapter, the
2 commissioners court shall require each institutional health care
3 provider to submit to the county a copy of any financial and
4 utilization data required by and reported to the Department of
5 State Health Services under Sections 311.032 and 311.033 and any
6 rules adopted by the executive commissioner of the Health and Human
7 Services Commission to implement those sections.

8 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

9 Sec. 292E.101. HEARING. (a) In each year that the
10 commissioners court of a county authorizes a mandatory payment
11 under this chapter, the commissioners court shall hold a public
12 hearing on the amounts of any mandatory payments that the county
13 intends to require during the year and how the revenue derived from
14 those payments is to be spent.

15 (b) Not later than the fifth day before the date of the
16 hearing required under Subsection (a), the commissioners court
17 shall publish notice of the hearing in a newspaper of general
18 circulation in the county and provide written notice of the hearing
19 to each institutional health care provider located in the county.

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

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

27 (b) All income received by a county under this chapter shall

1 be deposited with the depository designated under Subsection (a) in
2 the county's local provider participation fund and may be withdrawn
3 only as provided by this chapter.

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

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

10 (b) The local provider participation fund of a county
11 consists of:

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

14 (2) money received from the Health and Human Services
15 Commission as a refund of an intergovernmental transfer from the
16 county to the state for the purpose of providing the nonfederal
17 share of Medicaid supplemental payment program payments, provided
18 that the intergovernmental transfer does not receive a federal
19 matching payment; and

20 (3) the earnings of the fund.

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

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

26 (A) uncompensated care payments to nonpublic
27 hospitals authorized under the Texas Healthcare Transformation and

1 Quality Improvement Program waiver issued under Section 1115 of the
2 federal Social Security Act (42 U.S.C. Section 1315), or a
3 successor waiver program authorizing similar Medicaid supplemental
4 payment programs;

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

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

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

13 (2) subject to Section 292E.151(e), pay the
14 administrative expenses of the county in administering the program,
15 including collateralization of deposits;

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

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

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

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

26 (5) transfer funds to the Health and Human Services
27 Commission if the county is legally required to transfer the funds

1 to address a disallowance of federal matching funds with respect to
2 any intergovernmental transfers described by Subdivision (1).

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

5 (e) Notwithstanding any other provision of this chapter,
6 with respect to an intergovernmental transfer of funds described by
7 Subsection (c)(1) made by the county, any funds received by the
8 state, county, or other entity as a result of the transfer may not
9 be used by the state, county, or entity to:

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

14 (2) fund the nonfederal share of payments to nonpublic
15 hospitals available through the Medicaid disproportionate share
16 hospital program.

17 SUBCHAPTER D. MANDATORY PAYMENTS

18 Sec. 292E.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER
19 NET PATIENT REVENUE. (a) Except as provided by Subsection (f), if
20 the commissioners court of a county authorizes a program under this
21 chapter, the commissioners court may require an annual mandatory
22 payment to be assessed on the net patient revenue of each
23 institutional health care provider located in the county. The
24 commissioners court may provide for the mandatory payment to be
25 assessed quarterly. In the first year in which the mandatory
26 payment is required, the mandatory payment is assessed on the net
27 patient revenue of an institutional health care provider as

1 determined by the data reported to the Department of State Health
2 Services under Sections 311.032 and 311.033 in the most recent
3 fiscal year for which that data was reported. If the institutional
4 health care provider did not report any data under those sections,
5 the provider's net patient revenue is the amount of that revenue as
6 contained in the provider's Medicare cost report submitted for the
7 most recent fiscal year for which the provider submitted the
8 Medicare cost report. If the mandatory payment is required, the
9 commissioners court shall update the amount of the mandatory
10 payment on an annual basis.

11 (b) The commissioners court of a county that requires a
12 mandatory payment under this chapter shall provide each
13 institutional health care provider on which the payment will be
14 assessed written notice of an assessment under this chapter. The
15 institutional health care provider must pay the assessment not
16 later than the 30th day after the date the provider receives the
17 written notice.

18 (c) The amount of a mandatory payment authorized under this
19 chapter must be uniformly proportionate with the amount of net
20 patient revenue generated by each paying provider in the county. A
21 mandatory payment authorized under this chapter may not hold
22 harmless any institutional health care provider, as required under
23 42 U.S.C. Section 1396b(w) and 42 C.F.R. Section 433.68.

24 (d) The commissioners court of a county that requires a
25 mandatory payment under this chapter shall set the amount of the
26 mandatory payment. The aggregate amount of the mandatory payment
27 required of all paying providers may not exceed six percent of the

1 aggregate net patient revenue from hospital services provided by
2 all paying providers in the county.

3 (e) Subject to Subsection (d), the commissioners court of a
4 county that requires a mandatory payment under this chapter shall
5 set the mandatory payments in amounts that in the aggregate will
6 generate sufficient revenue to cover the administrative expenses of
7 the county for activities under this chapter and to fund an
8 intergovernmental transfer described by Section 292E.103(c)(1).
9 The annual amount of revenue from mandatory payments that may be
10 used to pay the administrative expenses of the county for
11 activities under this chapter may not exceed \$150,000, plus the
12 cost of collateralization of deposits, regardless of actual
13 expenses.

14 (f) A paying provider may not add a mandatory payment
15 required under this section as a surcharge to a patient.

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

19 (b) The person charged by the county with the assessment and
20 collection of mandatory payments shall charge and deduct from the
21 mandatory payments collected for the county a collection fee in an
22 amount not to exceed the person's usual and customary charges for
23 like services.

24 (c) If the person charged with the assessment and collection
25 of mandatory payments is an official of the county, any revenue from
26 a collection fee charged under Subsection (b) shall be deposited in
27 the county general fund and, if appropriate, shall be reported as

1 fees of the county.

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

8 (b) To the extent any provision or procedure under this
9 chapter causes a mandatory payment authorized under this chapter to
10 be ineligible for federal matching funds, the commissioners court
11 of the county administering the program may provide by rule for an
12 alternative provision or procedure that conforms to the
13 requirements of the federal Centers for Medicare and Medicaid
14 Services. A rule adopted under this section may not create, impose,
15 or materially expand the legal or financial liability or
16 responsibility of the county or an institutional health care
17 provider located in the county beyond the provisions of this
18 chapter. This section does not require the commissioners court of a
19 county to adopt a rule.

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

24 (d) This chapter does not authorize a county administering a
25 program to collect mandatory payments for the purpose of raising
26 general revenue or any amount in excess of the amount reasonably
27 necessary to fund the nonfederal share of a Medicaid supplemental

1 payment program or Medicaid managed care rate enhancements for
2 nonpublic hospitals and to cover the administrative expenses of the
3 county associated with activities under this chapter.

4 SECTION 2. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

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