

By: Harris

H.B. No. 3505

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and operation of a health care provider participation district created by certain local governments to administer a health care provider participation program.

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 300C to read as follows:

CHAPTER 300C. HEALTH CARE PROVIDER PARTICIPATION DISTRICTS CREATED

BY CERTAIN LOCAL GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300C.0001. PURPOSE. The purpose of this chapter is to authorize a health care provider participation district created by certain local governments to administer a health care provider participation program to provide additional compensation to certain hospitals in the district by collecting mandatory payments from each of those hospitals in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Sec. 300C.0002. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a district.

(2) "Director" means a member of the board.

(3) "District" means a health care provider

participation district created under Chapter 300A and operating under this chapter.

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

(5) "Local government" means a hospital district, county, or municipality to which this chapter applies.

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

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

Sec. 300C.0003. APPLICABILITY. This chapter applies only to a local government that jointly created a health care provider participation district by concurrent order under Chapter 300A and is:

(1) a county with a population of more than 80,000 and less than 90,000 that borders the Trinity River;

(2) a county with a population of more than 45,000 and less than 55,000 that borders Oklahoma; or

(3) a hospital district located in a county that has a population of more than 30,000 and contains a portion of Jim Chapman Lake.

SUBCHAPTER B. OPERATION AND DISSOLUTION OF DISTRICT

Sec. 300C.0021. OPERATION. (a) A health care provider participation district created under Chapter 300A may operate under and be governed by the provisions of this chapter instead of Chapter 300A if:

1 (1) each local government that jointly created the
2 district adopts a concurrent order authorizing the district to
3 operate under and be governed by the provisions of this chapter; and

4 (2) the district's board ratifies the concurrent order
5 adopted by each participating local government.

6 (b) A concurrent order authorizing a district to operate
7 under this chapter must:

8 (1) be approved by the governing body of each
9 participating local government;

10 (2) contain provisions that are identical to the
11 provisions of the concurrent order adopted by each other
12 participating local government;

13 (3) affirm that the district's territory is the area
14 contained within the boundaries of each participating local
15 government; and

16 (4) provide that the district begins to operate under
17 this chapter immediately on the expiration of the district's
18 authority to administer and operate a program under Chapter 300A.

19 Sec. 300C.0022. POWERS. (a) A district may authorize and
20 administer a health care provider participation program in
21 accordance with this chapter.

22 (b) Notwithstanding Section 300A.0155, a district that
23 complies with the provisions of this chapter may administer and
24 operate a health care provider participation program under this
25 chapter after its authority to administer and operate a program
26 under Chapter 300A has expired.

27 Sec. 300C.0023. BOARD OF DIRECTORS. (a) If three or more

1 local governments adopt concurrent orders authorizing a health care
2 provider participation district to operate under this chapter, the
3 presiding officer of the governing body of each local government
4 that created the district shall appoint one director.

5 (b) If two local governments adopt concurrent orders
6 described by Subsection (a):

7 (1) the presiding officer of the governing body of the
8 most populous local government shall appoint two directors; and

9 (2) the presiding officer of the governing body of the
10 local government not described by Subdivision (1) shall appoint one
11 director.

12 (c) Directors serve staggered two-year terms, with as near
13 as possible to one-half of the directors' terms expiring each year.

14 (d) A vacancy in the office of director shall be filled for
15 the unexpired term in the same manner as the original appointment.

16 (e) The board shall elect from among its members a president
17 and a vice president.

18 (f) The president may vote and may cast an additional vote
19 to break a tie.

20 (g) The board shall appoint a secretary, who need not be a
21 director.

22 (h) Each officer of the board serves for a term of one year.

23 (i) The board shall fill a vacancy in a board office for the
24 unexpired term.

25 (j) A majority of the members of the board voting must
26 concur in a matter relating to the business of the district.

27 Sec. 300C.0024. QUALIFICATIONS FOR OFFICE. (a) To be

1 eligible to serve as a director, a person must be a resident of the
2 local government that appoints the person.

3 (b) An employee of the district may not serve as a director.

4 Sec. 300C.0025. COMPENSATION. (a) Directors and officers
5 serve without compensation but may be reimbursed for actual
6 expenses incurred in the performance of official duties.

7 (b) Expenses reimbursed under this section must be:

8 (1) reported in the district's minute book or other
9 district records; and

10 (2) approved by the board.

11 Sec. 300C.0026. AUTHORITY TO SUE AND BE SUED. The board may
12 sue and be sued on behalf of the district.

13 Sec. 300C.0027. DISTRICT FINANCES. (a) Except as
14 otherwise provided by this section, Subchapter F, Chapter 287,
15 applies to a district in the same manner that the provisions of that
16 subchapter apply to a health services district created under
17 Chapter 287.

18 (b) Sections 287.129 and 287.130 do not apply to a district.

19 (c) This section does not authorize a district to issue
20 bonds.

21 Sec. 300C.0028. DISSOLUTION. A district shall be dissolved
22 if the local governments that created the district adopt concurrent
23 orders to dissolve the district and the concurrent orders contain
24 identical provisions.

25 Sec. 300C.0029. ADMINISTRATION OF PROPERTY, DEBTS, AND
26 ASSETS AFTER DISSOLUTION. (a) After dissolution of a district
27 under Section 300C.0028, the board shall continue to control and

1 administer any property, debts, and assets of the district until
2 all of the district's property and assets have been disposed of and
3 all of the district's debts have been paid or settled.

4 (b) As soon as practicable after the dissolution of the
5 district, the board shall transfer to each institutional health
6 care provider in the district the provider's proportionate share of
7 any remaining money in any local provider participation fund
8 created by the district.

9 (c) If, after administering the district's property and
10 assets, the board determines that the property and assets are
11 insufficient to pay the debts of the district, the district shall
12 transfer the remaining debts to the local governments that created
13 the district in proportion to the money contributed to the district
14 by each local government, including a paying hospital in the local
15 government.

16 (d) If, after complying with Subsections (b) and (c) and
17 administering the district's property and assets, the board
18 determines that unused money remains, the board shall transfer the
19 unused money to the local governments that created the district in
20 proportion to the money contributed to the district by each local
21 government, including a paying hospital in the local government.

22 Sec. 300C.0030. ACCOUNTING AFTER DISSOLUTION. After the
23 district has paid or settled all its debts and has disposed of all
24 its property and assets, including money, as prescribed by Section
25 300C.0029, the board shall provide an accounting to each local
26 government that created the district. The accounting must show the
27 manner in which the property, assets, and debts of the district were

1 distributed.

2 SUBCHAPTER C. HEALTH CARE PROVIDER PARTICIPATION PROGRAM; POWERS
3 AND DUTIES OF DISTRICT BOARD

4 Sec. 300C.0051. HEALTH CARE PROVIDER PARTICIPATION
5 PROGRAM. The board of a district may authorize the district to
6 participate in a health care provider participation program on the
7 affirmative vote of a majority of the board, subject to the
8 provisions of this chapter.

9 Sec. 300C.0052. LIMITATION ON AUTHORITY OF BOARD TO REQUIRE
10 MANDATORY PAYMENT. (a) The board may require a mandatory payment
11 authorized under this chapter by an institutional health care
12 provider in the district only in the manner provided by this
13 chapter.

14 (b) The board may not require a mandatory payment under this
15 chapter during a period for which the board requires a mandatory
16 payment under Chapter [300A](#).

17 Sec. 300C.0053. RULES AND PROCEDURES. The board may adopt
18 rules relating to the administration of the health care provider
19 participation program in the district, including collection of the
20 mandatory payments, expenditures, audits, and any other
21 administrative aspects of the program.

22 Sec. 300C.0054. INSTITUTIONAL HEALTH CARE PROVIDER
23 REPORTING. (a) If the board authorizes the district to participate
24 in a health care provider participation program under this chapter,
25 the board shall require each institutional health care provider
26 located in the district to submit to the district a copy of any
27 financial and utilization data required by and reported to the

1 Department of State Health Services under Sections 311.032 and
2 311.033 and any rules adopted by the executive commissioner of the
3 Health and Human Services Commission to implement those sections.

4 (b) The board may inspect the records of an institutional
5 health care provider in the district to the extent necessary to
6 ensure compliance with the requirements of Subsection (a).

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 300C.0101. HEARING. (a) In each year that the board
9 authorizes a health care provider participation program under this
10 chapter, the board shall hold a public hearing on the amounts of any
11 mandatory payments that the board intends to require during the
12 year and how the revenue derived from those payments is to be spent.

13 (b) Not later than the fifth day before the date of the
14 hearing required under Subsection (a), the board shall publish
15 notice of the hearing in a newspaper of general circulation in each
16 local government that created the district and provide written
17 notice of the hearing to the chief operating officer of each
18 institutional health care provider in the district.

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

22 Sec. 300C.0102. LOCAL PROVIDER PARTICIPATION FUND;
23 DEPOSITORY. (a) The board shall deposit all mandatory payments
24 received by a district in the local provider participation fund
25 created by the district under Chapter 300A.

26 (b) The board may designate one or more banks as the
27 depository for the district's local provider participation fund.

1 (c) The board may withdraw or use money in the district's
2 local provider participation fund only for a purpose authorized
3 under this chapter.

4 (d) All funds collected under this chapter shall be secured
5 in the manner provided for securing other funds of the local
6 governments that created the district.

7 Sec. 300C.0103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

8 (a) The local provider participation fund described by Section
9 300C.0102 consists of:

10 (1) all revenue received by the district attributable
11 to mandatory payments authorized under this chapter, including any
12 penalties and interest attributable to delinquent payments;

13 (2) money received from the Health and Human Services
14 Commission as a refund of an intergovernmental transfer described
15 by Subsection (b)(1), provided that the intergovernmental transfer
16 does not receive a federal matching payment;

17 (3) money received by the district and deposited to
18 the fund in accordance with Chapter 300A that remains in the fund on
19 the date the district begins to operate under this chapter; and

20 (4) the earnings of the fund.

21 (b) Money deposited to the local provider participation
22 fund may be used only to:

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

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

(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, or that may benefit nonpublic hospitals as determined by the board, for which federal matching funds are available;

(2) subject to Section 300C.0151(d), pay the administrative expenses of the district in administering the program, including collateralization of deposits;

(3) refund all or a portion of a mandatory payment collected in error from a paying hospital, regardless of whether the payment was collected under this chapter or Chapter 300A; and

(4) refund to paying hospitals a proportionate share of the money 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

1 payments.

2 (c) Money in the local provider participation fund may not
3 be commingled with other district money or other money of a local
4 government that created the district.

5 (d) Notwithstanding any other provision of this chapter,
6 with respect to an intergovernmental transfer of funds described by
7 Subsection (b)(1) made by the district, any funds received by the
8 state, district, or other entity as a result of the transfer may not
9 be used by the state, district, or any other entity to expand
10 Medicaid eligibility under the Patient Protection and Affordable
11 Care Act (Pub. L. No. 111-148) as amended by the Health Care and
12 Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

13 Sec. 300C.0104. ACCOUNTING. The district shall maintain an
14 accounting of the money received from each local government that
15 created the district, including a paying hospital located in a
16 hospital district, county, or municipality that created the
17 district, as applicable.

18 SUBCHAPTER E. MANDATORY PAYMENTS

19 Sec. 300C.0151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
20 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if
21 the board authorizes a health care provider participation program
22 under this chapter, the district shall require an annual mandatory
23 payment to be assessed on the net patient revenue of each
24 institutional health care provider located in the district. The
25 board shall provide that the mandatory payment is to be assessed at
26 least annually, but not more often than quarterly. In the first
27 year in which the mandatory payment is required, the mandatory

payment is assessed on the net patient revenue of an institutional health care provider located in the district 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 previous fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. The district shall update the amount of the mandatory payment on an annual basis.

(b) The amount of a mandatory payment authorized under this chapter must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the district. 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) and 42 C.F.R. Section 433.68.

(c) The board shall set the amount of a mandatory payment authorized under this chapter. The aggregate amount of the mandatory payments required of all paying hospitals in the district may not exceed six percent of the aggregate net patient revenue from hospital services provided by all paying hospitals in the district.

(d) Subject to Subsection (c), the board shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the

1 district for activities under this chapter and to fund an
2 intergovernmental transfer described by Section 300C.0103(b)(1).
3 The annual amount of revenue from mandatory payments that shall be
4 paid for administrative expenses by the district for activities
5 under this chapter may not exceed \$150,000, plus the cost of
6 collateralization of deposits, regardless of actual expenses.

7 (e) A paying hospital may not add a mandatory payment
8 required under this section as a surcharge to a patient.

9 (f) For purposes of any hospital district that participates
10 in a district authorized to operate under this chapter, a mandatory
11 payment assessed under this chapter is not a tax for hospital
12 purposes for purposes of the applicable provision of Article IX,
13 Texas Constitution.

14 Sec. 300C.0152. ASSESSMENT AND COLLECTION OF MANDATORY
15 PAYMENTS. (a) The district may designate an official of the
16 district or contract with another person to assess and collect the
17 mandatory payments authorized under this chapter.

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

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

1 Sec. 300C.0153. LIMITATION ON AUTHORITY; CORRECTION OF
2 INVALID PROVISION OR PROCEDURE. (a) This chapter does not
3 authorize the district to assess and collect mandatory payments for
4 the purpose of raising general revenue or any amount in excess of
5 the amount reasonably necessary to:

6 (1) fund the nonfederal share of a Medicaid
7 supplemental payment program or Medicaid managed care rate
8 enhancements for nonpublic hospitals; and

9 (2) cover the administrative expenses of the district
10 associated with activities under this chapter and other uses of the
11 fund described by Section 300C.0103(b).

12 (b) The district may assess and collect a mandatory payment
13 authorized under this chapter only if a waiver program, uniform
14 rate enhancement, or reimbursement described by Section
15 300C.0103(b)(1) is available to the district.

16 (c) To the extent any provision or procedure under this
17 chapter causes a mandatory payment authorized under this chapter to
18 be ineligible for federal matching funds, the board may provide by
19 rule for an alternative provision or procedure that conforms to the
20 requirements of the federal Centers for Medicare and Medicaid
21 Services. A rule adopted under this section may not create, impose,
22 or materially expand the legal or financial liability or
23 responsibility of the district or an institutional health care
24 provider in the district beyond the provisions of this chapter.
25 This section does not require the board to adopt a rule.

26 Sec. 300C.0154. REPORTING REQUIREMENTS. (a) The board of a
27 district that authorizes a program under this chapter shall report

information to the Health and Human Services Commission regarding the program on a schedule determined by the commission.

(b) The information must include:

(1) the amount of the mandatory payments required and collected in each year the program is authorized;

(2) any expenditure or other use of money attributable to mandatory payments collected under this chapter, including:

(A) any contract with an entity for the administration or operation of a program authorized by this chapter; or

(B) a contract with a person for the assessment and collection of a mandatory payment as authorized under Section 300C.0152; and

(3) the amount of money attributable to mandatory payments collected under this chapter that is used for a purpose other than a purpose described by Subdivisions (1) and (2).

(c) The executive commissioner of the Health and Human Services Commission shall adopt rules to administer this section.

Sec. 300C.0155. AUTHORITY TO REFUSE FOR VIOLATION. The Health and Human Services Commission may refuse to accept money from a local provider participation fund administered under this chapter if the commission determines that acceptance of the money may violate federal law.

Sec. 300C.0156. INTEREST AND PENALTIES. The district may impose and collect interest and penalties on delinquent mandatory payments assessed under this chapter in any amount that does not exceed the maximum amount authorized for other delinquent payments

1 owed to the local governments that created the district.

2 SECTION 2. A director of a district appointed, or a board
3 officer elected, under Chapter 300A, Health and Safety Code, may
4 continue to serve the remainder of the director's or officer's term
5 in accordance with that chapter after the district begins to
6 operate under Chapter 300C, Health and Safety Code, as added by this
7 Act. A director or board officer that serves on the board of
8 directors of a health care provider participation district created
9 under Chapter 300A, Health and Safety Code, is eligible for
10 reappointment or re-election, as applicable, under Chapter 300C,
11 Health and Safety Code, as added by this Act, unless otherwise
12 disqualified.

13 SECTION 3. If before implementing any provision of this Act
14 a state agency determines that a waiver or authorization from a
15 federal agency is necessary for implementation of that provision,
16 the agency affected by the provision shall request the waiver or
17 authorization and may delay implementing that provision until the
18 waiver or authorization is granted.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2025.