

By: Troxclair

H.B. No. 4799

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

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 or a public hospital;

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

(3) is adjacent to the county containing the state

1 capital.

2 Sec. 292E.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
3 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
4 provider participation program authorizes a county to collect a  
5 mandatory payment from each institutional health care provider  
6 located in the county to be deposited in a local provider  
7 participation fund established by the county. Money in the fund may  
8 be used by the county as provided by Section 292E.103(c).

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

12 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

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

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

1       Sec. 292E.054. INSTITUTIONAL HEALTH CARE PROVIDER  
2 REPORTING. If the commissioners court of a county authorizes the  
3 county to participate in a program under this chapter, the  
4 commissioners court shall require each institutional health care  
5 provider to submit to the county a copy of any financial and  
6 utilization data required by and reported to the Department of  
7 State Health Services under Sections 311.032 and 311.033 and any  
8 rules adopted by the executive commissioner of the Health and Human  
9 Services Commission to implement those sections.

10           SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

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

provider participation fund.

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

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

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

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

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

(2) money received from the Health and Human Services Commission as a refund of an intergovernmental transfer described by Subsection (c)(1), 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

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, or  
12 that may benefit nonpublic hospitals as determined by the  
13 commissioners court, for which federal matching funds are  
14 available;

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

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

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

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

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

1           (5) transfer funds to the Health and Human Services  
2 Commission if the county is legally required to transfer the funds  
3 to address a disallowance of federal matching funds with respect to  
4 any program for which intergovernmental transfers described by  
5 Subdivision (1) were made.

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

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

16                   SUBCHAPTER D. MANDATORY PAYMENTS

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

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

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

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

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

1 provided by all paying providers in the county.

2 (e) Subject to Subsection (d), the commissioners court of a  
3 county that requires a mandatory payment under this chapter shall  
4 set the mandatory payments in amounts that in the aggregate will  
5 generate sufficient revenue to cover the administrative expenses of  
6 the county for activities under this chapter and to fund an  
7 intergovernmental transfer described by Section 292E.103(c)(1).  
8 The annual amount of revenue from mandatory payments that may be  
9 used to pay the administrative expenses of the county for  
10 activities under this chapter may not exceed \$20,000, plus the cost  
11 of collateralization of deposits, regardless of actual expenses.

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

14 (g) A mandatory payment assessed under this chapter is not a  
15 tax for hospital purposes for purposes of Section 4, Article IX,  
16 Texas Constitution.

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

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

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



1 the county general fund and, if appropriate, shall be reported as  
2 fees of the county.

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

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

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

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

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

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

11       SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2025.