

House Bill 3348
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(B) a county that:

(i) has a population of one million or more;

(ii) contains all or part of a municipality with a population of one million or more; and

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

(C) a county that:

(i) has a population of 900,000 or more; and

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

SENATE VERSION (IE)

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 hospital" 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:

(A) a county that:

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

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

(B) a county that:

(i) has a population of 900,000 or more; and

(ii) borders two counties, each of which has a population of two million or more; or

(C) a county that:

(i) has a population of one million or more;

(ii) contains all or part of a municipality with a population of one million or more; and

(iii) is adjacent to a county with a population of 2.5 million or more.

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Sec. 292E.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care provider participation 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. Money in the fund may be used by the county as provided by Section 292E.103(c).

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

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

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

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

Sec. 292E.054. INSTITUTIONAL HEALTH CARE

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Sec. 292E.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care provider participation 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. Money in the fund may be used by the county as provided by Section 292E.103(b).

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

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

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

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

Sec. 292E.054. INSTITUTIONAL HEALTH CARE

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

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

Sec. 292E.102. DEPOSITORY.

(a) The commissioners court of a county that requires a

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PROVIDER REPORTING. (a) The commissioners court of a county that authorizes the county to participate in a program under this chapter shall require each institutional health care provider located in the county to submit to the county a copy of any financial and utilization data required by and reported to the Department of State Health Services under Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections.

(b) The commissioners court may inspect the records of an institutional health care provider in the county to the extent necessary to ensure compliance with the requirements of Subsection (a).

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

Sec. 292E.102. LOCAL PROVIDER PARTICIPATION FUND; DEPOSITORY. (a) The commissioners court of a

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mandatory payment under this chapter

shall 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 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

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county that requires a mandatory payment under this chapter shall create a local provider participation fund.

(b) If the commissioners court of a county creates a local provider participation fund, the commissioners court shall designate one or more banks as the depository for the county's local provider participation fund.

(c) The commissioners court may withdraw or use money in the county's local provider participation fund only for a purpose authorized under this chapter.

(d) All funds collected under this chapter shall be secured in the manner provided for securing other funds of the county.

Sec. 292E.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY.

(a) The local provider participation fund established by a county under Section 292E.102 consists of:

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

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

(3) the earnings of the fund.

(b) Money deposited to a county's local provider participation

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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, including collateralization of deposits;

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

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

(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 payments; and

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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, or that may benefit nonpublic hospitals as determined by the commissioners court, 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, including collateralization of deposits;

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

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

(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 payments.

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

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

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

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

(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

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

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

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

(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 HOSPITAL 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 shall 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 shall 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

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

(c) 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 provider in the county. A mandatory payment 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.

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

(e) Subject to Subsection (d), the commissioners court of a

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

(c) 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 county. A program 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.

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

(e) Subject to Subsection (d), the commissioners court of a

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county that requires a mandatory payment under this chapter shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter and to fund an intergovernmental transfer described by Section 292E.103(c)(1). The annual amount of revenue from mandatory payments that may be used to pay the administrative expenses of the county for activities under this chapter may not exceed \$150,000, plus the cost of collateralization of deposits, regardless of actual expenses.

- (f) A paying provider may not add a mandatory payment required under this section as a surcharge to a patient.
Sec. 292E.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. (a) The county may collect or contract for the assessment and collection of mandatory payments authorized under this chapter.
(b) The person charged by the county with the assessment and collection of mandatory payments shall charge and deduct from the mandatory payments collected for the county a collection fee in an amount not to exceed the person's usual and customary charges for like services.
(c) If the person charged with the assessment and collection of mandatory payments is an official of the county, any revenue from a collection fee charged under Subsection (b) shall be deposited in the county general fund and, if appropriate, shall be reported as fees of the county.

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county that requires a mandatory payment under this chapter shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter and to fund an intergovernmental transfer described by Section 292E.103(b)(1). The annual amount of revenue from mandatory payments that may be used to pay the administrative expenses of the county for activities under this chapter may not exceed the following amounts, plus the collateralization of deposits, regardless of the actual expenses:
(1) for a county described by Section 292E.002(2)(A), \$20,000;
(2) for a county described by Section 292E.002(2)(B), \$150,000; or
(3) for a county described by Section 292E.002(2)(C), \$300,000. [FA1(1)]

- (f) A paying hospital may not add a mandatory payment required under this section as a surcharge to a patient.
Sec. 292E.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. (a) The county may collect or contract for the assessment and collection of mandatory payments authorized under this chapter.
(b) The person charged by the county with the assessment and collection of mandatory payments shall charge and deduct from the mandatory payments collected for the county a collection fee in an amount not to exceed the person's usual and customary charges for like services.
(c) If the person charged with the assessment and collection of mandatory payments is an official of the county, any revenue from a collection fee charged under Subsection (b) shall be deposited in the county general fund and, if appropriate, shall be reported as fees of the county.

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

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

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

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

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

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

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

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

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Sec. 292E.154. REPORTING REQUIREMENTS. (a) The commissioners court of a county 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; and
(2) any expenditure or other use of money attributable to mandatory payments collected under this chapter.
(c) The executive commissioner of the Health and Human Services Commission may adopt rules to administer this section.
Sec. 292E.155. 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. 292E.156. INTEREST AND PENALTIES. The county 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 owed to the county.

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

SECTION 2. Same as House version.

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

SECTION __. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025. [FA3(1)]