

By: Gonzales of Williamson

H.B. No. 3954

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of health care provider participation programs 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 292B to read as follows:

CHAPTER 292B. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING COUNTY CONTAINING STATE CAPITAL

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Institutional health care provider" means a nonpublic hospital licensed under Chapter 241.

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

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

Sec. 292B.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 400,000; and

(3) is adjacent to the county containing the state capital.

1 Sec. 292B.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
2 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
3 provider participation program authorizes a county to collect a
4 mandatory payment from each institutional health care provider
5 located in the county to be deposited in a local provider
6 participation fund established by the county. Money in the fund may
7 be used by the county to fund certain intergovernmental transfers
8 and indigent care programs as provided by this chapter.

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

12 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

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

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

23 Sec. 292B.053. RULES AND PROCEDURES. After the
24 commissioners court of a county has voted to require a mandatory
25 payment authorized under this chapter, the commissioners court may
26 adopt rules relating to the administration of the mandatory
27 payment.

1 Sec. 292B.054. INSTITUTIONAL HEALTH CARE PROVIDER
2 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
3 county that collects a mandatory payment authorized under this
4 chapter shall require each institutional health care provider to
5 submit to the county a copy of any financial and utilization data
6 required by and reported to the Department of State Health Services
7 under Sections 311.032 and 311.033 and any rules adopted by the
8 executive commissioner of the Health and Human Services Commission
9 to implement those sections.

10 (b) The commissioners court of a county that collects a
11 mandatory payment authorized under this chapter may inspect the
12 records of an institutional health care provider to the extent
13 necessary to ensure compliance with the requirements of Subsection
14 (a).

15 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

16 Sec. 292B.101. HEARING. (a) Each year, the commissioners
17 court of a county that collects a mandatory payment authorized
18 under this chapter shall hold a public hearing on the amounts of any
19 mandatory payments that the commissioners court intends to require
20 during the year and how the revenue derived from those payments is
21 to be spent.

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

25 Sec. 292B.102. DEPOSITORY. (a) The commissioners court of
26 each county that collects a mandatory payment authorized under this
27 chapter by resolution shall designate one or more banks located in

1 the county as the depository for mandatory payments received by the
2 county. A bank designated as a depository serves for two years or
3 until a successor is designated.

4 (b) All income received by a county under this chapter,
5 including the revenue from mandatory payments remaining after
6 discounts and fees for assessing and collecting the payments are
7 deducted, shall be deposited with the county depository in the
8 county's local provider participation fund and may be withdrawn
9 only as provided by this chapter.

10 (c) All funds under this chapter shall be secured in the
11 manner provided for securing county funds.

12 Sec. 292B.103. LOCAL PROVIDER PARTICIPATION FUND;
13 AUTHORIZED USES OF MONEY. (a) Each county that collects a
14 mandatory payment authorized under this chapter shall create a
15 local provider participation fund.

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

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

21 (2) money received from the Health and Human Services
22 Commission as a refund of an intergovernmental transfer from the
23 county to the state for the purpose of providing the nonfederal
24 share of Medicaid supplemental payment program payments, provided
25 that the intergovernmental transfer does not receive a federal
26 matching payment; and

27 (3) the earnings of the fund.

1 (c) Money deposited to the local provider participation
2 fund may be used only to:

3 (1) fund intergovernmental transfers from the county
4 to the state to provide:

5 (A) the nonfederal share of a Medicaid
6 supplemental payment program authorized under the state Medicaid
7 plan, the Texas Healthcare Transformation and Quality Improvement
8 Program waiver issued under Section 1115 of the federal Social
9 Security Act (42 U.S.C. Section 1315), or a successor waiver
10 program authorizing similar Medicaid supplemental payment
11 programs; or

12 (B) payments to Medicaid managed care
13 organizations that are dedicated for payment to hospitals;

14 (2) subsidize indigent programs;

15 (3) pay the administrative expenses of the county
16 solely for activities under this chapter;

17 (4) refund a portion of a mandatory payment collected
18 in error from a paying hospital; and

19 (5) refund to paying hospitals the proportionate share
20 of money received by the county from the Health and Human Services
21 Commission that is not used to fund the nonfederal share of Medicaid
22 supplemental payment program payments.

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

25 (e) An intergovernmental transfer of funds described by
26 Subsection (c)(1) and any funds received by the county as a result
27 of an intergovernmental transfer described by that subdivision may

not be used by the county or any other entity to 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).

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 292B.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the commissioners court of a county that collects a mandatory payment authorized under this chapter 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 fiscal year ending in 2015 or, if the institutional health care provider did not report any data under those sections in that fiscal year, as determined by the institutional health care provider's Medicare cost report submitted for the 2015 fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. The county 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 county. A

1 mandatory payment authorized under this chapter may not hold
2 harmless any institutional health care provider, as required under
3 42 U.S.C. Section 1396b(w).

4 (c) The commissioners court of a county that collects a
5 mandatory payment authorized under this chapter shall set the
6 amount of the mandatory payment. The amount of the mandatory
7 payment required of each paying hospital may not exceed six percent
8 of the paying hospital's net patient revenue.

9 (d) Subject to the maximum amount prescribed by Subsection
10 (c), the commissioners court of a county that collects a mandatory
11 payment authorized under this chapter shall set the mandatory
12 payments in amounts that in the aggregate will generate sufficient
13 revenue to cover the administrative expenses of the county for
14 activities under this chapter, to fund an intergovernmental
15 transfer described by Section 292B.103(c)(1), and to pay for
16 indigent programs, except that the amount of revenue from mandatory
17 payments used for administrative expenses of the county for
18 activities under this chapter in a year may not exceed the lesser of
19 four percent of the total revenue generated from the mandatory
20 payment or \$20,000.

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

23 Sec. 292B.152. ASSESSMENT AND COLLECTION OF MANDATORY
24 PAYMENTS. (a) Except as provided by Subsection (b), the county tax
25 assessor-collector shall collect the mandatory payment authorized
26 under this chapter. The county tax assessor-collector shall charge
27 and deduct from mandatory payments collected for the county a fee

1 for collecting the mandatory payment in an amount determined by the
2 commissioners court of the county, not to exceed the county tax
3 assessor-collector's usual and customary charges.

4 (b) If determined by the commissioners court to be
5 appropriate, the commissioners court may contract for the
6 assessment and collection of mandatory payments in the manner
7 provided by Title 1, Tax Code, for the assessment and collection of
8 ad valorem taxes.

9 (c) Revenue from a fee charged by a county tax
10 assessor-collector for collecting the mandatory payment shall be
11 deposited in the county general fund and, if appropriate, shall be
12 reported as fees of the county tax assessor-collector.

13 Sec. 292B.153. INTEREST, PENALTIES, AND DISCOUNTS.
14 Interest, penalties, and discounts on mandatory payments required
15 under this chapter are governed by the law applicable to county ad
16 valorem taxes.

17 Sec. 292B.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
18 PROCEDURE. (a) The purpose of this chapter is to generate revenue
19 by collecting from institutional health care providers a mandatory
20 payment to be used to provide the nonfederal share of a Medicaid
21 supplemental payment program.

22 (b) To the extent any provision or procedure under this
23 chapter causes a mandatory payment authorized under this chapter to
24 be ineligible for federal matching funds, the county may provide by
25 rule for an alternative provision or procedure that conforms to the
26 requirements of the federal Centers for Medicare and Medicaid
27 Services.

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

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2017.