

1-1 By: Simpson (Senate Sponsor - Campbell) H.B. No. 3175  
 1-2 (In the Senate - Received from the House May 4, 2015;  
 1-3 May 20, 2015, read first time and referred to Committee on  
 1-4 Intergovernmental Relations; May 25, 2015, reported favorably by  
 1-5 the following vote: Yeas 5, Nays 0; May 25, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Lucio	X			
1-8 Bettencourt			X	
1-9 Campbell	X			
1-10 Garcia	X			
1-11 Menéndez	X			
1-12 Nichols	X			
1-13 Taylor of Galveston			X	
1-14				

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to the creation and operations of health care provider  
 1-18 participation programs in certain counties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is  
 1-21 amended by adding Chapter 293 to read as follows:

1-22 CHAPTER 293. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN  
 1-23 CERTAIN COUNTIES IN THE TEXAS-LOUISIANA BORDER REGION

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 293.001. DEFINITIONS. In this chapter:

1-26 (1) "Institutional health care provider" means a  
 1-27 nonpublic hospital that provides inpatient hospital services.

1-28 (2) "Paying hospital" means an institutional health  
 1-29 care provider required to make a mandatory payment under this  
 1-30 chapter.

1-31 (3) "Program" means the county health care provider  
 1-32 participation program authorized by this chapter.

1-33 Sec. 293.002. APPLICABILITY. This chapter applies only to  
 1-34 a county that:

1-35 (1) is not served by a hospital district;

1-36 (2) is located in the Texas-Louisiana border region,  
 1-37 as that region is defined by Section 2056.002, Government Code; and

1-38 (3) has a population of more than 100,000 but less than  
 1-39 200,000.

1-40 Sec. 293.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
 1-41 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
 1-42 provider participation program authorizes a county to collect a  
 1-43 mandatory payment from each institutional health care provider  
 1-44 located in the county to be deposited in a local provider  
 1-45 participation fund established by the county. Money in the fund may  
 1-46 be used by the county to fund certain intergovernmental transfers  
 1-47 and indigent care programs as provided by this chapter.

1-48 (b) The commissioners court may adopt an order authorizing a  
 1-49 county to participate in the program, subject to the limitations  
 1-50 provided by this chapter.

1-51 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-52 Sec. 293.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
 1-53 PAYMENT. The commissioners court of a county may require a  
 1-54 mandatory payment authorized under this chapter by an institutional  
 1-55 health care provider in the county only in the manner provided by  
 1-56 this chapter.

1-57 Sec. 293.052. MAJORITY VOTE REQUIRED. The commissioners  
 1-58 court of a county may not authorize the county to collect a  
 1-59 mandatory payment authorized under this chapter without an  
 1-60 affirmative vote of a majority of the members of the commissioners  
 1-61 court.

2-1 Sec. 293.053. RULES AND PROCEDURES. After the  
 2-2 commissioners court has voted to require a mandatory payment  
 2-3 authorized under this chapter, the commissioners court may adopt  
 2-4 rules relating to the administration of the mandatory payment.

2-5 Sec. 293.054. INSTITUTIONAL HEALTH CARE PROVIDER  
 2-6 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a  
 2-7 county that collects a mandatory payment authorized under this  
 2-8 chapter shall require each institutional health care provider to  
 2-9 submit to the county a copy of any financial and utilization data  
 2-10 required by and reported to the Department of State Health Services  
 2-11 under Sections 311.032 and 311.033 and any rules adopted by the  
 2-12 executive commissioner of the Health and Human Services Commission  
 2-13 to implement those sections.

2-14 (b) The commissioners court of a county that collects a  
 2-15 mandatory payment authorized under this chapter may inspect the  
 2-16 records of an institutional health care provider to the extent  
 2-17 necessary to ensure compliance with the requirements of Subsection  
 2-18 (a).

#### 2-19 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-20 Sec. 293.101. HEARING. (a) Each year, the commissioners  
 2-21 court of a county that collects a mandatory payment authorized  
 2-22 under this chapter shall hold a public hearing on the amounts of any  
 2-23 mandatory payments that the commissioners court intends to require  
 2-24 during the year and how the revenue derived from those payments is  
 2-25 to be spent.

2-26 (b) Not later than the 10th day before the date of the  
 2-27 hearing required under Subsection (a), the commissioners court of  
 2-28 the county shall publish notice of the hearing in a newspaper of  
 2-29 general circulation in the county.

2-30 (c) A representative of a paying hospital is entitled to  
 2-31 appear at the time and place designated in the public notice and to  
 2-32 be heard regarding any matter related to the mandatory payments  
 2-33 authorized under this chapter.

2-34 Sec. 293.102. DEPOSITORY. (a) The commissioners court of  
 2-35 each county that collects a mandatory payment authorized under this  
 2-36 chapter by resolution shall designate one or more banks located in  
 2-37 the county as the depository for mandatory payments received by the  
 2-38 county. A bank designated as a depository serves for two years or  
 2-39 until a successor is designated.

2-40 (b) All income received by a county under this chapter,  
 2-41 including the revenue from mandatory payments remaining after  
 2-42 discounts and fees for assessing and collecting the payments are  
 2-43 deducted, shall be deposited with the county depository in the  
 2-44 county's local provider participation fund and may be withdrawn  
 2-45 only as provided by this chapter.

2-46 (c) All funds under this chapter shall be secured in the  
 2-47 manner provided for securing county funds.

2-48 Sec. 293.103. LOCAL PROVIDER PARTICIPATION FUND;  
 2-49 AUTHORIZED USES OF MONEY. (a) Each county that collects a  
 2-50 mandatory payment authorized under this chapter shall create a  
 2-51 local provider participation fund.

2-52 (b) The local provider participation fund of a county  
 2-53 consists of:

2-54 (1) all revenue received by the county attributable to  
 2-55 mandatory payments authorized under this chapter, including any  
 2-56 penalties and interest attributable to delinquent payments;

2-57 (2) money received from the Health and Human Services  
 2-58 Commission as a refund of an intergovernmental transfer from the  
 2-59 county to the state for the purpose of providing the nonfederal  
 2-60 share of Medicaid supplemental payment program payments, provided  
 2-61 that the intergovernmental transfer does not receive a federal  
 2-62 matching payment; and

2-63 (3) the earnings of the fund.

2-64 (c) Money deposited to the local provider participation  
 2-65 fund may be used only to:

2-66 (1) fund intergovernmental transfers from the county  
 2-67 to the state to provide the nonfederal share of a Medicaid  
 2-68 supplemental payment program authorized under the state Medicaid  
 2-69 plan, the Texas Healthcare Transformation and Quality Improvement

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

3-5 (2) subsidize indigent programs;

3-6 (3) pay the administrative expenses of the county  
 3-7 solely for activities under this chapter;

3-8 (4) refund a portion of a mandatory payment collected  
 3-9 in error from a paying hospital; and

3-10 (5) refund to paying hospitals the proportionate share  
 3-11 of money received by the county from the Health and Human Services  
 3-12 Commission that is not used to fund the nonfederal share of Medicaid  
 3-13 supplemental payment program payments.

3-14 (d) Money in the local provider participation fund may not  
 3-15 be commingled with other county funds.

3-16 (e) An intergovernmental transfer of funds described by  
 3-17 Subsection (c)(1) and any funds received by the county as a result  
 3-18 of an intergovernmental transfer described by that subsection may  
 3-19 not be used by the county or any other entity to expand Medicaid  
 3-20 eligibility under the Patient Protection and Affordable Care Act  
 3-21 (Pub. L. No. 111-148) as amended by the Health Care and Education  
 3-22 Reconciliation Act of 2010 (Pub. L. No. 111-152).

#### 3-23 SUBCHAPTER D. MANDATORY PAYMENTS

3-24 Sec. 293.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
 3-25 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
 3-26 commissioners court of a county that collects a mandatory payment  
 3-27 authorized under this chapter may require an annual mandatory  
 3-28 payment to be assessed on the net patient revenue of each  
 3-29 institutional health care provider located in the county. The  
 3-30 commissioners court may provide for the mandatory payment to be  
 3-31 assessed quarterly. In the first year in which the mandatory  
 3-32 payment is required, the mandatory payment is assessed on the net  
 3-33 patient revenue of an institutional health care provider as  
 3-34 determined by the data reported to the Department of State Health  
 3-35 Services under Sections 311.032 and 311.033 in the fiscal year  
 3-36 ending in 2013 or, if the institutional health care provider did not  
 3-37 report any data under those sections in that fiscal year, as  
 3-38 determined by the institutional health care provider's cost report  
 3-39 submitted for the 2013 fiscal year or for the closest subsequent  
 3-40 fiscal year for which the provider submitted the cost report. The  
 3-41 county shall update the amount of the mandatory payment on an annual  
 3-42 basis.

3-43 (b) The amount of a mandatory payment authorized under this  
 3-44 chapter must be uniformly proportionate with the amount of net  
 3-45 patient revenue generated by each paying hospital in the county. A  
 3-46 mandatory payment authorized under this chapter may not hold  
 3-47 harmless any institutional health care provider, as required under  
 3-48 42 U.S.C. Section 1396b(w).

3-49 (c) The commissioners court of a county that collects a  
 3-50 mandatory payment authorized under this chapter shall set the  
 3-51 amount of the mandatory payment. The amount of the mandatory  
 3-52 payment required of each paying hospital may not exceed an amount  
 3-53 that, when added to the amount of the mandatory payments required  
 3-54 from all other paying hospitals in the county, equals an amount of  
 3-55 revenue that exceeds six percent of the aggregate net patient  
 3-56 revenue of all paying hospitals in the county.

3-57 (d) Subject to the maximum amount prescribed by Subsection  
 3-58 (c), the commissioners court of a county that collects a mandatory  
 3-59 payment authorized under this chapter shall set the mandatory  
 3-60 payments in amounts that in the aggregate will generate sufficient  
 3-61 revenue to cover the administrative expenses of the county for  
 3-62 activities under this chapter, to fund the nonfederal share of a  
 3-63 Medicaid supplemental payment program, and to pay for indigent  
 3-64 programs, except that the amount of revenue from mandatory payments  
 3-65 used for administrative expenses of the county for activities under  
 3-66 this chapter in a year may not exceed the lesser of four percent of  
 3-67 the total revenue generated from the mandatory payment or \$20,000.

3-68 (e) A paying hospital may not add a mandatory payment  
 3-69 required under this section as a surcharge to a patient.

4-1 Sec. 293.152. ASSESSMENT AND COLLECTION OF MANDATORY  
4-2 PAYMENTS. (a) Except as provided by Subsection (b), the county tax  
4-3 assessor-collector shall collect the mandatory payment authorized  
4-4 under this chapter. The county tax assessor-collector shall charge  
4-5 and deduct from mandatory payments collected for the county a fee  
4-6 for collecting the mandatory payment in an amount determined by the  
4-7 commissioners court of the county, not to exceed the county tax  
4-8 assessor-collector's usual and customary charges.

4-9 (b) If determined by the commissioners court to be  
4-10 appropriate, the commissioners court may contract for the  
4-11 assessment and collection of mandatory payments in the manner  
4-12 provided by Title 1, Tax Code, for the assessment and collection of  
4-13 ad valorem taxes.

4-14 (c) Revenue from a fee charged by a county tax  
4-15 assessor-collector for collecting the mandatory payment shall be  
4-16 deposited in the county general fund and, if appropriate, shall be  
4-17 reported as fees of the county tax assessor-collector.

4-18 Sec. 293.153. INTEREST, PENALTIES, AND DISCOUNTS.  
4-19 Interest, penalties, and discounts on mandatory payments required  
4-20 under this chapter are governed by the law applicable to county ad  
4-21 valorem taxes.

4-22 Sec. 293.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
4-23 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
4-24 by collecting from institutional health care providers a mandatory  
4-25 payment to be used to provide the nonfederal share of a Medicaid  
4-26 supplemental payment program.

4-27 (b) To the extent any provision or procedure under this  
4-28 chapter causes a mandatory payment authorized under this chapter to  
4-29 be ineligible for federal matching funds, the county may provide by  
4-30 rule for an alternative provision or procedure that conforms to the  
4-31 requirements of the federal Centers for Medicare and Medicaid  
4-32 Services.

4-33 SECTION 2. If before implementing any provision of this Act  
4-34 a state agency determines that a waiver or authorization from a  
4-35 federal agency is necessary for implementation of that provision,  
4-36 the agency affected by the provision shall request the waiver or  
4-37 authorization and may delay implementing that provision until the  
4-38 waiver or authorization is granted.

4-39 SECTION 3. This Act takes effect immediately if it receives  
4-40 a vote of two-thirds of all the members elected to each house, as  
4-41 provided by Section 39, Article III, Texas Constitution. If this  
4-42 Act does not receive the vote necessary for immediate effect, this  
4-43 Act takes effect September 1, 2015.

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