

1-1 By: Creighton S.B. No. 1387
1-2 (In the Senate - Filed March 12, 2015; March 18, 2015, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 23, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 23, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1387 By: Lucio

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the creation and operations of health care provider
1-20 participation programs in certain municipalities.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
1-23 amended by adding Chapter 295 to read as follows:

1-24 CHAPTER 295. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM

1-25 IN CERTAIN MUNICIPALITIES

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 295.001. DEFINITIONS. In this chapter:

1-28 (1) "Institutional health care provider" means a
1-29 nonpublic hospital that provides inpatient hospital services.

1-30 (2) "Paying hospital" means an institutional health
1-31 care provider required to make a mandatory payment under this
1-32 chapter.

1-33 (3) "Program" means the municipal health care provider
1-34 participation program authorized by this chapter.

1-35 Sec. 295.002. APPLICABILITY. This chapter applies only to
1-36 a municipality that:

1-37 (1) is not served by a hospital district or a public
1-38 hospital;

1-39 (2) is located on the Gulf of Mexico or on a channel,
1-40 canal, bay, or inlet connected to the Gulf of Mexico; and

1-41 (3) has a population of more than 117,000 and less than
1-42 145,000.

1-43 Sec. 295.003. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION
1-44 PROGRAM; PARTICIPATION IN PROGRAM. (a) A municipal health care
1-45 provider participation program authorizes a municipality to
1-46 collect a mandatory payment from each institutional health care
1-47 provider located in the municipality to be deposited in a local
1-48 provider participation fund established by the municipality. Money
1-49 in the fund may be used by the municipality to fund certain
1-50 intergovernmental transfers and indigent care programs as provided
1-51 by this chapter.

1-52 (b) The governing body of a municipality may adopt an
1-53 ordinance authorizing a municipality to participate in the program,
1-54 subject to the limitations provided by this chapter.

1-55 SUBCHAPTER B. POWERS AND DUTIES OF GOVERNING BODY OF MUNICIPALITY

1-56 Sec. 295.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
1-57 PAYMENT. The governing body of a municipality may require a
1-58 mandatory payment authorized under this chapter by an institutional
1-59 health care provider in the municipality only in the manner
1-60 provided by this chapter.

2-1 Sec. 295.052. MAJORITY VOTE REQUIRED. The governing body
2-2 of a municipality may not authorize the municipality to collect a
2-3 mandatory payment authorized under this chapter without an
2-4 affirmative vote of a majority of the members of the governing body.

2-5 Sec. 295.053. RULES AND PROCEDURES. After the governing
2-6 body of a municipality has voted to require a mandatory payment
2-7 authorized under this chapter, the governing body may adopt rules
2-8 relating to the administration of the mandatory payment.

2-9 Sec. 295.054. INSTITUTIONAL HEALTH CARE PROVIDER
2-10 REPORTING; INSPECTION OF RECORDS. (a) The governing body of a
2-11 municipality that collects a mandatory payment authorized under
2-12 this chapter shall require each institutional health care provider
2-13 to submit to the municipality a copy of any financial and
2-14 utilization data required by and reported to the Department of
2-15 State Health Services under Sections 311.032 and 311.033 and any
2-16 rules adopted by the executive commissioner of the Health and Human
2-17 Services Commission to implement those sections.

2-18 (b) The governing body of a municipality that collects a
2-19 mandatory payment authorized under this chapter may inspect the
2-20 records of an institutional health care provider to the extent
2-21 necessary to ensure compliance with the requirements of Subsection
2-22 (a).

2-23 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-24 Sec. 295.101. HEARING. (a) Each year, the governing body
2-25 of a municipality that collects a mandatory payment authorized
2-26 under this chapter shall hold a public hearing on the amounts of any
2-27 mandatory payments that the governing body intends to require
2-28 during the year and how the revenue derived from those payments is
2-29 to be spent.

2-30 (b) Not later than the 10th day before the date of the
2-31 hearing required under Subsection (a), the governing body of the
2-32 municipality shall publish notice of the hearing in a newspaper of
2-33 general circulation in the municipality.

2-34 (c) A representative of a paying hospital is entitled to
2-35 appear at the time and place designated in the public notice and to
2-36 be heard regarding any matter related to the mandatory payments
2-37 authorized under this chapter.

2-38 Sec. 295.102. DEPOSITORY. (a) The governing body of each
2-39 municipality that collects a mandatory payment authorized under
2-40 this chapter by resolution shall designate one or more banks
2-41 located in the municipality as the depository for mandatory
2-42 payments received by the municipality. A bank designated as a
2-43 depository serves for two years or until a successor is designated.

2-44 (b) All income received by a municipality under this
2-45 chapter, including the revenue from mandatory payments remaining
2-46 after discounts and fees for assessing and collecting the payments
2-47 are deducted, shall be deposited with the designated depository in
2-48 the municipality's local provider participation fund and may be
2-49 withdrawn only as provided by this chapter.

2-50 (c) All funds under this chapter shall be secured in the
2-51 manner provided for securing municipal funds.

2-52 Sec. 295.103. LOCAL PROVIDER PARTICIPATION FUND;
2-53 AUTHORIZED USES OF MONEY. (a) Each municipality that collects a
2-54 mandatory payment authorized under this chapter shall create a
2-55 local provider participation fund.

2-56 (b) The local provider participation fund of a municipality
2-57 consists of:

2-58 (1) all revenue received by the municipality
2-59 attributable to mandatory payments authorized under this chapter,
2-60 including any penalties and interest attributable to delinquent
2-61 payments;

2-62 (2) money received from the Health and Human Services
2-63 Commission as a refund of an intergovernmental transfer from the
2-64 municipality to the state for the purpose of providing the
2-65 nonfederal share of Medicaid supplemental payment program
2-66 payments, provided that the intergovernmental transfer does not
2-67 receive a federal matching payment; and

2-68 (3) the earnings of the fund.

2-69 (c) Money deposited to the local provider participation

3-1 fund may be used only to:

3-2 (1) fund intergovernmental transfers from the
 3-3 municipality to the state to provide the nonfederal share of a
 3-4 Medicaid supplemental payment program authorized under the state
 3-5 Medicaid plan, the Texas Healthcare Transformation and Quality
 3-6 Improvement Program waiver issued under Section 1115 of the federal
 3-7 Social Security Act (42 U.S.C. Section 1315), or a successor waiver
 3-8 program authorizing similar Medicaid supplemental payment
 3-9 programs;

3-10 (2) subsidize indigent programs;

3-11 (3) pay the administrative expenses of the
 3-12 municipality solely for activities under this chapter;

3-13 (4) refund a portion of a mandatory payment collected
 3-14 in error from a paying hospital; and

3-15 (5) refund to paying hospitals the proportionate share
 3-16 of money received by the municipality from the Health and Human
 3-17 Services Commission that is not used to fund the nonfederal share of
 3-18 Medicaid supplemental payment program payments.

3-19 (d) Money in the local provider participation fund may not
 3-20 be commingled with other municipal funds.

3-21 (e) An intergovernmental transfer of funds described by
 3-22 Subsection (c)(1) and any funds received by the municipality as a
 3-23 result of an intergovernmental transfer described by that
 3-24 subsection may not be used by the municipality or any other entity
 3-25 to expand Medicaid eligibility under the Patient Protection and
 3-26 Affordable Care Act (Pub. L. No. 111-148) as amended by the Health
 3-27 Care and Education Reconciliation Act of 2010 (Pub. L.
 3-28 No. 111-152).

3-29 SUBCHAPTER D. MANDATORY PAYMENTS

3-30 Sec. 295.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
 3-31 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),
 3-32 the governing body of a municipality that collects a mandatory
 3-33 payment authorized under this chapter may require an annual
 3-34 mandatory payment to be assessed on the net patient revenue of each
 3-35 institutional health care provider located in the municipality. The
 3-36 governing body may provide for the mandatory payment to be assessed
 3-37 quarterly. In the first year in which the mandatory payment is
 3-38 required, the mandatory payment is assessed on the net patient
 3-39 revenue of an institutional health care provider as determined by
 3-40 the data reported to the Department of State Health Services under
 3-41 Sections 311.032 and 311.033 in the fiscal year ending in 2013 or,
 3-42 if the institutional health care provider did not report any data
 3-43 under those sections in that fiscal year, as determined by the
 3-44 institutional health care provider's Medicare cost report
 3-45 submitted for the 2013 fiscal year or for the closest subsequent
 3-46 fiscal year for which the provider submitted the Medicare cost
 3-47 report. The municipality shall update the amount of the mandatory
 3-48 payment on an annual basis.

3-49 (b) The amount of a mandatory payment authorized under this
 3-50 chapter must be uniformly proportionate with the amount of net
 3-51 patient revenue generated by each paying hospital in the
 3-52 municipality. A mandatory payment authorized under this chapter
 3-53 may not hold harmless any institutional health care provider, as
 3-54 required under 42 U.S.C. Section 1396b(w).

3-55 (c) The governing body of a municipality that collects a
 3-56 mandatory payment authorized under this chapter shall set the
 3-57 amount of the mandatory payment. The amount of the mandatory
 3-58 payment required of each paying hospital may not exceed an amount
 3-59 that, when added to the amount of the mandatory payments required
 3-60 from all other paying hospitals in the municipality, equals an
 3-61 amount of revenue that exceeds six percent of the aggregate net
 3-62 patient revenue of all paying hospitals in the municipality.

3-63 (d) Subject to the maximum amount prescribed by Subsection
 3-64 (c), the governing body of a municipality that collects a mandatory
 3-65 payment authorized under this chapter shall set the mandatory
 3-66 payments in amounts that in the aggregate will generate sufficient
 3-67 revenue to cover the administrative expenses of the municipality
 3-68 for activities under this chapter, to fund the nonfederal share of a
 3-69 Medicaid supplemental payment program, and to pay for indigent

4-1 programs, except that the amount of revenue from mandatory payments
4-2 used for administrative expenses of the municipality for activities
4-3 under this chapter in a year may not exceed the lesser of four
4-4 percent of the total revenue generated from the mandatory payment
4-5 or \$20,000.

4-6 (e) A paying hospital may not add a mandatory payment
4-7 required under this section as a surcharge to a patient.

4-8 Sec. 295.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-9 PAYMENTS. (a) Except as provided by Subsection (b), the municipal
4-10 tax assessor-collector shall collect the mandatory payment
4-11 authorized under this chapter. The municipal tax
4-12 assessor-collector shall charge and deduct from mandatory payments
4-13 collected for the municipality a fee for collecting the mandatory
4-14 payment in an amount determined by the governing body of the
4-15 municipality, not to exceed the municipal tax assessor-collector's
4-16 usual and customary charges.

4-17 (b) If determined by the governing body to be appropriate,
4-18 the governing body may contract for the assessment and collection
4-19 of mandatory payments in the manner provided by Title 1, Tax Code,
4-20 for the assessment and collection of ad valorem taxes.

4-21 (c) Revenue from a fee charged by a municipal tax
4-22 assessor-collector for collecting the mandatory payment shall be
4-23 deposited in the municipal general fund and, if appropriate, shall
4-24 be reported as fees of the municipal tax assessor-collector.

4-25 Sec. 295.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-26 Interest, penalties, and discounts on mandatory payments required
4-27 under this chapter are governed by the law applicable to municipal
4-28 ad valorem taxes.

4-29 Sec. 295.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-30 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-31 by collecting from institutional health care providers a mandatory
4-32 payment to be used to provide the nonfederal share of a Medicaid
4-33 supplemental payment program.

4-34 (b) To the extent any provision or procedure under this
4-35 chapter causes a mandatory payment authorized under this chapter to
4-36 be ineligible for federal matching funds, the municipality may
4-37 provide by rule for an alternative provision or procedure that
4-38 conforms to the requirements of the federal Centers for Medicare
4-39 and Medicaid Services.

4-40 SECTION 2. If before implementing any provision of this Act
4-41 a state agency determines that a waiver or authorization from a
4-42 federal agency is necessary for implementation of that provision,
4-43 the agency affected by the provision shall request the waiver or
4-44 authorization and may delay implementing that provision until the
4-45 waiver or authorization is granted.

4-46 SECTION 3. This Act takes effect immediately if it receives
4-47 a vote of two-thirds of all the members elected to each house, as
4-48 provided by Section 39, Article III, Texas Constitution. If this
4-49 Act does not receive the vote necessary for immediate effect, this
4-50 Act takes effect September 1, 2015.

4-51 * * * * *