

1-1 By: Gonzales of Williamson, Wilson H.B. No. 3954  
 1-2 (Senate Sponsor - Schwertner)  
 1-3 (In the Senate - Received from the House May 1, 2017;  
 1-4 May 5, 2017, read first time and referred to Committee on Health &  
 1-5 Human Services; May 16, 2017, reported favorably by the following  
 1-6 vote: Yeas 8, Nays 0, 1 present not voting; May 16, 2017, sent to  
 1-7 printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13				X
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the creation and operations of health care provider  
 1-22 participation programs in certain counties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is  
 1-25 amended by adding Chapter 292B to read as follows:

1-26 CHAPTER 292B. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN  
 1-27 CERTAIN COUNTIES BORDERING COUNTY CONTAINING STATE CAPITAL

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 292B.001. DEFINITIONS. In this chapter:

1-30 (1) "Institutional health care provider" means a  
 1-31 nonpublic hospital that provides inpatient hospital services.

1-32 (2) "Paying hospital" means an institutional health  
 1-33 care provider required to make a mandatory payment under this  
 1-34 chapter.

1-35 (3) "Program" means the county health care provider  
 1-36 participation program authorized by this chapter.

1-37 Sec. 292B.002. APPLICABILITY. This chapter applies only to  
 1-38 a county that:

1-39 (1) is not served by a hospital district or a public  
 1-40 hospital;

1-41 (2) has a population of more than 400,000; and

1-42 (3) is adjacent to the county containing the state  
 1-43 capital.

1-44 Sec. 292B.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
 1-45 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
 1-46 provider participation program authorizes a county to collect a  
 1-47 mandatory payment from each institutional health care provider  
 1-48 located in the county to be deposited in a local provider  
 1-49 participation fund established by the county. Money in the fund may  
 1-50 be used by the county to fund certain intergovernmental transfers  
 1-51 and indigent care programs as provided by this chapter.

1-52 (b) The commissioners court may adopt an order authorizing a  
 1-53 county to participate in the program, subject to the limitations  
 1-54 provided by this chapter.

1-55 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-56 Sec. 292B.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
 1-57 PAYMENT. The commissioners court of a county may require a  
 1-58 mandatory payment authorized under this chapter by an institutional  
 1-59 health care provider in the county only in the manner provided by  
 1-60 this chapter.

1-61 Sec. 292B.052. MAJORITY VOTE REQUIRED. The commissioners

2-1 court of a county may not authorize the county to collect a  
 2-2 mandatory payment authorized under this chapter without an  
 2-3 affirmative vote of a majority of the members of the commissioners  
 2-4 court.

2-5 Sec. 292B.053. RULES AND PROCEDURES. After the  
 2-6 commissioners court of a county has voted to require a mandatory  
 2-7 payment authorized under this chapter, the commissioners court may  
 2-8 adopt rules relating to the administration of the mandatory  
 2-9 payment.

2-10 Sec. 292B.054. INSTITUTIONAL HEALTH CARE PROVIDER  
 2-11 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a  
 2-12 county that collects a mandatory payment authorized under this  
 2-13 chapter shall require each institutional health care provider to  
 2-14 submit to the county a copy of any financial and utilization data  
 2-15 required by and reported to the Department of State Health Services  
 2-16 under Sections 311.032 and 311.033 and any rules adopted by the  
 2-17 executive commissioner of the Health and Human Services Commission  
 2-18 to implement those sections.

2-19 (b) The commissioners court of a county that collects a  
 2-20 mandatory payment authorized under this chapter may inspect the  
 2-21 records of an institutional health care provider to the extent  
 2-22 necessary to ensure compliance with the requirements of Subsection  
 2-23 (a).

2-24 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-25 Sec. 292B.101. HEARING. (a) Each year, the commissioners  
 2-26 court of a county that collects a mandatory payment authorized  
 2-27 under this chapter shall hold a public hearing on the amounts of any  
 2-28 mandatory payments that the commissioners court intends to require  
 2-29 during the year.

2-30 (b) Not later than the fifth day before the date of the  
 2-31 hearing required under Subsection (a), the commissioners court of  
 2-32 the county shall publish notice of the hearing in a newspaper of  
 2-33 general circulation in the county.

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

2-37 Sec. 292B.102. DEPOSITORY. (a) The commissioners court of  
 2-38 each county that collects a mandatory payment authorized under this  
 2-39 chapter by resolution shall designate one or more banks located in  
 2-40 the county as the depository for mandatory payments received by the  
 2-41 county.

2-42 (b) All income received by a county under this chapter,  
 2-43 including the revenue from mandatory payments remaining after  
 2-44 discounts and fees for assessing and collecting the payments are  
 2-45 deducted, shall be deposited with the county depository in the  
 2-46 county's local provider participation fund and may be withdrawn  
 2-47 only as provided by this chapter.

2-48 (c) All funds under this chapter shall be secured in the  
 2-49 manner provided for securing county funds.

2-50 Sec. 292B.103. LOCAL PROVIDER PARTICIPATION FUND;  
 2-51 AUTHORIZED USES OF MONEY. (a) Each county that collects a  
 2-52 mandatory payment authorized under this chapter shall create a  
 2-53 local provider participation fund.

2-54 (b) The local provider participation fund of a county  
 2-55 consists of:

2-56 (1) all revenue received by the county attributable to  
 2-57 mandatory payments authorized under this chapter, including any  
 2-58 penalties and interest attributable to delinquent payments;

2-59 (2) money received from the Health and Human Services  
 2-60 Commission as a refund of an intergovernmental transfer from the  
 2-61 county to the state for the purpose of providing the nonfederal  
 2-62 share of Medicaid supplemental payment program payments, provided  
 2-63 that the intergovernmental transfer does not receive a federal  
 2-64 matching payment; and

2-65 (3) the earnings of the fund.

2-66 (c) Money deposited to the local provider participation  
 2-67 fund may be used only to:

2-68 (1) fund intergovernmental transfers from the county  
 2-69 to the state to provide:

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

3-8 (B) payments to Medicaid managed care  
 3-9 organizations that are dedicated for payment to hospitals;

3-10 (2) subsidize indigent programs;

3-11 (3) pay the administrative expenses of the county  
 3-12 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 county that is not used to fund the  
 3-17 nonfederal share of Medicaid supplemental payment program  
 3-18 payments.

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

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

#### 3-28 SUBCHAPTER D. MANDATORY PAYMENTS

3-29 Sec. 292B.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
 3-30 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
 3-31 commissioners court of a county that collects a mandatory payment  
 3-32 authorized under this chapter may require an annual mandatory  
 3-33 payment to be assessed on the net patient revenue of each  
 3-34 institutional health care provider located in the county. The  
 3-35 commissioners court may provide for the mandatory payment to be  
 3-36 assessed quarterly. In the first year in which the mandatory  
 3-37 payment is required, the mandatory payment is assessed on the net  
 3-38 patient revenue of an institutional health care provider as  
 3-39 determined by the data reported to the Department of State Health  
 3-40 Services under Sections 311.032 and 311.033 in the fiscal year  
 3-41 ending in 2015 or, if the institutional health care provider did not  
 3-42 report any data under those sections in that fiscal year, as  
 3-43 determined by the institutional health care provider's Medicare  
 3-44 cost report submitted for the 2015 fiscal year or for the closest  
 3-45 subsequent fiscal year for which the provider submitted the  
 3-46 Medicare cost report. The county shall update the amount of the  
 3-47 mandatory payment on an annual basis.

3-48 (b) The amount of a mandatory payment authorized under this  
 3-49 chapter must be uniformly proportionate with the amount of net  
 3-50 patient revenue generated by each paying hospital in the county. A  
 3-51 mandatory payment authorized under this chapter may not hold  
 3-52 harmless any institutional health care provider, as required under  
 3-53 42 U.S.C. Section 1396b(w).

3-54 (c) The commissioners court of a county that collects a  
 3-55 mandatory payment authorized under this chapter shall set the  
 3-56 amount of the mandatory payment. The amount of the mandatory  
 3-57 payment required of each paying hospital may not exceed six percent  
 3-58 of the paying hospital's net patient revenue.

3-59 (d) Subject to the maximum amount prescribed by Subsection  
 3-60 (c), the commissioners court of a county that collects a mandatory  
 3-61 payment authorized under this chapter shall set the mandatory  
 3-62 payments in amounts that in the aggregate will generate sufficient  
 3-63 revenue to cover the administrative expenses of the county for  
 3-64 activities under this chapter, to fund an intergovernmental  
 3-65 transfer described by Section 292B.103(c)(1), and to pay for  
 3-66 indigent programs, except that the amount of revenue from mandatory  
 3-67 payments used for administrative expenses of the county for  
 3-68 activities under this chapter in a year may not exceed the lesser of  
 3-69 four percent of the total revenue generated from the mandatory

4-1 payment or \$20,000.

4-2 (e) A paying hospital may not add a mandatory payment  
4-3 required under this section as a surcharge to a patient.

4-4 Sec. 292B.152. ASSESSMENT AND COLLECTION OF MANDATORY  
4-5 PAYMENTS. The county may collect or contract for the assessment and  
4-6 collection of mandatory payments authorized under this chapter.

4-7 Sec. 292B.153. INTEREST, PENALTIES, AND DISCOUNTS.  
4-8 Interest, penalties, and discounts on mandatory payments required  
4-9 under this chapter are governed by the law applicable to county ad  
4-10 valorem taxes.

4-11 Sec. 292B.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
4-12 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
4-13 by collecting from institutional health care providers a mandatory  
4-14 payment to be used to provide the nonfederal share of a Medicaid  
4-15 supplemental payment program.

4-16 (b) To the extent any provision or procedure under this  
4-17 chapter causes a mandatory payment authorized under this chapter to  
4-18 be ineligible for federal matching funds, the county may provide by  
4-19 rule for an alternative provision or procedure that conforms to the  
4-20 requirements of the federal Centers for Medicare and Medicaid  
4-21 Services.

4-22 SECTION 2. If before implementing any provision of this Act  
4-23 a state agency determines that a waiver or authorization from a  
4-24 federal agency is necessary for implementation of that provision,  
4-25 the agency affected by the provision shall request the waiver or  
4-26 authorization and may delay implementing that provision until the  
4-27 waiver or authorization is granted.

4-28 SECTION 3. This Act takes effect immediately if it receives  
4-29 a vote of two-thirds of all the members elected to each house, as  
4-30 provided by Section 39, Article III, Texas Constitution. If this  
4-31 Act does not receive the vote necessary for immediate effect, this  
4-32 Act takes effect September 1, 2017.

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