

1-1 By: Springer, et al. (Senate Sponsor - Kolkhorst) H.B. No. 651
 1-2 (In the Senate - Received from the House April 11, 2019;
 1-3 April 15, 2019, read first time and referred to Committee on Health
 1-4 & Human Services; May 20, 2019, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

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 counties not served by a hospital
 1-21 district or a public hospital.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
 1-24 amended by adding Chapter 299 to read as follows:

1-25 CHAPTER 299. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
 1-26 COUNTY NOT SERVED BY HOSPITAL DISTRICT OR PUBLIC HOSPITAL

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 299.0001. PURPOSE. The purpose of this chapter is to
 1-29 authorize a county not served by a hospital district or a public
 1-30 hospital to administer a county health care provider participation
 1-31 program to provide additional compensation to hospitals in the
 1-32 county by collecting mandatory payments from each hospital in the
 1-33 county to be used to provide the nonfederal share of a Medicaid
 1-34 supplemental payment program and for other purposes as authorized
 1-35 under this chapter.

1-36 Sec. 299.0002. DEFINITIONS. In this chapter:

1-37 (1) "Institutional health care provider" means a
 1-38 nonpublic hospital that provides inpatient hospital services.

1-39 (2) "Paying hospital" means an institutional health
 1-40 care provider required to make a mandatory payment under this
 1-41 chapter.

1-42 (3) "Program" means a county health care provider
 1-43 participation program authorized by this chapter.

1-44 Sec. 299.0003. APPLICABILITY. This chapter applies only to
 1-45 a county that is not served by a hospital district or a public
 1-46 hospital.

1-47 Sec. 299.0004. COUNTY HEALTH CARE PROVIDER PARTICIPATION
 1-48 PROGRAM; COUNTY ORDER REQUIRED FOR PARTICIPATION. The
 1-49 commissioners court of a county may adopt an order authorizing the
 1-50 county to participate in a health care provider participation
 1-51 program, subject to the limitations provided by this chapter.

1-52 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-53 Sec. 299.0051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
 1-54 PAYMENT. The commissioners court of a county may require a
 1-55 mandatory payment authorized under this chapter by an institutional
 1-56 health care provider in the county only in the manner provided by
 1-57 this chapter.

1-58 Sec. 299.0052. RULES AND PROCEDURES. The commissioners
 1-59 court of a county may adopt rules relating to the administration of
 1-60 the health care provider participation program in the county,
 1-61 including collection of the mandatory payments, expenditures,

2-1 audits, and any other administrative aspects of the program.
 2-2 Sec. 299.0053. INSTITUTIONAL HEALTH CARE PROVIDER
 2-3 REPORTING. If the commissioners court of a county authorizes the
 2-4 county to participate in a health care provider participation
 2-5 program under this chapter, the commissioners court shall require
 2-6 each institutional health care provider to submit to the county a
 2-7 copy of any financial and utilization data required by and reported
 2-8 to the Department of State Health Services under Sections 311.032
 2-9 and 311.033 and any rules adopted by the executive commissioner of
 2-10 the Health and Human Services Commission to implement those
 2-11 sections.

2-12 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

2-13 Sec. 299.0101. HEARING. (a) In each year that the
 2-14 commissioners court of a county authorizes a health care provider
 2-15 participation program under this chapter, the commissioners court
 2-16 shall hold a public hearing on the amounts of any mandatory payments
 2-17 that the commissioners court intends to require during the year and
 2-18 how the revenue derived from those payments is to be spent.

2-19 (b) Not later than the fifth day before the date of the
 2-20 hearing required under Subsection (a), the commissioners court
 2-21 shall publish notice of the hearing in a newspaper of general
 2-22 circulation in the county and provide written notice of the hearing
 2-23 to the chief operating officer of each institutional health care
 2-24 provider in the county.

2-25 Sec. 299.0102. LOCAL PROVIDER PARTICIPATION FUND;
 2-26 DEPOSITORY. (a) Each commissioners court of a county that collects
 2-27 a mandatory payment authorized under this chapter shall create a
 2-28 local provider participation fund in one or more banks designated
 2-29 by the county as a depository for the mandatory payments received by
 2-30 the county.

2-31 (b) The commissioners court of a county may withdraw or use
 2-32 money in the local provider participation fund of the county only
 2-33 for a purpose authorized under this chapter.

2-34 (c) All funds collected under this chapter shall be secured
 2-35 in the manner provided for securing other county funds.

2-36 Sec. 299.0103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.
 2-37 (a) The local provider participation fund established by a county
 2-38 under Section 299.0102 consists of:

2-39 (1) all mandatory payments authorized under this
 2-40 chapter and received by the county;

2-41 (2) money received from the Health and Human Services
 2-42 Commission as a refund of an intergovernmental transfer from the
 2-43 county to the state for the purpose of providing the nonfederal
 2-44 share of Medicaid supplemental payment program payments, provided
 2-45 that the intergovernmental transfer does not receive a federal
 2-46 matching payment; and

2-47 (3) the earnings of the fund.

2-48 (b) Money deposited to the local provider participation
 2-49 fund of a county may be used only to:

2-50 (1) fund intergovernmental transfers from the county
 2-51 to the state to provide:

2-52 (A) the nonfederal share of a Medicaid
 2-53 supplemental payment program authorized under the state Medicaid
 2-54 plan, the Texas Healthcare Transformation and Quality Improvement
 2-55 Program waiver issued under Section 1115 of the federal Social
 2-56 Security Act (42 U.S.C. Section 1315), or a successor waiver
 2-57 program authorizing similar Medicaid supplemental payment
 2-58 programs; or

2-59 (B) payments to Medicaid managed care
 2-60 organizations that are dedicated for payment to hospitals;

2-61 (2) pay costs associated with indigent care provided
 2-62 by institutional health care providers in the county;

2-63 (3) pay the administrative expenses of the county in
 2-64 administering the program, including collateralization of
 2-65 deposits;

2-66 (4) refund a portion of a mandatory payment collected
 2-67 in error from a paying hospital; and

2-68 (5) refund to paying hospitals a proportionate share
 2-69 of the money that the county:

3-1 (A) receives from the Health and Human Services
3-2 Commission that is not used to fund the nonfederal share of Medicaid
3-3 supplemental payment program payments; or

3-4 (B) determines cannot be used to fund the
3-5 nonfederal share of Medicaid supplemental payment program
3-6 payments.

3-7 (c) Money in the local provider participation fund of a
3-8 county may not be commingled with other county funds.

3-9 (d) An intergovernmental transfer of funds described by
3-10 Subsection (b)(1) and any funds received by the county as a result
3-11 of an intergovernmental transfer described by that subsection may
3-12 not be used by the county or any other entity to expand Medicaid
3-13 eligibility under the Patient Protection and Affordable Care Act
3-14 (Pub. L. No. 111-148) as amended by the Health Care and Education
3-15 Reconciliation Act of 2010 (Pub. L. No. 111-152).

3-16 SUBCHAPTER D. MANDATORY PAYMENTS

3-17 Sec. 299.0151. MANDATORY PAYMENTS. (a) Except as provided
3-18 by Subsection (e), if the commissioners court of a county
3-19 authorizes a health care provider participation program under this
3-20 chapter, the commissioners court shall require an annual mandatory
3-21 payment to be assessed on the net patient revenue of each
3-22 institutional health care provider located in the county. The
3-23 commissioners court shall provide that the mandatory payment is to
3-24 be collected at least annually, but not more often than quarterly.
3-25 In the first year in which the mandatory payment is required, the
3-26 mandatory payment is assessed on the net patient revenue of an
3-27 institutional health care provider located in the county as
3-28 determined by the data reported to the Department of State Health
3-29 Services under Sections 311.032 and 311.033 in the most recent
3-30 fiscal year for which that data was reported. If the institutional
3-31 health care provider did not report any data under those sections,
3-32 the provider's net patient revenue is the amount of that revenue as
3-33 contained in the provider's Medicare cost report submitted for the
3-34 previous fiscal year or for the closest subsequent fiscal year for
3-35 which the provider submitted the Medicare cost report. The county
3-36 shall update the amount of the mandatory payment on an annual basis.

3-37 (b) The amount of a mandatory payment authorized under this
3-38 chapter for a county must be uniformly proportionate with the
3-39 amount of net patient revenue generated by each paying hospital in
3-40 the county. A mandatory payment authorized under this chapter may
3-41 not hold harmless any institutional health care provider, as
3-42 required under 42 U.S.C. Section 1396b(w).

3-43 (c) The commissioners court of a county that authorizes a
3-44 program under this chapter shall set the amount of the mandatory
3-45 payment. The amount of the mandatory payment required of each
3-46 paying hospital in the county may not exceed six percent of the
3-47 hospital's net patient revenue.

3-48 (d) Subject to the maximum amount prescribed by Subsection
3-49 (c), the commissioners court of a county that authorizes a program
3-50 shall set the mandatory payments in amounts that in the aggregate
3-51 will generate sufficient revenue to cover the administrative
3-52 expenses of the county for activities under this chapter, fund an
3-53 intergovernmental transfer described by Section 299.0103(b)(1), or
3-54 make other payments authorized under this chapter. The amount of
3-55 revenue from mandatory payments that may be used for administrative
3-56 expenses by the county in a year may not exceed \$25,000, plus the
3-57 cost of collateralization of deposits. If the commissioners court
3-58 demonstrates to the paying hospitals in the county that the costs of
3-59 administering the health care provider participation program under
3-60 this chapter, excluding those costs associated with the
3-61 collateralization of deposits, exceed \$25,000 in any year, on
3-62 consent of all of the paying hospitals in the county, the county may
3-63 use additional revenue from mandatory payments received under this
3-64 chapter to compensate the county for its administrative expenses. A
3-65 paying hospital may not unreasonably withhold consent to compensate
3-66 the county for administrative expenses.

3-67 (e) A paying hospital may not add a mandatory payment
3-68 required under this section as a surcharge to a patient or insurer.

3-69 (f) A mandatory payment under this chapter is not a tax for

4-1 purposes of Section 5(a), Article IX, Texas Constitution.
4-2 Sec. 299.0152. ASSESSMENT AND COLLECTION OF MANDATORY
4-3 PAYMENTS. A county may collect or contract for the assessment and
4-4 collection of mandatory payments authorized under this chapter.

4-5 Sec. 299.0153. CORRECTION OF INVALID PROVISION OR
4-6 PROCEDURE. To the extent any provision or procedure under this
4-7 chapter causes a mandatory payment authorized under this chapter to
4-8 be ineligible for federal matching funds, the county may provide by
4-9 rule for an alternative provision or procedure that conforms to the
4-10 requirements of the federal Centers for Medicare and Medicaid
4-11 Services. A rule adopted under this section may not create, impose,
4-12 or materially expand the legal or financial liability or
4-13 responsibility of the county or an institutional health care
4-14 provider in the county beyond the provisions of this chapter. This
4-15 section does not require the commissioners court of a county to
4-16 adopt a rule.

4-17 SECTION 2. If before implementing any provision of this Act
4-18 a state agency determines that a waiver or authorization from a
4-19 federal agency is necessary for implementation of that provision,
4-20 the agency affected by the provision shall request the waiver or
4-21 authorization and may delay implementing that provision until the
4-22 waiver or authorization is granted.

4-23 SECTION 3. This Act takes effect immediately if it receives
4-24 a vote of two-thirds of all the members elected to each house, as
4-25 provided by Section 39, Article III, Texas Constitution. If this
4-26 Act does not receive the vote necessary for immediate effect, this
4-27 Act takes effect September 1, 2019.

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