

1-1 By: Fallon S.B. No. 2286
 1-2 (In the Senate - Filed March 8, 2019; March 21, 2019, read
 1-3 first time and referred to Committee on Intergovernmental
 1-4 Relations; April 17, 2019, reported favorably by the following
 1-5 vote: Yeas 7, Nays 0; April 17, 2019, sent to printer.)

1-6 COMMITTEE VOTE

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

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 292C to read as follows:

1-22 CHAPTER 292C. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
 1-23 CERTAIN COUNTIES WITH HOSPITAL DISTRICT BORDERING OKLAHOMA

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 292C.001. DEFINITIONS. In this chapter:

1-26 (1) "Institutional health care provider" means a
 1-27 nonpublic hospital that provides inpatient hospital services and
 1-28 that is not located within the boundaries of a hospital district.

1-29 (2) "Paying hospital" means an institutional health
 1-30 care provider required to make a mandatory payment under this
 1-31 chapter.

1-32 (3) "Program" means the county health care provider
 1-33 participation program authorized by this chapter.

1-34 Sec. 292C.002. APPLICABILITY. (a) Subject to Subsection
 1-35 (b), this chapter applies only to a county that:

1-36 (1) has a population of more than 125,000; and

1-37 (2) borders Oklahoma.

1-38 (b) If the county contains a hospital district that is not
 1-39 countywide, this chapter applies only with respect to the portion
 1-40 of the county that is not within the boundaries of the hospital
 1-41 district.

1-42 Sec. 292C.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
 1-43 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
 1-44 provider participation program authorizes a county to collect a
 1-45 mandatory payment from each institutional health care provider
 1-46 located in the county to be deposited in a local provider
 1-47 participation fund established by the county. Money in the fund may
 1-48 be used by the county to fund certain intergovernmental transfers
 1-49 as provided by this chapter in connection with the portion of the
 1-50 county that is not within the boundaries of the hospital district.

1-51 (b) The commissioners court of a county may adopt an order
 1-52 authorizing the county to participate in the program, subject to
 1-53 the limitations provided by this chapter.

1-54 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

1-55 Sec. 292C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
 1-56 PAYMENT. The commissioners court of a county may require a
 1-57 mandatory payment authorized under this chapter by an institutional
 1-58 health care provider in the county only in the manner provided by
 1-59 this chapter.

1-60 Sec. 292C.052. MAJORITY VOTE REQUIRED. The commissioners
 1-61 court of a county may not authorize the county to collect a

2-1 mandatory payment authorized under this chapter without an
2-2 affirmative vote of a majority of the members of the commissioners
2-3 court.

2-4 Sec. 292C.053. RULES AND PROCEDURES. After the
2-5 commissioners court of a county has voted to require a mandatory
2-6 payment authorized under this chapter, the commissioners court may
2-7 adopt rules relating to the administration of the mandatory
2-8 payment.

2-9 Sec. 292C.054. INSTITUTIONAL HEALTH CARE PROVIDER
2-10 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of
2-11 a county that collects a mandatory payment authorized under this
2-12 chapter shall require each institutional health care provider
2-13 located in the county to submit to the county a copy of any
2-14 financial and utilization data required by and reported to the
2-15 Department of State Health Services under Sections 311.032 and
2-16 311.033 and any rules adopted by the executive commissioner of the
2-17 Health and Human Services Commission to implement those sections.

2-18 (b) The commissioners court of a county 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. 292C.101. HEARING. (a) Each year, the commissioners
2-25 court of a county 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 commissioners court intends to require
2-28 during the year.

2-29 (b) Not later than the fifth day before the date of the
2-30 hearing required under Subsection (a), the commissioners court of
2-31 the county shall publish notice of the hearing in a newspaper of
2-32 general circulation in the county.

2-33 (c) A representative of a paying hospital is entitled to
2-34 appear at the time and place designated in the public notice and to
2-35 be heard regarding any matter related to the mandatory payments
2-36 authorized under this chapter.

2-37 Sec. 292C.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. 292C.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 programs
 3-7 in connection with the portion of the county that is not within the
 3-8 boundaries of the hospital district; or
 3-9 (B) payments to Medicaid managed care
 3-10 organizations that are dedicated for payment to hospitals;
 3-11 (2) pay the administrative expenses of the county
 3-12 solely for activities under this chapter;
 3-13 (3) refund a portion of a mandatory payment collected
 3-14 in error from a paying hospital; and
 3-15 (4) 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 payments
 3-18 as provided by Subdivision (1).
 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. 292C.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL
 3-30 NET PATIENT REVENUE. (a) Except as provided by Subsection (e),
 3-31 the commissioners court of a county that collects a mandatory
 3-32 payment authorized under this chapter may require an annual
 3-33 mandatory 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 2017 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 2017 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 and to fund an intergovernmental
 3-65 transfer described by Section 292C.103(c)(1), except that the
 3-66 amount of revenue from mandatory payments used for administrative
 3-67 expenses of the county for activities under this chapter in a year
 3-68 may not exceed the lesser of four percent of the total revenue
 3-69 generated from the mandatory payment or \$20,000.

4-1 (e) A paying hospital may not add a mandatory payment
4-2 required under this section as a surcharge to a patient.

4-3 Sec. 292C.152. ASSESSMENT AND COLLECTION OF MANDATORY
4-4 PAYMENTS. The county may collect or contract for the assessment and
4-5 collection of mandatory payments authorized under this chapter.

4-6 Sec. 292C.153. INTEREST, PENALTIES, AND DISCOUNTS.
4-7 Interest, penalties, and discounts on mandatory payments required
4-8 under this chapter are governed by the law applicable to county ad
4-9 valorem taxes.

4-10 Sec. 292C.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
4-11 PROCEDURE. (a) The purpose of this chapter is to generate revenue
4-12 by collecting from institutional health care providers a mandatory
4-13 payment to be used to provide the nonfederal share of a Medicaid
4-14 supplemental payment program.

4-15 (b) To the extent any provision or procedure under this
4-16 chapter causes a mandatory payment authorized under this chapter to
4-17 be ineligible for federal matching funds, the county may provide by
4-18 rule for an alternative provision or procedure that conforms to the
4-19 requirements of the federal Centers for Medicare and Medicaid
4-20 Services.

4-21 SECTION 2. If before implementing any provision of this Act
4-22 a state agency determines that a waiver or authorization from a
4-23 federal agency is necessary for implementation of that provision,
4-24 the agency affected by the provision shall request the waiver or
4-25 authorization and may delay implementing that provision until the
4-26 waiver or authorization is granted.

4-27 SECTION 3. This Act takes effect immediately if it receives
4-28 a vote of two-thirds of all the members elected to each house, as
4-29 provided by Section 39, Article III, Texas Constitution. If this
4-30 Act does not receive the vote necessary for immediate effect, this
4-31 Act takes effect September 1, 2019.

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