

1 AN ACT

2 relating to the creation and operations of health care provider  
3 participation programs in certain counties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is  
6 amended by adding Chapter 291A to read as follows:

7 CHAPTER 291A. COUNTY HEALTH CARE PROVIDER PARTICIPATION

8 PROGRAM IN CERTAIN COUNTIES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 291A.001. DEFINITIONS. In this chapter:

11 (1) "Institutional health care provider" means a  
12 nonpublic hospital that provides inpatient hospital services.

13 (2) "Paying hospital" means an institutional health  
14 care provider required to make a mandatory payment under this  
15 chapter.

16 (3) "Program" means the county health care provider  
17 participation program authorized by this chapter.

18 Sec. 291A.002. APPLICABILITY. This chapter applies only  
19 to:

20 (1) a county that:

21 (A) is not served by a hospital district or a  
22 public hospital;

23 (B) has a population of more than 75,000; and

24 (C) borders or includes a portion of the Sam

1 Rayburn Reservoir; and

2 (2) a county that has a population of more than 200,000  
3 and less than 220,000.

4 Sec. 291A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION  
5 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care  
6 provider participation program authorizes a county to collect a  
7 mandatory payment from each institutional health care provider  
8 located in the county to be deposited in a local provider  
9 participation fund established by the county. Money in the fund may  
10 be used by the county to fund certain intergovernmental transfers  
11 and indigent care programs as provided by this chapter.

12 (b) The commissioners court may adopt an order authorizing a  
13 county to participate in the program, subject to the limitations  
14 provided by this chapter.

15 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

16 Sec. 291A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
17 PAYMENT. The commissioners court of a county may require a  
18 mandatory payment authorized under this chapter by an institutional  
19 health care provider in the county only in the manner provided by  
20 this chapter.

21 Sec. 291A.052. MAJORITY VOTE REQUIRED. The commissioners  
22 court of a county may not authorize the county to collect a  
23 mandatory payment authorized under this chapter without an  
24 affirmative vote of a majority of the members of the commissioners  
25 court.

26 Sec. 291A.053. RULES AND PROCEDURES. After the  
27 commissioners court has voted to require a mandatory payment

1 authorized under this chapter, the commissioners court may adopt  
2 rules relating to the administration of the mandatory payment.

3 Sec. 291A.054. INSTITUTIONAL HEALTH CARE PROVIDER  
4 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a  
5 county that collects a mandatory payment authorized under this  
6 chapter shall require each institutional health care provider to  
7 submit to the county a copy of any financial and utilization data  
8 required by and reported to the Department of State Health Services  
9 under Sections 311.032 and 311.033 and any rules adopted by the  
10 executive commissioner of the Health and Human Services Commission  
11 to implement those sections.

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

17 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

18 Sec. 291A.101. HEARING. (a) Each year, the commissioners  
19 court of a county that collects a mandatory payment authorized  
20 under this chapter shall hold a public hearing on the amounts of any  
21 mandatory payments that the commissioners court intends to require  
22 during the year.

23 (b) Not later than the fifth day before the date of the  
24 hearing required under Subsection (a), the commissioners court of  
25 the county shall publish notice of the hearing in a newspaper of  
26 general circulation in the county.

27 (c) A representative of a paying hospital is entitled to

1 appear at the time and place designated in the public notice and to  
2 be heard regarding any matter related to the mandatory payments  
3 authorized under this chapter.

4 Sec. 291A.102. DEPOSITORY. (a) The commissioners court of  
5 each county that collects a mandatory payment authorized under this  
6 chapter by resolution shall designate one or more banks located in  
7 the county as the depository for mandatory payments received by the  
8 county.

9 (b) All income received by a county under this chapter,  
10 including the revenue from mandatory payments remaining after  
11 discounts and fees for assessing and collecting the payments are  
12 deducted, shall be deposited with the county depository in the  
13 county's local provider participation fund and may be withdrawn  
14 only as provided by this chapter.

15 (c) All funds under this chapter shall be secured in the  
16 manner provided for securing county funds.

17 Sec. 291A.103. LOCAL PROVIDER PARTICIPATION FUND;  
18 AUTHORIZED USES OF MONEY. (a) Each county that collects a  
19 mandatory payment authorized under this chapter shall create a  
20 local provider participation fund.

21 (b) The local provider participation fund of a county  
22 consists of:

23 (1) all revenue received by the county attributable to  
24 mandatory payments authorized under this chapter, including any  
25 penalties and interest attributable to delinquent payments;

26 (2) money received from the Health and Human Services  
27 Commission as a refund of an intergovernmental transfer from the

1 county to the state for the purpose of providing the nonfederal  
2 share of Medicaid supplemental payment program payments, provided  
3 that the intergovernmental transfer does not receive a federal  
4 matching payment; and

5 (3) the earnings of the fund.

6 (c) Money deposited to the local provider participation  
7 fund may be used only to:

8 (1) fund intergovernmental transfers from the county  
9 to the state to provide:

10 (A) the nonfederal share of a Medicaid  
11 supplemental payment program authorized under the state Medicaid  
12 plan, the Texas Healthcare Transformation and Quality Improvement  
13 Program waiver issued under Section 1115 of the federal Social  
14 Security Act (42 U.S.C. Section 1315), or a successor waiver  
15 program authorizing similar Medicaid supplemental payment  
16 programs; or

17 (B) payments to Medicaid managed care  
18 organizations that are dedicated for payment to hospitals;

19 (2) subsidize indigent programs;

20 (3) pay the administrative expenses of the county  
21 solely for activities under this chapter;

22 (4) refund a portion of a mandatory payment collected  
23 in error from a paying hospital; and

24 (5) refund to paying hospitals the proportionate share  
25 of money received by the county that is not used to fund the  
26 nonfederal share of Medicaid supplemental payment program  
27 payments.

1       (d) Money in the local provider participation fund may not  
2 be commingled with other county funds.

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

10                   SUBCHAPTER D. MANDATORY PAYMENTS

11       Sec. 291A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL  
12 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the  
13 commissioners court of a county that collects a mandatory payment  
14 authorized under this chapter may require an annual mandatory  
15 payment to be assessed on the net patient revenue of each  
16 institutional health care provider located in the county. The  
17 commissioners court may provide for the mandatory payment to be  
18 assessed quarterly. In the first year in which the mandatory  
19 payment is required, the mandatory payment is assessed on the net  
20 patient revenue of an institutional health care provider as  
21 determined by the data reported to the Department of State Health  
22 Services under Sections 311.032 and 311.033 in the fiscal year  
23 ending in 2015 or, if the institutional health care provider did not  
24 report any data under those sections in that fiscal year, as  
25 determined by the institutional health care provider's Medicare  
26 cost report submitted for the 2015 fiscal year or for the closest  
27 subsequent fiscal year for which the provider submitted the

1 Medicare cost report. The county shall update the amount of the  
2 mandatory payment on an annual basis.

3 (b) The amount of a mandatory payment authorized under this  
4 chapter must be uniformly proportionate with the amount of net  
5 patient revenue generated by each paying hospital in the county. A  
6 mandatory payment authorized under this chapter may not hold  
7 harmless any institutional health care provider, as required under  
8 42 U.S.C. Section 1396b(w).

9 (c) The commissioners court of a county that collects a  
10 mandatory payment authorized under this chapter shall set the  
11 amount of the mandatory payment. The amount of the mandatory  
12 payment required of each paying hospital may not exceed six percent  
13 of the paying hospital's net patient revenue.

14 (d) Subject to the maximum amount prescribed by Subsection  
15 (c), the commissioners court of a county that collects a mandatory  
16 payment authorized under this chapter shall set the mandatory  
17 payments in amounts that in the aggregate will generate sufficient  
18 revenue to cover the administrative expenses of the county for  
19 activities under this chapter, to fund an intergovernmental  
20 transfer described by Section 291A.103(c)(1), and to pay for  
21 indigent programs, except that the amount of revenue from mandatory  
22 payments used for administrative expenses of the county for  
23 activities under this chapter in a year may not exceed the lesser of  
24 four percent of the total revenue generated from the mandatory  
25 payment or \$20,000.

26 (e) A paying hospital may not add a mandatory payment  
27 required under this section as a surcharge to a patient.

1       Sec. 291A.152. ASSESSMENT AND COLLECTION OF MANDATORY  
2 PAYMENTS. The county may collect or contract for the assessment and  
3 collection of mandatory payments authorized under this chapter.

4       Sec. 291A.153. INTEREST, PENALTIES, AND DISCOUNTS.  
5 Interest, penalties, and discounts on mandatory payments required  
6 under this chapter are governed by the law applicable to county ad  
7 valorem taxes.

8       Sec. 291A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR  
9 PROCEDURE. (a) The purpose of this chapter is to generate revenue  
10 by collecting from institutional health care providers a mandatory  
11 payment to be used to provide the nonfederal share of a Medicaid  
12 supplemental payment program.

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

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

25       SECTION 3. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this



H.B. No. 2995

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2017.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 2995 was passed by the House on April 27, 2017, by the following vote: Yeas 141, Nays 3, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2995 on May 25, 2017, by the following vote: Yeas 139, Nays 7, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 2995 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 30, Nays 1.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor