

## **BILL ANALYSIS**

Senate Research Center

S.B. 1387  
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6/2/2015  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2011, Texas pursued a Health Care Transformation and Quality Improvement Program Medicaid Section 1115 Waiver (Waiver) at the direction of the Texas Legislature. The waiver empowers local communities to transform the delivery of health care by establishing local projects tailored to meet communities' unique health care needs. However, the waiver requires local government funds to support waiver payments. As such, communities without hospital districts are disadvantaged because they lack a mechanism to generate funds for intergovernmental transfers (IGT) to draw down federal dollars.

The City of Beaumont hospitals provide a tremendous amount of uncompensated care, but the region does not have a hospital district to IGT for federal funds. A local provider participation funds (LPPF) in the City of Beaumont would allow local providers to access more funds under the waiver and would help ensure access to care and reduce the level of uncompensated care in this community.

Currently, three Texas counties have the option to create LPPFs, which help bring more federal dollars to their communities. LPPFs provide the residents of disadvantaged cities and counties the opportunity to solve local problems via a local solution, without burdening local tax payers or requiring state general revenue. S.B. 1387 grants the City of Beaumont the authority to create an LPPF in order to draw down more federal dollars already allocated under the waiver. The City will retain the discretion to approve an LPPF for Beaumont.

S.B. 1387 amends current law relating to the creation and operations of health care provider participation programs in certain municipalities.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle D, Title 4, Health and Safety Code, by adding Chapter 295, as follows:

#### **CHAPTER 295. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN MUNICIPALITIES**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 295.001. DEFINITIONS. Defines "institutional health care provider," "paying hospital," and "program."

Sec. 295.002. APPLICABILITY. Provides that this chapter applies only to a municipality that is not served by a hospital district or a public hospital, is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico, and has a population of more than 117,000 and less than 145,000.

Sec. 295.003. MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) Provides that a municipal health care provider participation program (program) authorizes a municipality to collect a mandatory payment from each institutional health care provider located in the municipality to be deposited in a local provider participation fund established by the municipality. Authorizes money in the fund to be used by the municipality to fund certain intergovernmental transfers and indigent care programs as provided by this chapter.

(b) Authorizes the governing body of a municipality to adopt an ordinance authorizing a municipality to participate in the program, subject to the limitations provided by this chapter.

#### SUBCHAPTER B. POWERS AND DUTIES OF GOVERNING BODY OF MUNICIPALITY

Sec. 295.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the governing body of a municipality to require a mandatory payment authorized under this chapter by an institutional health care provider in the municipality only in the manner provided by this chapter.

Sec. 295.052. MAJORITY VOTE REQUIRED. Prohibits the governing body of a municipality from authorizing the municipality to collect a mandatory payment authorized under this chapter without an affirmative vote of a majority of the members of the governing body.

Sec. 295.053. RULES AND PROCEDURES. Authorizes the governing body of a municipality, after the governing body of a municipality has voted to require a mandatory payment authorized under this chapter, to adopt rules relating to the administration of the mandatory payment.

Sec. 295.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS. (a) Requires the governing body of a municipality that collects a mandatory payment authorized under this chapter to require each institutional health care provider to submit to the municipality a copy of any financial and utilization data required by and reported to the Department of State Health Services (DSHS) under Sections 311.032 (Department Administration of Hospital Reporting and Collection System) and 311.033 (Financial and Utilization Data Required) and any rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC) to implement those sections.

(b) Authorizes the governing body of a municipality that collects a mandatory payment authorized under this chapter to inspect the records of an institutional health care provider to the extent necessary to ensure compliance with the requirements of Subsection (a).

#### SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 295.101. HEARING. (a) Requires the governing body of a municipality that collects a mandatory payment authorized under this chapter, each year, to hold a public hearing on the amounts of any mandatory payments that the governing body intends to require during the year and how the revenue derived from those payments is to be spent.

(b) Requires the governing body of the municipality, not later than the 10th day before the date of the hearing required under Subsection (a), to publish notice of the hearing in a newspaper of general circulation in the municipality.

(c) Entitles a representative of a paying hospital to appear at the time and place designated in the public notice and to be heard regarding any matter related to the mandatory payments authorized under this chapter.

Sec. 295.102. DEPOSITORY. (a) Requires the governing body of each municipality that collects a mandatory payment authorized under this chapter by resolution to designate one or more banks located in the municipality as the depository for mandatory payments received by the municipality. Provides that a bank designated as a depository serves for two years or until a successor is designated.

(b) Requires that all income received by a municipality under this chapter, including the revenue from mandatory payments remaining after discounts and fees for assessing and collecting the payments are deducted, be deposited with the designated depository in the municipality's local provider participation fund and may be withdrawn only as provided by this chapter.

(c) Requires that all funds under this chapter be secured in the manner provided for securing municipal funds.

Sec. 295.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires each municipality that collects a mandatory payment authorized under this chapter to create a local provider participation fund.

(b) Provides that the local provider participation fund of a municipality consists of:

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

(2) money received from HHSC as a refund of an intergovernmental transfer from the municipality to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the fund.

(c) Requires that money deposited to the local provider participation fund be used only to:

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

(2) subsidize indigent programs;

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

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

(5) refund to paying hospitals the proportionate share of money received by the municipality from HHSC that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.

(d) Prohibits money in the local provider participation fund from being commingled with other municipal funds.

(e) Prohibits an intergovernmental transfer of funds described by Subsection (c)(1) and any funds received by the municipality as a result of an intergovernmental transfer described by that subsection from being used by the municipality or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

#### SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 295.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Authorizes the governing body of a municipality that collects a mandatory payment authorized under this chapter, except as provided by Subsection (e), to require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the municipality. Authorizes the governing body to provide for the mandatory payment to be assessed quarterly. Provides that, in the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to DSHS under Sections 311.032 and 311.033 in the fiscal year ending in 2013 or, if the institutional health care provider did not report any data under those sections in that fiscal year, as determined by the institutional health care provider's Medicare cost report submitted for the 2013 fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. Requires the municipality to update the amount of the mandatory payment on an annual basis.

(b) Requires that the amount of a mandatory payment authorized under this chapter be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the municipality. Prohibits a mandatory payment authorized under this chapter from holding harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) Requires the governing body of a municipality that collects a mandatory payment authorized under this chapter to set the amount of the mandatory payment. Prohibits the amount of the mandatory payment required of each paying hospital from exceeding an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the municipality, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the municipality.

(d) Requires the governing body of a municipality that collects a mandatory payment authorized under this chapter, subject to the maximum amount prescribed by Subsection (c), to set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the municipality for activities under this chapter, to fund the nonfederal share of a Medicaid supplemental payment program, and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the municipality for activities under this chapter in a year is prohibited from exceeding the lesser of four percent of the total revenue generated from the mandatory payment or \$20,000.

(e) Prohibits a paying hospital from adding a mandatory payment required under this section as a surcharge to a patient.

Sec. 295.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS.

(a) Requires the municipal tax assessor-collector, except as provided by Subsection (b), to collect the mandatory payment authorized under this chapter. Requires the municipal tax assessor-collector to charge and deduct from mandatory payments collected for the municipality a fee for collecting the mandatory payment in an amount determined by the

governing body of the municipality, not to exceed the municipal tax assessor-collector's usual and customary charges.

(b) Authorizes the governing body, if determined by the governing body to be appropriate, to contract for the assessment and collection of mandatory payments in the manner provided by Title 1 (Property Tax Code), Tax Code, for the assessment and collection of ad valorem taxes.

(c) Requires that revenue from a fee charged by a municipal tax assessor-collector for collecting the mandatory payment be deposited in the municipal general fund and, if appropriate, be reported as fees of the municipal tax assessor-collector.

Sec. 295.153. INTEREST, PENALTIES, AND DISCOUNTS. Provides that interest, penalties, and discounts on mandatory payments required under this chapter are governed by the law applicable to municipal ad valorem taxes.

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

(b) Authorizes the municipality, to the extent any provision or procedure under this chapter causes a mandatory payment authorized under this chapter to be ineligible for federal matching funds, to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: upon passage or September 1, 2015.