

BILL ANALYSIS

Senate Research Center
85R24831 MEW-F

C.S.S.B. 2170
By: Huffines
Intergovernmental Relations
4/24/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 83rd and 84th legislative sessions, the Texas Legislature passed bills that granted 11 counties the authority to create Local Provider Participation Funds. These participation funds allow hospitals in a certain county to pool money to be used as matching funds to draw down more money from the federal government.

S.B. 2170 authorizes the Dallas County Hospital District to create a Local Provider Participation Fund with participating hospitals in the county to offset the costs of uncompensated care. The bill will allow hospitals in Dallas County to increase access to health care and improve the quality of the care provided. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2170 amends current law relating to the creation and operations of a health care provider participation program by the Dallas County Hospital District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of hospital managers of certain hospital districts in SECTION 1 (Sections 298A.052 and 298A.153, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 4, Health and Safety Code, by adding Chapter 298A, as follows:

CHAPTER 298A. DALLAS COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298A.001. DEFINITIONS. Defines "board," "district," "institutional health care provider," "paying provider," and "program."

Sec. 298A.002. APPLICABILITY. Provides that this chapter applies only to the Dallas County Hospital District.

Sec. 298A.003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. Authorizes the board of hospital managers of the Dallas County Hospital District (board; district) to authorize the district to participate in a health care provider participation program (program) on the affirmative vote of a majority of the board, subject to the provisions of this chapter.

Sec. 298A.004. EXPIRATION. (a) Provides that subject to Section 298A.153(d), the authority of the district to administer and operate a program under this chapter expires December 31, 2019.

(b) Provides that this chapter expires December 31, 2019.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 298A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the board to require a mandatory payment authorized under this chapter by an institutional health care provider (paying provider) in the district only in the manner provided by this chapter.

Sec. 298A.052. RULES AND PROCEDURES. Authorizes the board to adopt rules relating to the administration of the program, including collection of the mandatory payments, expenditures, audits, and any other administrative aspects of the program.

Sec. 298A.053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. Requires the board, if the board authorizes the district to participate in a program under this chapter, to require each provider to submit to the district 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 Health and Human Services Commission (HHSC) to implement those sections.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 298A.101. HEARING. (a) Requires the board, in each year that the board authorizes a program under this chapter, to hold a public hearing on the amounts of any mandatory payments that the board intends to require during the year and how the revenue derived from those payments is to be spent.

(b) Requires the board, not later than the fifth day before the date of the required hearing, to publish notice of the hearing in a newspaper of general circulation in its district and provide written notice of the hearing to each provider in the district.

Sec. 298A.102. DEPOSITORY. (a) Requires the board, if the board requires a mandatory payment authorized under this chapter, to designate one or more banks as a depository for the district's local provider participation fund.

(b) Requires all funds collected under this chapter to be secured in the manner provided for securing other district funds.

Sec. 298A.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires the district, if the district requires a mandatory payment authorized under this chapter, to create a local provider participation fund.

(b) Provides that the local provider participation fund consists of all revenue received by the district attributable to mandatory payments authorized under this chapter, money received from HHSC as a refund of an intergovernmental transfer program, provided the transfer does not receive a federal matching payment, and the earnings of the fund.

(c) Authorizes the money deposited to the local provider participation fund of the district to be used only for certain purposes.

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

(e) Prohibits any funds received by the state, district, or other entity as a result of that transfer, notwithstanding any other provision of this chapter, with respect to an intergovernmental transfer of funds described by Subsection (c)(1) (relating to authorizing money deposited to the local provider participation fund of the district to be used to fund intergovernmental transfers from the district to the state to

provide the nonfederal share of Medicaid payments) made by the district, from being used by the state, district, or any other entity to:

(1) 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); or

(2) fund the nonfederal share of payments to nonpublic hospitals available through the Medicaid disproportionate share hospital program or the delivery system reform incentive payment program.

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 298A.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER NET PATIENT REVENUE. (a) Authorizes the board, except as provided by Subsection (e), if the board authorizes a program under this chapter, to require an annual mandatory payment to be assessed on the net patient revenue of each provider in the district. Authorizes the board 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 a provider as determined by the data reported to DSHS under Sections 311.032 and 311.033 in the most recent fiscal year for which that data was reported. Provides that if the provider did not report any data under those sections, the provider's net patient revenue is the amount of that revenue as contained in the provider's Medicare cost report submitted for the previous fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. Requires the district, if the mandatory payment is required, to update the amount of the mandatory payment on an annual basis.

(b) Requires the amount of a mandatory payment authorized under this chapter to be uniformly proportionate with the amount of net patient revenue generated by each paying provider in the district as permitted under federal law. Prohibits a program authorized under this chapter from holding harmless any provider, as required under 42 U.S.C. Section 1396b(w).

(c) Requires the board, if the board requires a mandatory payment authorized under this chapter, to set the amount of the mandatory payment, subject to the limitations of this chapter. Prohibits the aggregate amount of the mandatory payments required of all paying providers in the district from exceeding six percent of the aggregate net patient revenue from hospital services provided by all paying providers in the district.

(d) Requires the board, subject to Subsection (c), if the board requires a mandatory payment authorized under this chapter, to set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the district for activities under this chapter and to fund an intergovernmental transfer described by Section 298A.103(c)(1). Provides that the annual amount of revenue from mandatory payments that are required to be paid for administrative expenses by the district is \$150,000, plus the cost of collateralization of deposits, regardless of actual expenses.

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

(f) Provides that a mandatory payment assessed under this chapter is not a tax for hospital purposes for purposes of Section 4 (County-Wide Hospital Districts), Article IX (Counties), Texas Constitution, or Section 281.045 (Limitation on Taxing Power by Governmental Entity; Disposition of Delinquent Taxes).

Sec. 298A.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS.

(a) Authorizes the district to designate an official of the district or contract with another person to assess and collect the mandatory payments authorized under this chapter.

(b) Requires the person charged by the district with the assessment and collection of mandatory payments to charge and deduct from the mandatory payments collected for the district a collection fee in an amount not to exceed the person's usual and customary charges for like services.

(c) Requires any revenue from a collection fee charged under Subsection (b), if the person charged with the assessment and collection of mandatory payments is an official of the district, to be deposited in the district general fund and, if appropriate, to be reported as fees of the district.

Sec. 298A.153. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE; LIMITATION OF AUTHORITY.

(a) Provides that the purpose of this chapter is to authorize the district to establish a program to enable the district to collect mandatory payments from providers to fund the nonfederal share of the Medicaid supplemental payment program or the Medicaid managed care rate enhancements for nonpublic hospitals to support the provision of health care by providers to district residents in need of health care.

(b) Provides that this chapter does not authorize the district to collect mandatory payments for the purpose of raising general revenue or any amount in excess of the amount reasonably necessary to fund the nonfederal share of a Medicaid supplemental payment program or Medicaid managed care rate enhancements for nonpublic hospitals and to cover the administrative expenses of the district associated with activities under this chapter.

(c) Authorizes the board, 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. Prohibits a rule adopted under this section from creating, imposing, or materially expanding the legal or financial liability or responsibility of the district or a provider in the district beyond the provisions of this chapter. Provides that this section does not require the board to adopt a rule.

(d) Authorizes the district to only assess and collect a mandatory payment authorized under this chapter if a waiver program, uniform rate enhancement, or reimbursement described by Section 298A.103(c)(1) is available to the district.

SECTION 2. Requires the board as soon as practicable after the expiration of the authority of the district to administer and operate a program under Chapter 298A, Health and Safety Code, as added by this Act, to transfer to each provider in the district that provider's proportionate share of any remaining funds in any local provider participation fund created by the district under Section 298A.103, Health and Safety Code, as added by this Act.

SECTION 3. 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 delay of implementation until such a waiver or authorization is granted.

SECTION 4. Effective date: upon passage or September 1, 2017.