BILL ANALYSIS

Senate Research Center

S.B. 2448
By: Perry
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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.

Lubbock hospitals provide a tremendous amount of uncompensated care. A local provider participation fund (LPPF) would ensure that local providers continue to have access to federal funds under the waiver and would help ensure access to care and reduce the level of uncompensated care in this community.

As proposed, S.B. 2448 amends current law relating to the creation and operations of a health care provider participation program by the Lubbock County Hospital District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioners court of Lubbock County in SECTION 1 (Section 298C.053, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the board of hospital managers of the Lubbock County Hospital District in SECTION 1 (Section 298C.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 298C, as follows:

CHAPTER 298C. LUBBOCK COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298C.001. PURPOSE. Provides that the purpose of this chapter is to authorize the Lubbock County Hospital District (district) to administer a health care provider participation program to provide additional compensation to nonpublic hospitals by collecting mandatory payments from each nonpublic hospital in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Sec. 298C.002. DEFINITIONS. Defines "board," "commissioners court," "county," "district," "institutional health care provider," "paying hospital," and "program" for purposes of this chapter.

Sec. 298C.003. APPLICABILITY. Provides that this chapter applies only to the Lubbock County Hospital District of Lubbock County, Texas.

Sec. 298C.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. Authorizes the board of hospital managers of the

district (board) to authorize the district to participate in a health care provider participation program on the affirmative vote of a majority of the board, subject to the provisions of this chapter.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 298C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the board to authorize the collection of a mandatory payment authorized under this chapter from an institutional health care provider located in the district only in the manner provided by this chapter.

Sec. 298C.052. 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 institutional health care 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 the Health and Human Services Commission (HHSC) to implement those sections.

Sec. 298C.053. PROGRAM ADMINISTRATION. (a) Requires the board, subject to the approval of the commissioners court, to delegate all administrative responsibilities of the program, including collection of mandatory payments, expenditures, and audits, to the county.

(b) Authorizes the commissioners court to adopt rules relating to the administration of the program.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 298C.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 hearing required under Subsection (a), to publish notice of the hearing in a newspaper of general circulation in the district and provide written notice of the hearing to the chief operating officer of each institutional health care provider in the district.

(c) Requires determination of the amount of any mandatory payments to be collected during the year to be shown to be based on reasonable estimates of the amount of revenue necessary to meet and cover the nonfederal share of payments described by Section 298C.103(b)(1) that is otherwise unfunded, and provides that the determination is subject to the final approval of the commissioners court.

Sec. 298C.102. LOCAL PROVIDER PARTICIPATION FUND; DEPOSITORY. (a) Requires the commissioners court, by resolution, if the board authorizes the collection of a mandatory payment authorized under this chapter, and the commissioners court approves such collection, to create a local provider participation fund in one or more banks located in the district that are designated by the commissioners court to serve as the depository for mandatory payments received by the county.

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

(c) Requires all funds collected under this chapter to be secured in the manner provided by law for securing county funds.

Sec. 298C.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY. (a) Provides that the local provider participation fund established under Section 298C.102 consists of:

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

(2) money received from HHSC as a refund of an intergovernmental transfer from the local provider participation fund to the state as 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.

(b) Authorizes money deposited to the local provider participation fund to be used only to:

(1) fund intergovernmental transfers from the county to the state to provide the nonfederal share of:

(A) uncompensated care payments for nonpublic hospitals and delivery system reform incentive payments for nonpublic hospitals, if those payments are authorized under 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);

(B) uniform rate enhancements for nonpublic hospitals in the Medicaid managed care service area in which the district is located;

(C) payments available to nonpublic hospitals under another waiver program authorizing payments that are substantially similar to Medicaid payments to nonpublic hospitals described by Paragraph (A) or (B); or

(D) any reimbursement to nonpublic hospitals for which federal matching funds are available;

(2) subject to Section 298C.151(d), pay the administrative expenses of the county in administering the program, including collateralization of deposits;

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

(4) refund to paying hospitals a proportionate share of the money that the county:

(A) receives from HHSC that is not used to fund the nonfederal share of payments described by Subdivision (1); or

(B) determines cannot be used to fund the nonfederal share of payments described by Subdivision (1).

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

(d) Prohibits an intergovernmental transfer of funds described by Subsection (b)(1) and any funds received by the county as a result of an intergovernmental transfer described by that subsection from being used by the county 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. 298C.151. MANDATORY PAYMENTS. (a) Authorizes the board, subject to the approval of the commissioners court, 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 institutional health care provider located in the district. Authorizes the commissioners court to provide that the mandatory payment is to be collected at least annually, but not more often than 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 most recent fiscal year for which that data was reported. Provides that if the institutional health care 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.

(b) Requires the amount of a mandatory payment authorized under this chapter to be a uniform percentage of the amount of net patient revenue generated by each paying hospital in the district. 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) Prohibits the aggregate amount of the mandatory payments required of all paying hospitals in the district from exceeding six percent of the aggregate net patient revenue of all paying hospitals in the district.

(d) Requires the board, with the approval of the commissioners court, 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 county for activities under this chapter, fund an intergovernmental transfer described by Section 298C.103(b)(1), or make other payments authorized under this chapter. Requires the mandatory payment amounts to be set based on reasonable estimates of the amount of revenue necessary to fully meet and cover authorized expenses under this chapter. Prohibits the amount of revenue from mandatory payments that is authorized to be used for administrative expenses by the county in a year from exceeding $25,000, plus the cost of collateralization of deposits. Authorizes the county, if the county demonstrates to the paying hospitals that the costs of administering the program under this chapter, excluding those costs associated with the collateralization of deposits, exceed $25,000 in any year, on consent of a majority of all of the paying hospitals, to use additional revenue from mandatory payments received under this chapter to compensate the county for its administrative expenses. Prohibits a paying hospital from unreasonably withholding consent to compensate the county for administrative expenses.

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

(f) Provides that a mandatory payment under this chapter is not a tax for purposes of Section 4 (County-Wide Hospital Districts in Certain Populous Counties), Article IX, Texas Constitution, or Chapter 1053 (Lubbock County Hospital District of Lubbock County, Texas), Special District Local Laws Code.

Sec. 298C.153. CORRECTION OF INVALID PROVISION OR PROCEDURE. 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 an institutional health care provider in the district beyond the provisions of this chapter. Provides that this section does not require the board to adopt a rule.

SECTION 2. Provides that if before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision is required to request the waiver or authorization and is authorized to delay implementing that provision until the waiver or authorization is granted.

SECTION 3. Effective date: upon passage or September 1, 2019.