

## **BILL ANALYSIS**

H.B. 2809  
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County Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

A recently approved Medicaid waiver has helped empower local communities to transform the delivery of health care by establishing local projects tailored to meet a community's unique health care needs. However, the new system requires local government funds to support waiver payments. Interested parties assert that communities without hospital districts are at a disadvantage because, although they may provide a tremendous amount of uncompensated care, they lack a mechanism to generate the funds necessary to draw down federal dollars. One option already available to several Texas counties is the creation of a local provider participation fund, which allows local providers to access more federal funds and helps ensure access to care and reduce the level of uncompensated care in the community. The parties contend that such an option would provide the residents of disadvantaged counties the opportunity to solve a local problem without burdening local tax payers or requiring state general revenue. H.B. 2809 seeks to provide more counties with this option.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2809 amends the Health and Safety Code to set out provisions relating to county health care provider participation programs applicable to a county that is not served by a hospital district or a public hospital, contains a private institution of higher education with a student enrollment of more than 12,000, and has a population of less than 250,000. The bill establishes that such a program authorizes a county to collect a mandatory payment from each institutional health care provider located in the county, to be deposited in a local provider participation fund established by the county, and the bill authorizes money in the fund to be used by the county to fund certain intergovernmental transfers and indigent care programs. The bill authorizes the commissioners court to adopt an order authorizing a county to participate in the program, subject to certain limitations. The bill defines "institutional health care provider" as a nonpublic hospital licensed under the Texas Hospital Licensing Law.

H.B. 2809 authorizes a county commissioners court to require a mandatory payment by an institutional health care provider in the county only in the manner provided by the bill's provisions, requires an affirmative vote of a majority of the county commissioners court to authorize the county's collection of that payment, and authorizes a commissioners court that has voted to require a mandatory payment to adopt related administrative rules.

H.B. 2809 requires the commissioners court of a county that collects a mandatory payment to require each institutional health care provider to submit to the county a copy of any applicable financial and utilization data required by and reported to the Department of State Health Services and any related rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC). The bill authorizes the commissioners court to inspect an institutional health care provider's records to the extent necessary to ensure compliance with such requirement.

H.B. 2809 requires the commissioners court of a county that collects a mandatory payment to hold an annual public hearing on the amounts of any mandatory payments that the commissioners court intends to require during the year and how the revenue derived from those payments is to be spent. The bill provides for notice of the hearing, entitles a representative of a paying hospital to be heard at the hearing regarding any matter related to the mandatory payments, requires the designation of one or more local banks as the depository for such mandatory payments, and requires the deposit of all of the county's income derived from such mandatory payments with that depository in the county's local provider participation fund. The bill defines "paying hospital" as an institutional health care provider required to make a mandatory payment.

H.B. 2809 requires each county that collects a mandatory payment to create a local provider participation fund that consists of all county revenue attributable to mandatory payments; money received from HHSC as a refund of an intergovernmental transfer from the county 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 the earnings of the fund. The bill restricts the use of money deposited to the local provider participation fund to the funding of intergovernmental transfers from the county 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 certain federal law, or a successor waiver program authorizing similar Medicaid supplemental payment programs; to the subsidizing of indigent programs; to the payment of the administrative expenses of the county solely for activities under the bill's provisions; to the refunding of a portion of a mandatory payment collected in error from a paying hospital; and to the refunding to paying hospitals of the proportionate share of money received by the county from HHSC that is not used to fund the nonfederal share of Medicaid supplemental payment program payments. The bill prohibits an applicable intergovernmental transfer of funds and any funds received by the county as a result of an applicable intergovernmental transfer from being used by the county or any other entity to expand Medicaid eligibility under the federal Patient Protection and Affordable Care Act as amended by the federal Health Care and Education Reconciliation Act of 2010. The bill prohibits money in the local provider participation fund from being commingled with other county funds.

H.B. 2809 authorizes the commissioners court of a county that collects a mandatory payment to require an annual mandatory payment to be assessed quarterly on the net patient revenue of each institutional health care provider located in the county, sets out related provisions regarding the amounts to be set by the commissioners court for those mandatory payments, requires the amount of a mandatory payment to be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county, and caps the amount of the mandatory payment required of each paying hospital at such an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the county, equals an amount that does not exceed six percent of the aggregate net patient revenue of all paying hospitals in the county. The bill requires the commissioners court to set, subject to such maximum amount, the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the county's administrative expenses for activities under the bill's provisions, to fund the nonfederal share of a Medicaid supplemental payment program, and to pay for indigent programs but caps the amount of revenue from mandatory payments used for such administrative

expenses in a year at the lesser of four percent of the total revenue generated from the mandatory payment or \$20,000. The bill prohibits a paying hospital from adding a mandatory payment as a surcharge to a patient.

H.B. 2809 provides for the assessment and collection of mandatory payments and establishes that interest, penalties, and discounts on mandatory payments are governed by the law applicable to county property taxes. The bill authorizes a county to provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services to the extent any provision or procedure under the bill's provisions causes a mandatory payment to be ineligible for federal matching funds.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.