

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2062
By: Phillips (Estes)
Health & Human Services
5/15/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties are concerned that certain counties without a county hospital are unable to take advantage of mechanisms available to other counties for drawing down federal funding to finance critical health care needs. The parties contend that additional tools to help finance this care would ease the burden on those counties and better serve county residents. H.B. 2062 addresses this issue by providing for the creation and operation of health care provider participation programs.

H.B. 2062 amends the Health and Safety Code to provide for a county health care provider participation program in a county that is not served by a hospital district or a public hospital, has a population of more than 100,000, contains at least two municipalities each of which has a population of more than 15,000, and borders the Red River. 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 (LPPF) established by the county. 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, among other terms, "institutional health care provider" as a nonpublic hospital that provides inpatient hospital services.

H.B. 2062 sets out the powers and duties of a commissioners court with respect to the county health care provider participation program. The bill provides for 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 the designation of one or more local banks as the depository for mandatory payments and the creation, composition, and use of a county's local provider participation fund.

H.B. 2062 provides for the amount, assessment, and collection of a mandatory payment. The bill 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.

The committee substitute for H.B. 2062 makes adjustments to provide the county with greater flexibility to more efficiently administer the LPPF in the manner that best suits local needs. These changes are consistent with similar LPPF language filed this session.

C.S.H.B. 2062 amends current law relating to the creation and operations of health care provider participation programs in certain counties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioners court of a certain county in SECTION 1 (Section 292A.053, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to a certain county in SECTION 1 (Section 292A.154, 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 292A, as follows:

CHAPTER 292A. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES BORDERING RED RIVER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292A.001. DEFINITIONS. Defines “institutional health care provider,” “paying hospital,” and “program.”

Sec. 292A.002. APPLICABILITY. Provides that this chapter applies only to a county that is not served by a hospital district or a public hospital; has a population of more than 100,000; contains at least two municipalities, each of which has a population of more than 15,000; and borders the Red River.

Sec. 292A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. (a) Provides that a county health care provider participation program (program) authorizes a county to collect a mandatory payment (payment) from each institutional health care provider (IHCP) located in the county to be deposited in a local provider participation fund (LPPF) established by the county. Authorizes the money in the LPPF to be used by the county to fund certain intergovernmental transfers and indigent care programs as provided by this chapter.

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

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

Sec. 292A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Authorizes the commissioners court of a county to require a payment by an IHCP in the county only in the manner provided by this chapter.

Sec. 292A.052. MAJORITY VOTE REQUIRED. Prohibits the commissioners court of a county from authorizing the county to collect a payment without an affirmative vote of a majority of the members of the commissioners court.

Sec. 292A.053. RULES AND PROCEDURES. Authorizes the commissioners court, after the commissioners court has voted to require a payment, to adopt rules relating to the administration of the payment.

Sec. 292A.054. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS. (a) Requires the commissioners court of a county that collects a payment to require each IHCP to submit to the county 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 to implement those sections.

(b) Authorizes the commissioners court of a county that collects a payment to inspect the records of an IHCP to the extent necessary to ensure compliance with the requirements of Subsection (a).

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 292A.101. HEARING. (a) Requires the commissioners court of a county that collects a payment to hold a public hearing each year on the amounts of any payments that the commissioners court intends to require during the year.

(b) Requires the commissioners court of the county, 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 the county.

(c) Provides that a representative of a paying hospital is entitled to appear at the time and place designated in the public notice and to be heard regarding any matter related to the payments.

Sec. 292A.102. DEPOSITORY. (a) Requires the commissioners court of each county that collects a payment by resolution to designate one or more banks located in the county as the depository for payments received by the county.

(b) Requires that all income received by a county under this chapter, including certain sources of revenue, be deposited with the county depository in the county's LPPF and authorizes the income to be withdrawn only as provided by this chapter.

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

Sec. 292A.103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires each county that collects a payment to create an LPPF.

(b) Provides that a county's LPPF consists of certain monies.

(c) Authorizes money deposited to the LPPF to be used only to serve certain functions.

(d) Prohibits money in the LPPF from being commingled with other county funds.

(e) Prohibits an intergovernmental transfer of funds described by Subsection (c)(1) (relating to authorizing money deposited to the LPPF to be used only to fund intergovernmental transfers from the county to the state to provide certain payments) 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. 292A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL NET PATIENT REVENUE. (a) Authorizes the commissioners court of a county that collects a payment, except as provided by Subsection (e), to require an annual payment to be assessed on the net patient revenue of each IHCP located in the county and authorizes the commissioners court to provide for the payment to be assessed quarterly. Provides that, in the first year in which the payment is required, the payment is assessed on the net patient revenue of an IHCP as determined by the data reported to DSHS under Sections 311.032 and 311.033 in the fiscal year ending in 2015 or, if the IHCP did not report any data under those sections in that fiscal year, as determined by the IHCP's Medicare cost report submitted for the 2015 fiscal year or for the closest subsequent fiscal year for which the IHCP submitted the Medicare cost report. Requires the county to update the amount of the payment on an annual basis.

(b) Requires that the amount of a payment be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the county and

prohibits a payment from holding harmless any IHCP, as required under 42 U.S.C. Section 1396b(w).

(c) Requires the commissioners court of a county that collects a payment to set the amount of the payment and prohibits the amount of the payment required of each paying hospital from exceeding six percent of the paying hospital's net patient revenue.

(d) Requires the commissioners court of a county that collects a payment, subject to the maximum amount prescribed by Subsection (c), to set the payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the county for activities under this chapter, to fund an intergovernmental transfer described by Section 292A.103(c)(1), and to pay for indigent programs, except that the amount of revenue from payments used for administrative expenses of the county for activities in a year is prohibited from exceeding a certain amount.

(e) Prohibits a paying hospital from adding a payment as a surcharge to a patient.

Sec. 292A.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. Authorizes the county to collect or contract for the assessment and collection of payments.

Sec. 292A.153. INTEREST, PENALTIES, AND DISCOUNTS. Provides that interest, penalties, and discounts on payments are governed by the law applicable to county ad valorem taxes.

Sec. 292A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) Provides that the purpose of this chapter is to generate revenue by collecting from IHCPs a payment to be used to provide the nonfederal share of a Medicaid supplemental payment program.

(b) Authorizes the county, to the extent any provision or procedure under this chapter causes a payment to be ineligible for federal matching funds, to provide by rule for an alternative provision or procedure that conforms to certain requirements.

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

SECTION 3. Effective date: upon passage or September 1, 2017.