

## **BILL ANALYSIS**

Senate Research Center  
88R6128 MPF-F

S.B. 849  
By: Blanco  
Local Government  
4/18/2023  
As Filed

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

Since 2013, the Texas Legislature has allowed local governments to establish and operate local provider participation funds (LPPFs). LPPFs are accounts to which local units of government deposit mandatory payments from hospitals to use as an intergovernmental transfer (IGT) to the Health and Human Services Commission (HHSC). The non-federal share of all supplemental Medicaid payments in Texas comes from local governments and often through LPPF structures. The LPPF administered by the El Paso County University Medical Center serves a critical purpose for the community by ensuring that the appropriate amount of local funding is generated and collected for Texas Medicaid supplemental and directed payment programs in order to draw down necessary federal funding. Without legislative action, the program will expire on December 31, 2023, so renewal of the program is needed.

S.B. 849 amends the Health and Safety Code to postpone from December 31, 2023, to December 31, 2027, the expiration of the authority of the El Paso County Hospital District to administer and operate a health care provider participation program and the expiration of related statutory provisions. The bill authorizes the district to impose and collect interest and penalties on delinquent mandatory payments assessed under the program in any amount that does not exceed the maximum amount authorized for other delinquent payments owed to the district.

As proposed, S.B. 849 amends current law relating to the continuation and operations of a health care provider participation program by the El Paso County Hospital District.

### **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 Section 298G.001, Health and Safety Code, by adding Subdivision (6), to define "qualifying assessment basis."

SECTION 2. Amends Section 298G.004, Health and Safety Code, as follows:

Sec. 298G.004. EXPIRATION. (a) Provides that the authority of El Paso County Hospital District (district) to administer and operate a program under Chapter 298G (El Paso County Hospital District Health Care Provider Participation Program) subject to Section 298G.153(d) (relating to authorizing the district to only assess and collect a mandatory payment if a waiver program or reimbursement is available to nonpublic hospitals in the district), expires December 31, 2027, rather than December 31, 2023.

(b) Makes a conforming change to this subsection.

SECTION 3. Amends Section 298G.053, Health and Safety Code, as follows:

Sec. 298G.053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. Authorizes, rather than requires, the board of hospital managers of the district (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 reported in:

- (1) the provider's Medicare cost report for the most recent fiscal year for which the provider submitted the Medicare cost report, rather than 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; or
- (2) a report other than the report described by Subdivision (1) that the board considers reliable and is submitted by or to the provider for the most recent fiscal year.

Makes nonsubstantive changes.

SECTION 4. Amends Section 298G.103(c), Health and Safety Code, as follows:

- (c) Authorizes the money deposited to the local provider participation fund of the district to be used only to:
  - (1)-(3) makes no changes to these subdivisions;
  - (4) refund to a paying provider, in an amount that is proportionate to the mandatory payments made under this chapter by the provider during the 12 months preceding the date of the refund, the money that the district uses for certain purposes, rather than refund to paying providers a proportionate share of the money that the district uses for certain purposes; and
  - (5) makes no changes to this subdivision.

SECTION 5. Amends the heading to Section 298G.151, Health and Safety Code, to read as follows:

Sec. 298G.151. MANDATORY PAYMENTS.

SECTION 6. Amends Section 298G.151, Health and Safety Code, by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (a-2), as follows:

- (a) Authorizes the board, if the board authorizes a health care provider participation program under this chapter, to require a mandatory payment to be assessed against each institutional provider located in the district, either annually or periodically throughout the year at the discretion of the board, on a qualifying assessment basis. Requires that the qualifying assessment basis be the same for each institutional health care provider in the district. Requires the board to provide an institutional health care provider written notice of each assessment under this section, rather than subsection, and provides that the provider has 30 calendar days following the date of receipt of the notice to make the assessed mandatory payment. Deletes existing text requiring the board, if the board authorizes a health care provider participation program under this chapter, to require a mandatory payment to be assessed, either annually or periodically throughout the year at the discretion of the board, on the net patient revenue of each institutional health care provider located in the district.
- (a-1) Requires that the qualifying assessment basis, except as otherwise provided by this subsection, be determined by the board using information contained in an institutional health care provider's Medicare cost report for the most recent fiscal year for which the provider submitted the report. Authorizes the qualifying assessment basis, if the provider is not required to submit a Medicare cost report, or if the Medicare cost report submitted by the provider does not contain information necessary to determine the qualifying assessment basis, to be determined by the board using information contained in another report the board considers reliable that is submitted by or to the provider for the most

recent fiscal year. Requires the board, to the extent practicable, to use the same type of report to determine the qualifying assessment basis for each paying provider in the district.

(a-2) Requires the district, if a mandatory payment is required, to periodically update the amount of the mandatory payment. Deletes existing text providing that the mandatory payment, in the first year in which the mandatory payment is required, is assessed on the net patient revenue of an institutional health care provider, as determined by 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. Deletes existing text requiring the district, if the mandatory payment is required, 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 determined in a manner that ensures the revenue generated qualifies for federal matching funds under federal law, consistent with 42 U.S.C. Section 1396b(w). Deletes existing text requiring 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 provider in the district as permitted under federal law. Deletes existing text prohibiting a health care provider participation program authorized under this chapter from holding harmless any paying provider, as required under 42 U.S.C. Section 1396b(w).

(c) 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 in the district, rather than provided by all paying providers in the district.

SECTION 7. Amends Subchapter D, Chapter 298G, Health and Safety Code, by adding Section 298G.154, as follows:

Sec. 298G.154. INTEREST AND PENALTIES. Authorizes the district to impose and collect interest and penalties on delinquent mandatory payments assessed under this chapter in any amount that does not exceed the maximum amount authorized for other delinquent payments owed to the district.

SECTION 8. Effective date: upon passage or September 1, 2023.