HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE D. HOSPITAL DISTRICTS

CHAPTER 288. HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES LOCATED ON TEXAS-MEXICO BORDER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 288.001. DEFINITIONS. In this chapter:

(1) "Commission" means the commission of a district created under this chapter.

(2) "District" means a county health care funding district created under this chapter.

(3) "Paying hospital" means an institutional health care provider required to make a mandatory payment under this chapter.

(4) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 231 (H.B. 2476), Sec. 1, eff. May 29, 2015.

Sec. 288.002. CREATION OF DISTRICT. A district may be created by order of the commissioners court of each county located on the Texas-Mexico border that has a population of:

(1) 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;

(2) 350,000 or more and is adjacent to a county described by Subdivision (1); or

(3) less than 300,000 and contains one or more municipalities with a population of 200,000 or more.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 3, eff. June 14, 2013.

Sec. 288.0031. DISSOLUTION. A district created under this chapter may be dissolved in the manner provided for the dissolution of a hospital district under Subchapter E, Chapter 286.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 4, eff. June 14, 2013.

Sec. 288.005. DISTRICT TERRITORY. The boundaries of each district are coextensive with the boundaries of the county in which the district is created.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 288.051. COMMISSION; DISTRICT GOVERNANCE. (a) Each district created under Section 288.002 is governed by a commission consisting of the commissioners court of the county in which the district is created.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1369, Sec. 19, eff. June 14, 2013.

(c) Service on the commission by a county commissioner or county judge is an additional duty of that person's office.

(d) A district is a component of county government and is not a separate political subdivision of this state.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 5, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 6, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 19, eff. June 14, 2013.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 288.101. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. Each district may require a mandatory payment only in the manner provided by this chapter.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 7, eff. June 14, 2013.

Sec. 288.102. MAJORITY VOTE REQUIRED. (a) A district may not require any mandatory payment authorized by this chapter, spend any money, including for the administrative expenses of the district, or conduct any other business of the commission without an affirmative vote of a majority of the members of the commission.

(b) Before requiring a mandatory payment under this chapter in any one year, the commission must obtain the affirmative vote required by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 8, eff. June 14, 2013.

Sec. 288.104. RULES AND PROCEDURES. (a) The commission may adopt rules governing the operation of the district, including rules relating to the administration of a mandatory payment authorized by this chapter.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1369, Sec. 19, eff. June 14, 2013.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 9, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 19, eff. June 14, 2013.

Sec. 288.106. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING; INSPECTION OF RECORDS. (a) A district shall require an 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 under Sections 311.032 and 311.033 and any rules adopted by the department to implement those sections.

(b) A district may inspect the records of an institutional health care provider to the extent necessary to ensure that the provider has submitted all required data under this section.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 288.151. HEARING. (a) Each year, the commission of a district shall hold a public hearing on the amounts of any mandatory payments that the commission intends to require during the year and how the revenue derived from those payments is to be spent.

(b) Not later than the fifth day before the date of the hearing, the commission shall publish at least once notice of the hearing in a newspaper of general circulation in the county in which the district is located.

(c) 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 mandatory payments required by the district under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 10, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 457 (S.B. 1462), Sec. 1, eff.

June 12, 2017.

Sec. 288.152. FISCAL YEAR. Each district's fiscal year begins on September 1 and ends on August 31 of each year.
Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Sec. 288.154. DEPOSITORY. (a) Each commission by resolution shall designate one or more banks located in the district as the depository for the district. A bank designated as depository serves for two years or until a successor is designated.

(b) All income received by a district, including the revenue from mandatory payments remaining after discounts and fees for assessing and collecting the payments are deducted, shall be deposited with the district depository as provided by Section 288.203 and may be withdrawn only as provided by this chapter.

(c) All district funds shall be secured in the manner provided for securing county funds.
Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 11, eff. June 14, 2013.

Sec. 288.155. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Each district shall create a local provider participation fund.

(b) The local provider participation fund consists of:

(1) all revenue from the mandatory payment required by this chapter, including any penalties and interest attributable to delinquent payments;

(2) money received from the Health and Human Services Commission as a refund of an intergovernmental transfer from the district 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

(3) the earnings of the fund.

(c) Money deposited to the local provider participation fund may be used only to:

(1) fund intergovernmental transfers from the district to the state to provide:

(A) 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 Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), or a successor waiver program authorizing similar Medicaid supplemental payment programs; or

(B) payments to Medicaid managed care organizations that are dedicated for payment to hospitals;

(2) subsidize indigent programs;

(3) pay the administrative expenses of the district;

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

(5) refund to paying hospitals the proportionate share of the money received by the district from the Health and Human Services Commission that is not used to fund the nonfederal share of Medicaid supplemental payment program payments; and

(6) refund to paying hospitals the proportionate share of money that the district determines cannot be used to fund the nonfederal share of Medicaid supplemental payment program payments.

(d) Money in the local provider participation fund may not be commingled with other county funds.

(e) An intergovernmental transfer of funds described by Subsection (c)(1) and any funds received by the district as a result of an intergovernmental transfer described by that subdivision may not be used by the district, the county in which the district is located, 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).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 12,

eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 457 (S.B. 1462), Sec. 2, eff. June 12, 2017.

Sec. 288.156. ALLOCATION OF CERTAIN FUNDS. Not later than the 15th day after the date the district receives a payment described by Section 288.155(c)(5), the district shall transfer to each paying hospital an amount equal to the proportionate share of those funds to which the hospital is entitled.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 12, eff. June 14, 2013.

SUBCHAPTER E. MANDATORY PAYMENTS

Sec. 288.201. MANDATORY PAYMENT BASED ON HOSPITAL NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the commission of a district may require an annual mandatory payment to be assessed quarterly on the net patient revenue of an institutional health care provider located in the district. 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 the Department of State Health Services under Sections 311.032 and 311.033 in the fiscal year ending in 2010. The district shall update the amount of the mandatory payment on a biennial basis.

(b) The amount of a mandatory payment required under this chapter must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the district. A mandatory payment required under this section may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) The commission of a district shall set the amount of the mandatory payment required under this section. The amount of the mandatory payment required of each paying hospital may not exceed an amount that, when added to the amount of the mandatory payments

required from all other paying hospitals in the district, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the district.

(d) Subject to the maximum amount prescribed by Subsection (c), the commission shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the district, to fund the nonfederal share of a Medicaid supplemental payment program, and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the district in a year may not exceed the lesser of four percent of the total revenue generated from the mandatory payment or $20,000.

(e) An institutional health care provider may not add a mandatory payment required under this section as a surcharge to a patient.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 14, eff. June 14, 2013.

Sec. 288.202. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. The district may collect or, using a competitive bidding process, contract for the assessment and collection of mandatory payments required under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 15, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 457 (S.B. 1462), Sec. 3, eff. June 12, 2017.

Sec. 288.203. DEPOSIT OF REVENUE FROM MANDATORY PAYMENTS. Revenue from the mandatory payment required by this chapter shall be deposited in the district's local provider participation fund.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 16, eff. June 14, 2013.

Sec. 288.204. INTEREST, PENALTIES, AND DISCOUNTS. Interest, penalties, and discounts on mandatory payments required under this subchapter are governed by the law applicable to county ad valorem taxes.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 17, eff. June 14, 2013.

Sec. 288.205. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) The purpose of this chapter is to generate revenue from a mandatory payment required by the district to provide the nonfederal share of a Medicaid supplemental payment program.

(b) To the extent any provision or procedure under this chapter causes a mandatory payment under this chapter to be ineligible for federal matching funds, the district may provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

Added by Acts 2005, 79th Leg., Ch. 1367 (H.B. 2463), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1369 (S.B. 1623), Sec. 18, eff. June 14, 2013.