SUBJECT: Allowing counties to create local provider participation funds

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Bohac, Anderson, Cole, Dominguez, Huberty, Rosenthal

2 nays — Biedermann, Stickland

WITNESSES: For — (*Registered, but did not testify*: Drew DeBerry, Adelanto Health Care Ventures; Jim Allison, County Judges and Commissioners Association of Texas; Maureen Milligan, Teaching Hospitals of Texas; Don McBeath, Texas Organization of Rural and Community Hospitals)

Against — None

DIGEST: HB 651 would allow a county not served by a hospital district or public hospital to administer a county health care provider participation program. The bill would allow the county to collect mandatory payments from hospitals in the county to provide the nonfederal share of a Medicaid supplemental payment programs and certain other purposes.

Establishment of provider participation program. The bill would authorize the commissioners court of a county to create a provider participation program and to require a mandatory payment from institutional health care providers. If the commissioners court authorized participation in such a program, the court would have to require each hospital in the county to submit to the county a copy of any financial and utilization data required to be submitted to the Department of State Health Services (DSHS) or the Health and Human Services Commission (HHSC).

Collection, holding and disbursement of funds. The bill would require the commissioners court of any participating county to hold a publicized public hearing in each year that it authorized a health care provider participation program on the amounts of any mandatory payments and the manner in which the collected funds would be spent.

The commissioners court would then establish a local provider participation fund in one or more banks designated as a depository for the mandatory payments. Monies in the fund could not be commingled with other funds. The fund would consist only of the required payments, money received from HHSC as a refund of federal Medicaid supplemental program payments, and fund earnings.

Money in the fund could only be used to:

- fund intergovernmental transfers from the county to the state to provide for the nonfederal share of a Medicaid supplemental payment program or a successor waiver program, and payments to Medicaid managed care organizations;
- pay costs associated with indigent care provided by institutional health care providers in the county;
- pay the administrative expenses of the program;
- refund mandatory payments assessed in error; and
- refund to hospitals a proportionate share of money that the county receives from HHSC or that it determines cannot be used to fund the nonfederal share of Medicaid supplemental payment program payments.

Medicaid expansion. The bill would prohibit the use of intergovernmental transfers from the county to the state under this program to fund expanded Medicaid eligibility under the federal Affordable Care Act.

Mandatory payments. The bill would require the commissioners court to assess the annual mandatory payment required of every hospital on the basis of its net patient revenue. The county would be required to update the amount of this payment on an annual basis and to collect the payment at least annually but not more often than quarterly.

The bill also would require that the amount of the annual payment be proportionate to the amount of net patient revenue generated by each hospital in the county and adequate to cover the expenses of the program, including intergovernmental transfers. The bill would limit the mandatory payment to no more than 6 percent of a hospital's net patient revenue. As required by federal law, the bill would prohibit a mandatory payment under the bill from holding harmless any hospital.

HB 651 would not allow the commissioners court to use more than $25,000 of mandatory payments for administrative expenses without the consent of all the paying hospitals in the county. Hospitals would be prohibited from unreasonably withholding consent for compensating the county for administrative expenses.

HB 651 would prohibit a hospital from adding a mandatory payment required under the bill as a surcharge to a patient or insurer. The bill also would state that a mandatory payment would not be considered a tax for the creation and funding of a hospital district or for the medical care of needy individuals.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 651 would establish uniform rules that would allow counties to establish local provider participation funds without a specific act of the Legislature. This ability would help counties struggling to raise the matching funds necessary to access federal Medicaid dollars.

In 2013, the Legislature authorized the creation of the state's first three local provider participation funds. Today, 19 cities and counties use this mechanism. The value of this arrangement has been well established, and legislators have submitted several bills this session in favor of the establishment of local provider participation funds in new areas. In eliminating the need for the Legislature to pass a separate act to create every fund, HB 651 would work to the benefit of counties, hospitals and patients.

OPPONENTS SAY: HB 651 would represent an expansion in the abilities of counties to tax, which would be an imposition of government on hospitals.