

By: Kolkhorst

S.B. No. 2332

A BILL TO BE ENTITLED

AN ACT

relating to the operations of hospital districts in counties with a population of at least 190,000 persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 281.021(d), Health and Safety Code, is amended to read as follows:

(d) If a district is created under this chapter in a county with a population of more than 1.2 million ~~[800,000]~~ that was not included in the boundaries of a hospital district before September 1, 2003, the district shall be governed by a nine-member board of hospital managers, appointed by ~~[as follows:~~

~~[(1)] the commissioners court of the county [shall appoint four members,~~

~~[(2) the governing body of the municipality with the largest population in the county shall appoint four members, and~~

~~[(3) the commissioners court and the governing body of the municipality described by Subdivision (2) shall jointly appoint one member].~~

SECTION 2. Section 281.022(c), Health and Safety Code, is amended to read as follows:

(c) A member ~~[The members]~~ of a board of hospital managers appointed under Section 281.021(d) may not serve more than a total of eight years on the board ~~[serve staggered four-year terms, with as near as possible to one-fourth of the members' terms expiring~~

1 ~~each year. The terms of the members appointed under that section~~  
2 ~~are as follows:~~

3 ~~[(1) the members appointed solely by the governing~~  
4 ~~body of the municipality with the largest population in the county~~  
5 ~~shall draw lots to determine which member serves a one-year term,~~  
6 ~~which member serves a two-year term, which member serves a~~  
7 ~~three-year term, and which member serves a four-year term;~~

8 ~~[(2) the members appointed solely by the commissioners~~  
9 ~~court of the county shall draw lots to determine which member serves~~  
10 ~~a one-year term, which member serves a two-year term, which member~~  
11 ~~serves a three-year term, and which member serves a four-year term;~~  
12 ~~and~~

13 ~~[(3) the member appointed jointly by the governing~~  
14 ~~body of the municipality described by Subdivision (1) and the~~  
15 ~~commissioners court serves a four-year term].~~

16 SECTION 3. Subchapter B, Chapter 281, Health and Safety  
17 Code, is amended by adding Section 281.0221 to read as follows:

18 Sec. 281.0221. QUALIFICATIONS FOR SERVICE ON BOARD. (a) A  
19 person may not serve on the board of hospital managers for a  
20 district if the person:

21 (1) has not resided in the boundaries of the district  
22 for at least three years preceding the date of the person's  
23 appointment;

24 (2) is an employee of the district, or is related to an  
25 employee of the district within two degrees of consanguinity or  
26 affinity as determined under Chapter 573, Government Code;

27 (3) has served in a public elective office during any

1 of the four years preceding the date of the person's appointment; or

2 (4) is an employee or contractor of a vendor having a  
3 contract the price of which is more than \$250,000 with:

4 (A) the district; or

5 (B) any entity created by or affiliated with the  
6 district.

7 (b) At least half of the members of the board of hospital  
8 managers for a district serving at any one time must have at least  
9 four years of work experience:

10 (1) in a hospital or other health care facility or as a  
11 licensed health professional;

12 (2) in the financial services industry or accounting  
13 profession or as a licensed financial professional, including a  
14 certified public accountant or financial services advisor; or

15 (3) as an attorney licensed to practice law in this  
16 state.

17 (c) Not more than one third of the members of the board of  
18 hospital managers for a district serving at any one time may derive  
19 more than 10 percent of their annual income from the health care  
20 industry.

21 (d) Except as otherwise provided by this subsection, at  
22 least one member of the board of hospital managers for a district  
23 must be an indigent patient that has been served by the district or  
24 a person who is related to an indigent patient that has been served  
25 by the district within two degrees of consanguinity, as determined  
26 under Chapter 573, Government Code. A board member described by  
27 this subsection must represent the demographic factors of indigent

1 individuals generally served by the district, including geography,  
2 race, ethnicity, and gender. This subsection does not apply to the  
3 initial appointed board of hospital managers for a district.

4 SECTION 4. The heading to Section 281.0222, Health and  
5 Safety Code, is amended to read as follows:

6 Sec. 281.0222. QUALIFICATIONS FOR OFFICE IN CERTAIN  
7 DISTRICTS.

8 SECTION 5. Section 281.0222, Health and Safety Code, is  
9 amended by adding Subsection (c) to read as follows:

10 (c) In the event of a conflict between Section 281.0221 and  
11 this section, Section 281.0221 controls.

12 SECTION 6. Subchapter B, Chapter 281, Health and Safety  
13 Code, is amended by adding Section 281.0223 to read as follows:

14 Sec. 281.0223. STANDARDS OF CONDUCT; CONFLICTS OF INTEREST;  
15 RECUSAL. (a) A member of the board of hospital managers for a  
16 district is subject to the conflict of interest and other  
17 provisions applicable to the conduct of an appointed officer under  
18 Chapter 572, Government Code.

19 (b) A member of the board of hospital managers for a  
20 district shall recuse himself or herself from participating in the  
21 deliberation regarding or voting on any district contract:

22 (1) involving the board member's employer as a  
23 contractor or subcontractor; or

24 (2) in which the board member or the board member's  
25 employer has a substantial interest as described by Section  
26 572.005, Government Code.

27 SECTION 7. Section 281.031(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) A member of the board of hospital managers of the El Paso  
3 County Hospital District is considered to have resigned the  
4 member's position if the member:

5 (1) is absent from all the regularly scheduled board  
6 and committee meetings that the member is eligible to attend during  
7 a 90-day period;

8 (2) is absent from more than half of the regularly  
9 scheduled board and committee meetings that the member is eligible  
10 to attend during a 12-month period;

11 (3) fails to pay a local tax, including an ad valorem  
12 tax, when due; or

13 (4) would be ineligible to serve on the board as  
14 provided by Section 281.0221 or 281.0222.

15 SECTION 8. Section 281.045(a), Health and Safety Code, is  
16 amended to read as follows:

17 (a) On or after the creation of the district, the county or a  
18 municipality located in the district may not levy taxes for  
19 hospital purposes or to provide the services described by Section  
20 61.028 or 61.0285. This subsection may not be construed to restrict  
21 the ability of a county or municipality located in the district to  
22 levy taxes for essential public health services, as that term is  
23 defined by Section 121.002.

24 SECTION 9. Section 281.046, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 281.046. DISTRICT RESPONSIBILITY FOR MEDICAL AID AND  
27 HOSPITAL CARE. Beginning on the date on which taxes are collected

1 for the district, the district assumes full responsibility for  
2 furnishing medical and hospital care, including the services  
3 described by Sections 61.028 and 61.0285, for indigent and needy  
4 persons residing in the district.

5 SECTION 10. Section 281.048, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 281.048. DISTRICT RULES. Subject to any applicable  
8 restriction provided by law, the [The] board may adopt rules  
9 governing the operation of the hospital or hospital system.

10 SECTION 11. Section 281.049, Health and Safety Code, is  
11 amended by amending Subsections (a) and (c) and adding Subsection  
12 (e) to read as follows:

13 (a) The commissioners court shall [~~may~~] prescribe policies  
14 and procedures to ensure efficiency, fiscal accountability,  
15 financial controls, and transparency. The policies and procedures  
16 must include:

17 (1) the method of making purchases and expenditures by  
18 and for the district; and

19 (2) accounting and control procedures for the district  
20 that ensure that district revenue is spent:

21 (A) in accordance with all applicable provisions  
22 of law; and

23 (B) in a manner that is transparent to the  
24 residents of the district.

25 (c) A county officer, employee, contractor, or agent shall  
26 perform any function or service ordered [~~required~~] by the  
27 commissioners court under this section.

1       (e) At least once every five years, the commissioners court  
2 shall contract with an independent auditor to have performed a  
3 comprehensive performance audit of the district's management,  
4 accounting, financial controls, recordkeeping, and compliance with  
5 applicable law. The audit must assess the performance of the  
6 district and the district's vendors and determine whether the  
7 district's management adheres to best practices and national  
8 standards applicable to the administration of hospitals and  
9 hospital systems. The auditor shall produce a written report  
10 identifying any identified issues and recommendations to the  
11 commissioners court and provide a copy of the report to the district  
12 and the commissioners court. The district shall post the report in  
13 a conspicuous location on the district's publicly accessible  
14 Internet website. The commissioners court shall hold a public  
15 hearing on the report.

16       SECTION 12. Section 281.051, Health and Safety Code, is  
17 amended by adding Subsections (d) and (e) to read as follows:

18       (d) A contract entered into under this section:  
19               (1) must be for fair and reasonable compensation;  
20               (2) is subject to all legal restrictions on the use of  
21 district money; and  
22               (3) must include provisions that require district  
23 money received by a party to the contract to be:  
24                       (A) subject to appropriate recordkeeping,  
25 financial accounting, and financial control practices; and  
26                       (B) held in a separate account from other money  
27 held by the party.

1       (e) Records of expenditures of district money and the  
2 purposes of those expenditures are subject to Chapter 552,  
3 Government Code.

4       SECTION 13. Section 281.053, Health and Safety Code, is  
5 amended to read as follows:

6       Sec. 281.053. DISTRICT INSPECTIONS. (a) The district, or  
7 the district's contractors or subcontractors, may be inspected by  
8 an employee, agent, contractor, or [a] representative of the  
9 commissioners court or the Department of State Health Services.

10       (b) A person subject to inspection under Subsection (a)  
11 [~~district officer~~] shall:

12           (1) admit an inspector into the person's [~~district~~]  
13 facilities to the extent those facilities relate to the district or  
14 services provided to the district; and

15           (2) on demand give the inspector full access to  
16 records, reports, books, papers, and accounts related to the  
17 district, including, if applicable, records, reports, books,  
18 papers, and accounts related to expenditures made with district  
19 money received under a contract with the district.

20       (c) The district or commissioners court may terminate the  
21 contract of a district vendor that fails to comply with this  
22 section.

23       SECTION 14. Section 281.056, Health and Safety Code, is  
24 amended by amending Subsection (b-1) and adding Subsection (e) to  
25 read as follows:

26       (b-1) The county attorney, district attorney, or criminal  
27 district attorney, as appropriate, with the duty to represent the



1 county in civil matters shall, in all legal matters, represent a  
2 district located in:

3 (1) a county with a population of 800,000 or more that  
4 borders the United Mexican States; or

5 (2) a county with a population of 3.4 million or more[+  
6 ~~or~~

7 [~~(3) a county with a population of more than 800,000~~  
8 ~~that was not included in the boundaries of a hospital district~~  
9 ~~before September 1, 2003].~~

10 (e) The county attorney, district attorney, or criminal  
11 district attorney, as appropriate, with the duty to represent a  
12 county in civil matters may not advise both the commissioners court  
13 of the county and a district located in the county if there is a  
14 potential conflict of interest between the county and the district.  
15 The limitation provided by this subsection applies to advice  
16 relating to the authority of the commissioners court to supervise  
17 and oversee the district. The commissioners court shall hire  
18 private legal counsel if there is a potential conflict of interest.  
19 The county is responsible for the fee charged by private legal  
20 counsel hired by the commissioners court under this subsection.

21 SECTION 15. Section 281.0565, Health and Safety Code, is  
22 amended by amending Subsections (a), (b), (c), and (d) and adding  
23 Subsections (g) and (h) to read as follows:

24 (a) In this section, "charitable organization" means an  
25 organization that is exempt from federal income tax under Section  
26 501(a) of the Internal Revenue Code of 1986 by being listed as an  
27 exempt organization in Section 501(c)(3) [~~or 501(c)(4)~~] of that

1 ~~the~~ code.

2 (b) For the purpose of providing medical and hospital care  
3 for the district's indigent residents, a [A] district may create a  
4 charitable organization to facilitate the management of a district  
5 health care program by providing or arranging health care services,  
6 developing resources for health care services, or providing  
7 ancillary support services for the district. The district is  
8 responsible for the actions of a charitable organization created by  
9 the district.

10 (c) A charitable organization created by a district under  
11 this section is a unit of local government only for purposes of  
12 Chapter 101, Civil Practice and Remedies Code. The charitable  
13 organization is subject to Chapters 551 and 552, Government Code.

14 (d) For the purpose of providing medical and hospital care  
15 for the district's indigent residents, a [A] district may make a  
16 reasonable and necessary capital or other financial contribution to  
17 a charitable organization created by the district to provide  
18 regional administration and delivery of health care services to or  
19 for the district.

20 (g) A charitable organization contract:

21 (1) is subject to all legal restrictions on the use of  
22 district money; and

23 (2) must include standard requirements for  
24 recordkeeping, financial accounting, and financial control  
25 practices relating to district money.

26 (h) A charitable organization shall hold district money in a  
27 separate account from other money held by the organization.

1 SECTION 16. Section 281.073(a), Health and Safety Code, is  
2 amended to read as follows:

3 (a) The recordkeeping, preservation, microfilming,  
4 destruction, or other disposition of the records of a district is  
5 subject to all requirements applicable to a local government under  
6 Subtitle C, Title 6, Local Government Code.

7 SECTION 17. Section 281.091, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 281.091. BUDGET. (a) The administrator shall prepare  
10 a comprehensive, detailed ~~[an]~~ annual budget under the board's  
11 direction.

12 (b) The budget and budget revisions must be approved by the  
13 board and then shall be presented to the commissioners court for  
14 final approval. The commissioners court may approve the budget in  
15 its entirety or may approve only a portion of the budget.

16 SECTION 18. Section 281.092, Health and Safety Code, is  
17 amended by amending Subsection (b) and adding Subsections (c), (d),  
18 and (e) to read as follows:

19 (b) The report must:

20 (1) consist of a sworn statement of all assets,  
21 liabilities, obligations, money, and property rights ~~[choses in~~  
22 ~~action]~~ received by the administrator, the district, and, if  
23 applicable, a charitable organization created by the district or  
24 any another organization affiliated with the district, and their  
25 disposition; and

26 (2) show in detail the operations of the district for  
27 the fiscal year, including the revenue received and expenditures

1 made by the district in that fiscal year, in a manner that is clear  
2 and concise and posted on the district's publicly accessible  
3 Internet website or in an annual report posted on the district's  
4 publicly accessible Internet website.

5 (c) In a manner consistent with federal and state privacy  
6 laws, the administrator in the report required by Subsection (a)  
7 shall list the medical services provided to individuals who qualify  
8 as indigent, the actual cost of those services, and the provider of  
9 the services, if the cost of the services was paid under a contract  
10 with the district.

11 (d) The commissioners court shall review in a public hearing  
12 the information reported under Subsection (c) and evaluate the  
13 district's performance in providing medical and hospital care to  
14 indigent residents of the district.

15 (e) The commissioners court may request at any time more  
16 detailed information on an issue contained in or related to the  
17 report and the district shall promptly provide the requested  
18 information.

19 SECTION 19. Section 281.093(d), Health and Safety Code, is  
20 amended to read as follows:

21 (d) All income of the district shall be deposited in the  
22 district depository. Income attributable to taxes imposed by the  
23 district must be kept in a separate account.

24 SECTION 20. Section 281.095(a), Health and Safety Code, is  
25 amended to read as follows:

26 (a) In this section, "district" means the Bexar County  
27 Hospital District, Nueces County Hospital District, El Paso County

1 Hospital District, or Harris County Hospital District. The term  
2 includes a district to which Section 281.0475 applies.

3 SECTION 21. Subchapter E, Chapter 281, Health and Safety  
4 Code, is amended by adding Sections 281.097 and 281.098 to read as  
5 follows:

6 Sec. 281.097. USE OF DISTRICT TAX REVENUE. (a) Taxes  
7 levied by a district and any money derived from those taxes,  
8 including interest or other earnings, may be used only to provide  
9 medical and hospital care for indigent and needy persons residing  
10 in the district and to pay the costs described by Subsection (b).

11 (b) A district may use its tax levy to pay the reasonable and  
12 necessary costs of:

13 (1) providing health care and health care support  
14 services at teaching hospitals by physicians and resident  
15 physicians if teaching physicians are physically present to provide  
16 the service to the patient;

17 (2) administering and providing health services,  
18 whether through the direct provision of services or as a payor; and

19 (3) providing necessary clinical patient education,  
20 mental health services, and social work services, including primary  
21 and preventative care.

22 (c) The district administrator, board of hospital managers  
23 for the district, and commissioners court shall ensure compliance  
24 with this section.

25 Sec. 281.098. MATCHING FEDERAL FUNDS FOR MENTAL HEALTH  
26 CARE. This chapter may not be construed to prevent a district from  
27 using district revenue to provide for the nonfederal share of

1 Medicaid payments for any reimbursement to a hospital for which  
2 federal matching funds are available for mental health services  
3 provided to the residents of the district.

4 SECTION 22. The following provisions of the Health and  
5 Safety Code are repealed:

- 6 (1) Section 281.049(b);
- 7 (2) Section 281.0511; and
- 8 (3) Section 281.0565(e).

9 SECTION 23. Sections 281.022 and 281.0222, Health and  
10 Safety Code, as amended by this Act, and Section 281.0221, Health  
11 and Safety Code, as added by this Act, do not affect the entitlement  
12 of a member serving on the board of managers of a hospital district  
13 subject to those sections immediately before the effective date of  
14 this Act to continue to serve for the remainder of the member's  
15 term. As the terms of members expire, the appropriate  
16 commissioners court shall appoint or reappoint members who have the  
17 terms and qualifications required by Sections 281.022, 281.0221,  
18 and 281.0222, Health and Safety Code, as applicable.

19 SECTION 24. The changes in law made by this Act with respect  
20 to a contract or agreement, including an agreement under Chapter  
21 311, Tax Code, apply only to a contract or agreement entered into on  
22 or after the effective date of this Act. A contract or agreement  
23 entered into before the effective date of this Act is governed by  
24 the law in effect immediately before the effective date of this Act,  
25 and the former law is continued in effect for that purpose.

26 SECTION 25. This Act takes effect September 1, 2023.