

HEALTH & SAFETY CODE

CHAPTER 288. HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES
LOCATED ON TEXAS-MEXICO BORDER THAT ARE ADJACENT TO COUNTIES WITH
POPULATION OF 50,000 OR MORE

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 by this chapter.

(3) "District taxpayer" means a person or entity who has paid a tax imposed under this chapter.

(4) "Institutional health care provider" means a nonpublic hospital licensed under Chapter 241.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.002. CREATION OF DISTRICT. A district is created in each county located on the Texas-Mexico border that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.003. DURATION OF DISTRICT. (a) Unless continued in existence by the legislature, a district created by this chapter is abolished September 1, 2007.

(b) Any money held by a district at the time the district is abolished shall be used to pay any outstanding administrative expenses of the district, and the commission shall direct the secretary of the commission to return the pro rata share of any remaining district money to each district taxpayer.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.004. POLITICAL SUBDIVISION. A district created by this chapter is a political subdivision of this state.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

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, Sec. 1, eff. June 18, 2005.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 288.051. COMMISSION; APPOINTMENT. (a) Each district is governed by a commission of five members appointed as provided by this section.

(b) Each county commissioner on the commissioners court of the county in which the district is located shall appoint one member who meets the qualifications prescribed by Section 288.052 to serve on the commission. The county judge of the county shall appoint any remaining members who meet the qualifications prescribed by Section 288.052 to serve on the commission.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.052. QUALIFICATION OF MEMBERS OF COMMISSION. To be eligible to serve as a member of the commission, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term that the person is appointed to fill;

(3) have not been determined mentally incompetent by a final judgment of a court;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in this state for 12 months and in the county in which the district is located for six months immediately preceding the date of the appointment; and

(6) be a person knowledgeable in the field of health care.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.053. TERM OF MEMBERS OF COMMISSION. The members of the commission serve staggered two-year terms.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.054. VACANCY. (a) If a vacancy occurs on the commission, the commissioners court of the county in which the district is located shall appoint a qualified person to fill the vacancy not later than the 30th day after the date the vacancy occurs.

(b) If the commissioners court of the county in which the district is located does not appoint a member to the commission to fill a vacancy by the 30th day after the date the vacancy occurs, the remaining members of the commission may, by vote of the

commission, appoint a replacement.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.055. OFFICERS. (a) Each commission shall elect a chairperson and a secretary from among its members.

(b) The chairperson and secretary shall each serve in that office until the expiration of their term as a member of the commission.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.056. COMPENSATION; EXPENSES. A member of the commission serves without compensation but may, on the approval of the entire commission, be reimbursed for actual expenses incurred in the performance of the member's official duties.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.057. EMPLOYEES AND INDEPENDENT CONTRACTORS. The commission may employ an attorney, financial advisor, and bookkeeper for the district or contract for those services.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.058. MAINTENANCE OF RECORDS; PUBLIC INSPECTION. Except as otherwise provided by law, all district records, including books, accounts, notices, minutes, and all other matters of the district and the operation of its facilities, shall be:

(1) maintained at the district office; and

(2) open to public inspection at the district office during reasonable hours.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 288.101. LIMITATION ON TAXING AUTHORITY. Each district may impose taxes only in the manner provided by this chapter.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.102. MAJORITY VOTE REQUIRED. (a) A district may not impose any tax 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 imposing a tax 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, Sec. 1, eff. June 18, 2005.

Sec. 288.103. ELECTION REQUIRED FOR CERTAIN EXPENDITURES. (a) In addition to the majority vote required under Section 288.102, a district may not spend any money of the district unless the district receives the approval of at least 95 percent of the district taxpayers.

(b) This section does not apply to expenditures related to the administrative matters of the district.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

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 tax authorized by this chapter.

(b) In order to implement the requirements of Sections 288.102 and 288.103, the commission shall adopt any necessary procedures.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.105. PURCHASING AND ACCOUNTING PROCEDURES. (a) The commission may prescribe the method and manner for making purchases and expenditures by the district.

(b) The commission shall prescribe:

(1) all accounting and control procedures; and

(2) the method of purchasing necessary supplies, materials, and equipment.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

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, Sec. 1, eff. June 18, 2005.

Sec. 288.107. AUTHORITY TO SUE AND BE SUED. Each district

may sue and be sued in its own name in any court of this state as a governmental agency.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 288.151. BUDGET. (a) Each year, the commission shall prepare a budget for the following fiscal year that includes:

- (1) proposed expenditures and disbursements;
- (2) estimated receipts and collections; and
- (3) the rates and amounts of any taxes that the commission intends to impose during the year.

(b) The commission shall hold a public hearing on the proposed budget. Not later than the 10th 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) Any district taxpayer is entitled to appear at the time and place designated in the public notice and to be heard regarding any item shown in the proposed budget.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

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, Sec. 1, eff. June 18, 2005.

Sec. 288.153. ANNUAL AUDIT. (a) For each fiscal year, each commission shall have an independent audit made of the district's books and records.

(b) Not later than December 31 of each year, the audit made for a district shall be filed with the comptroller and at the office of the district.

Added by Acts 2005, 79th Leg., ch. 1367, 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 tax revenue after deducting discounts and fees for assessing and collecting the taxes, shall be deposited with the district depository 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, Sec. 1, eff. June 18, 2005.

SUBCHAPTER E. TAXES

Sec. 288.201. TAX ON OUTPATIENT HOSPITAL SERVICES. (a) The commission of a district may impose an annual tax to be assessed quarterly on all outpatient hospital visits to an institutional health care provider located in the district. In the first year in which the tax is imposed, the tax is assessed on the total number of outpatient hospital visits of an institutional health care provider reported to the Department of State Health Services under Sections 311.032 and 311.033 in the fiscal year ending in 2003. The district shall update this tax basis with the number of outpatient hospital visits reported on a biennial basis.

(b) A tax imposed under this section must be imposed uniformly on each institutional health care provider of outpatient hospital services located in the district. A tax imposed under this section also may not hold harmless any institutional health care provider of outpatient hospital services, as required under 42 U.S.C. Section 1396b(w).

(c) The commission shall set the rate of the tax imposed under this section. The rate may not exceed \$100 for each outpatient hospital visit.

(d) Subject to the maximum tax rate prescribed by Subsection (c), the commission shall set the rate of the tax at a rate that 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 tax revenue 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 tax or \$20,000.

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

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.202. ASSESSMENT AND COLLECTION OF TAXES. (a) Except as provided by Subsection (b), the county tax assessor-collector shall collect a tax imposed under this subchapter unless the commission employs a tax assessor and

collector for the district. The county tax assessor-collector shall charge and deduct from taxes collected for the district a fee for collecting the tax in an amount determined by the commission, not to exceed the county tax assessor-collector's usual and customary charges for the collection of similar taxes.

(b) If determined by the commission to be appropriate, the commission may contract for the assessment and collection of taxes in the manner provided by Title 1, Tax Code, for the assessment and collection of ad valorem taxes.

(c) Revenue from a fee charged by a county tax assessor-collector for collecting the tax shall be deposited in the county general fund and, if appropriate, shall be reported as fees of the county tax assessor-collector.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.203. USE OF TAX REVENUE. Revenue generated by a district from a tax imposed under this subchapter may be used only to:

(1) provide the nonfederal share of a Medicaid supplemental payment program;

(2) subsidize indigent programs; and

(3) pay administrative expenses of the district.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

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

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.

Sec. 288.205. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) The purpose of this chapter is to generate revenue from a tax imposed 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 tax 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, Sec. 1, eff. June 18, 2005.

Sec. 288.206. ELECTION REQUIRED FOR CERTAIN PROVISIONS OR PROCEDURES. (a) In order to amend any provision or procedure set out in this chapter, the district must obtain the approval of at least 95 percent of the institutional health care providers potentially subject to the tax.

(b) This section does not apply to rules or procedures related to the daily administrative matters of the district.

Added by Acts 2005, 79th Leg., ch. 1367, Sec. 1, eff. June 18, 2005.