

Regular Session, 2013

SENATE BILL NO. 44

BY SENATOR NEVERS

HOSPITALS. Authorizes the city of Bogalusa to levy a provider fee on the operation of hospitals within the city that may provide to DHH funding for state expenses for the Medicaid program within the city. (gov sig)

1 AN ACT

2 To enact R.S. 33:2740.18, relative to the city of Bogalusa; to authorize the city to levy a
3 provider fee upon hospitals in the city and for use and distribution of the proceeds;
4 and to provide for related matters.

5 Notice of intention to introduce this Act has been published.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 33:2740.18 is hereby enacted to read as follows:

8 **§2740.18. City of Bogalusa provider fee; fund**

9 **A. As used in this Section the following words and terms have the**
10 **meaning ascribed to them in this Subsection, unless the context clearly indicates**
11 **a different meaning:**

12 **(1) "City" means the city of Bogalusa.**

13 **(2) "Collector" means the agency of the city designated in the ordinance**
14 **levying the provider fee provided for in this Section as the collector of the**
15 **provider fee or another entity of state or local government which contractually**
16 **agrees to collect such fee.**

17 **(3) "Department" means the Department of Health and Hospitals.**

1 **(4) "Fund" means the Bogalusa Health Services Fund.**

2 **(5) "Hospital" means any hospital licensed by the state under R.S.**
3 **40:2100 et seq., which is owned or operated by any entity except the state or a**
4 **department of state government.**

5 **(6) "Medicaid program" means the medical assistance program as**
6 **established in Title XIX of the Social Security Act and as administered in the**
7 **state of Louisiana by the Department of Health and Hospitals.**

8 **(7) "Provider fee" or "fee" means the provider fee imposed by the city**
9 **as provided for in this Section and all interest, penalties, or other charges**
10 **related to such fee.**

11 **(8) "Secretary" means the secretary of the Department of Health and**
12 **Hospitals.**

13 **(9) "State" means the state of Louisiana.**

14 **B. Pursuant to the authority provided to the legislature by Article VI,**
15 **Section 30(A) of the Constitution of Louisiana, in addition to all other taxes and**
16 **fees, the governing authority of the city of Bogalusa may levy and collect a**
17 **provider fee on the operation of all hospitals within the city as provided for in**
18 **this Section. The fee so levied shall be imposed by an ordinance of the governing**
19 **authority of the city of Bogalusa.**

20 **C. In addition to any other powers and authority, the city may:**

21 **(1) Enter into a cooperative endeavor agreement with the Department**
22 **of Health and Hospitals in which the department agrees to undertake or**
23 **continue programs or incur expenses for the performance of services under the**
24 **federal Medicaid program within the city in an amount satisfactory to the**
25 **governing authority of the city, limited to those programs and expenses for**
26 **which federal financial participation under Title XIX of the Social Security Act**
27 **is available.**

28 **(2) Levy and collect within the city a provider fee on the operation of all**
29 **hospitals within the city as provided for in this Section.**

1 **D.(1)(a) The amount of the provider fee to be collected for the operation**
2 **of a hospital within the city shall be equal to the gross receipts from the**
3 **operation of the hospital multiplied by a rate that shall not exceed six percent,**
4 **or at such maximum rate that the city determines is authorized by federal law**
5 **or regulations governing provider fee or other tax proceeds that may be used**
6 **as a match for federal Medicaid program assistance. The fee shall be paid in**
7 **equal quarterly installments due on the twentieth day of the third month of each**
8 **calendar quarter.**

9 **(b) The provider fee shall be imposed and collected uniformly**
10 **throughout the city.**

11 **(c) Any such provider fee collected shall be considered an allowable cost**
12 **for purposes of Medicare and Medicaid cost reporting and reimbursement.**

13 **(2) Except where inapplicable, the procedure established by the Uniform**
14 **Local Sales Tax Code shall be followed in the imposition, collection, and**
15 **enforcement of the provider fee, and procedural details necessary to be**
16 **established to supplement the provisions of those Sections and to make such**
17 **provisions applicable to the provider fee authorized in this Section shall be fixed**
18 **in the ordinance adopted by the governing authority of the city.**

19 **(3) The ordinance may provide for a contract with the designated sales**
20 **tax collector of Washington Parish for administration and collection of the**
21 **provider fee or with such other agency of the city or state as the governing**
22 **authority of the city deems appropriate and necessary, with a reasonable**
23 **amount to be paid to such collector for such administration and collection.**

24 **E. After paying the necessary and reasonable expenses of collecting and**
25 **administering the provider fee, the remainder of the provider fee may be used**
26 **as provided for in Subsection F of this Section or may be used for the purposes**
27 **set forth in the ordinance adopted by the governing authority of the city or may**
28 **be used for both.**

29 **F.(1)(a) The governing authority of the city of Bogalusa may provide that**

1 the city or the collector of the fee as provided for in this Section may forward
2 all or a portion of the provider fee and interest, penalties, or other charges
3 related to such fee to the treasurer of the state to be used solely as provided for
4 in this Subsection.

5 (b) After compliance with the requirements of Article VII, Section 9(B)
6 of the Constitution of Louisiana relative to the Bond Security and Redemption
7 Fund and prior to any money being placed into the general fund or any other
8 fund, the amount received by the treasurer shall be deposited immediately upon
9 receipt in the state treasury and shall be credited by the treasurer to a special
10 fund hereby created in the state treasury to be known as the "Bogalusa Health
11 Services Fund". The money in the fund shall be appropriated by the legislature
12 to be used solely as provided for in this Subsection.

13 (c)(i) The money in the fund shall be invested by the treasurer in the
14 same manner as money in the state general fund and interest earned on the
15 investment of the money shall be credited to the fund after compliance with the
16 requirements of Article VII, Section 9(B) relative to the Bond Security and
17 Redemption Fund.

18 (ii) All unexpended and unencumbered money in the fund at the end of
19 the year shall remain in the fund.

20 (d) The money in the Bogalusa Health Services Fund shall be
21 appropriated by the legislature only to the Department of Health and Hospitals
22 to be used solely for state expenses for the Medicaid program within the city of
23 Bogalusa as provided for in the cooperative endeavor agreement between the
24 department and the city, limited to those programs and expenses for which
25 federal financial participation under Title XIX of the Social Security Act is
26 available.

27 G.(1)(a) No hospital subject to the provider fee provided for in this
28 Section shall pass on the cost of the provider fee or include the provider fee as
29 an itemized and separately listed amount on any statement sent to any patient,

1 responsible party, insurer, or self-insured employer program. If such a violation
2 occurs, it shall be considered a violation of hospital minimum standards by the
3 Department of Health and Hospitals. If any such party has reason to believe
4 that the provider fee has been passed on to him or an attempt was made to do
5 so, he may submit in writing to the collector a request for an investigation along
6 with evidence that the fee has been passed on or that an attempt was made to
7 pass on the fee. The collector shall have an affirmative duty to protect such
8 parties from any violation of this Subsection.

9 (b) Upon receipt of a written request for an investigation by an affected
10 party, the collector shall conduct a full investigation in a timely manner. Upon
11 completion of the investigation, the collector shall conduct a hearing in the same
12 manner as such hearings are provided for in the provisions of the
13 Administrative Procedure Act if the collector believes sufficient cause has been
14 shown to warrant such hearing. If the collector declines to conduct a hearing,
15 the collector shall explain in writing to the requesting party the reasons for not
16 further acting upon the complaint.

17 (c) Upon any finding by the collector of a violation of this Subsection, the
18 collector shall order full restitution to the affected party, including judicial
19 interest computed from the time that the violation occurred until payment of
20 the restitution. Furthermore, the collector shall forward the collector's findings
21 to the Department of Health and Hospitals, which shall conduct a hearing in the
22 matter to determine the sanctions applicable thereto, which may include
23 suspension or revocation of the violating hospital's license.

24 (2) Any bill or statement sent to a patient, responsible party, insurer, or
25 self-insured employer program after the initial effective date of this Subsection
26 shall contain a statement that, "This bill does not contain any cost of the
27 provider fee levied by the city of Bogalusa".

28 Section 2. In the event of a judgment by a court of competent jurisdiction that the
29 imposition of the provider fee in this Act is invalid or illegal because it lacks any statutory

1 or constitutional requirement for its lawful levy and collection, the court shall provide in its
 2 judgment that such provider fee may be levied and collected by the city of Bogalusa after
 3 the city fulfills such statutory or constitutional requirement.

4 Section 3. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Nevers (SB 44)

Proposed law authorizes the governing authority of the city of Bogalusa to levy a provider fee on the operation of all hospitals within the city.

Proposed law specifically authorizes the city to:

- (1) Enter into a cooperative endeavor agreement with the Department of Health and Hospitals (DHH) in which the department agrees to undertake or continue programs or incur expenses for the performance of services under the federal Medicaid program within the city in an amount satisfactory to the governing authority of the city, limited to those programs and expenses for which a federal match under Title XIX of the Social Security Act is available.
- (2) Levy and collect within the city a provider fee on the operation of all hospitals within the city. "Hospital" is defined as any hospital licensed by the state under R.S. 40:2100 et seq., which is owned or operated by any entity except the state or a department of state government.

Proposed law requires the provider fee to be equal to the gross receipts from the operation of the hospital multiplied by a rate that cannot exceed 6%, or at such maximum provider fee rate that the city determines is authorized by federal law or regulations governing provider fee proceeds which may be used as a match for federal Medicaid program assistance.

Proposed law, after the necessary and reasonable expenses of collecting and administering the provider fee are paid, authorizes the remainder of the provider fee to be used by DHH as provided below, to be used for the purposes set forth in the ordinance adopted by the governing authority of the city, or to be used for both.

Authorizes the governing authority of the city to provide that the city or the collector of the fee may forward all or a portion of the provider fee, and interest, penalty, or other charges related to such fee, to the treasurer of the state to be used solely as follows provided for in proposed law.

The treasurer is required to deposit the proceeds forwarded in the Bogalusa Health Services Fund, a special fund created by the proposed law in the state treasury. The money in the fund must be appropriated by the legislature only to DHH to be used solely for state expenses for

the Medicaid program within the city as provided for in the cooperative endeavor agreement between the department and the city, limited to those programs and expenses for which a federal match under Title XIX of the Social Security Act is available.

The money in the fund must be invested by the treasurer in the same manner as money in the state general fund and interest earned on the investment of the money is credited to the fund. All unexpended and unencumbered money in the fund at the end of the year must remain in the fund.

Proposed law provides that the fee is to be paid in equal quarterly installments due on the 20th day of the 3rd month of each calendar quarter. The provider fee must be considered an allowable cost for purposes of Medicare and Medicaid cost reporting and reimbursement.

Requires the procedure established by the Uniform Local Sales Tax Code to be followed in the imposition, collection, and enforcement of the provider fee, except where inapplicable, and procedural details necessary to be established to supplement the provisions of the code and to make such provisions applicable to the provider are to be fixed in the ordinance adopted by the city.

The ordinance may also provide for a contract with the designated sales tax collector of Washington Parish for administration and collection of the provider fee, or with such other agency of the city or state as the governing authority of the city deems appropriate and necessary, with a reasonable amount to be paid to the collector.

Proposed law prohibits a hospital subject to the provider fee from passing on the cost of the provider fee or including it as an itemized and separately listed amount on any statement sent to any patient, responsible party, insurer, or self-insured employer program. If such a violation occurs, it must be considered a violation of hospital minimum standards by DHH. If any such party has reason to believe that the provider fee has been passed on to him, or an attempt was made to do so, he may submit in writing to the collector a request for an investigation along with evidence. The collector has an "affirmative duty" to protect the parties against any such violation.

Upon receipt of a written request for an investigation, the collector must conduct a full investigation in a timely manner and conduct a hearing in the same manner as such hearings are provided for in the provisions of the APA if the collector believes sufficient cause has been shown to warrant such hearing. If the collector declines to conduct a hearing, it must explain in writing to the requesting party its reasons for not further acting upon the complaint.

Upon any finding by the collector of a violation, the collector must order full restitution to the affected party, including judicial interest computed from the time that the violation occurred until payment of the restitution. Furthermore, the collector must forward his findings to DHH, which is required to conduct a hearing to determine the sanctions applicable thereto, which may include suspension or revocation of the violating hospital's license.

Requires any bill or statement sent to contain a statement that, "This bill does not contain any cost of the provider fee levied by the city of Bogalusa".

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 33:2740.18)