

SENATE BILL NO. 452—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 25, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing assistance provided to indigent persons. (BDR 38-1085)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§3)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public welfare; allowing the Board of Trustees of the Fund for Hospital Care to Indigent Persons to commit money from the Fund to obtain higher rates of reimbursement for hospital care provided to recipients of Medicaid at certain hospitals; allowing the Board to further commit money from the Fund to satisfy the obligation of counties to pay certain matching funds for the nonfederal share of expenditures for certain persons who receive long-term care; revising provisions governing the payment by boards of county commissioners of certain amounts for the provision of care to indigent persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law creates the Fund for Hospital Care to Indigent Persons and
- 2 requires that money in the Fund be used to reimburse or partially reimburse
- 3 hospitals for certain unpaid charges for hospital care. (NRS 428.175) The Fund is
- 4 administered by a Board of Trustees. (NRS 428.205) **Section 2** of this bill allows
- 5 the Board to enter into an agreement with the Division of Health Care Financing
- 6 and Policy of the Department of Health and Human Services to transfer money
- 7 from the Fund to the Division to be used to provide enhanced rates of
- 8 reimbursement for hospital care provided to recipients of Medicaid or to make
- 9 supplemental payments to the hospital for the provision of such hospital care



* S B 4 5 2 R 1 *

through increased federal financial participation and to satisfy any portion of the obligation of a county to pay the nonfederal share of certain expenditures relating to long-term care. Once such an agreement is entered into and any enhanced rate of reimbursement or supplemental payments are approved by the Federal Government, the Board must continue to provide money pursuant to the agreement until the Federal Government approves reverting to the previous rate of reimbursement or payments.

Section 3 of this bill creates the Hospital Assessment Account in the Fund for Hospital Care to Indigent Persons. If an agreement is entered into between the Board of Trustees of the Fund for Hospital Care to Indigent Persons and the Division of Health Care Financing and Policy pursuant to **section 2**, certain hospitals may be required to pay an annual assessment for deposit into the Account in an amount determined by the Board. **Section 3** provides that any money remaining in the Account at the end of a fiscal year that has not been committed for expenditure is reimbursed to each hospital that paid an assessment in proportion to the amount paid by the hospital.

Existing law requires the board of county commissioners of each county to establish a tax rate of at least 6 cents and not more than 10 cents on each \$100 of assessed valuation for deposit into a fund for medical assistance to indigent persons. Existing law designates that the equivalent of 1 cent of the amount collected is to be remitted to the State Controller and credited to the Supplemental Account for Medical Assistance to Indigent Persons. (NRS 428.285) **Section 7** of this bill instead requires that money to be credited to the Intergovernmental Transfer Account in the State General Fund.

Existing law requires certain hospitals to provide a certain amount of free care to indigent inpatients. If the hospital does not meet its obligation, the hospital must pay an assessment in an amount determined by the Director of the Department of Health and Human Services. The assessment is paid to the county in which the hospital is located and is used to pay other hospitals in the county for the treatment of indigent inpatients by those hospitals. (NRS 439B.340) **Section 9** of this bill removes the specific limitation on the use of the money collected from assessments. In addition, **section 7** requires the board of county commissioners of each county to remit to the State Controller for credit to the Supplemental Account for Medical Assistance to Indigent Persons an amount equal to the amount collected from hospitals as assessments to meet their obligation to provide free care.

Existing law requires the board of county commissioners of each county to include in its final budget each year an allocation of money for medical assistance to indigent persons. **Section 8** of this bill instead makes the allocation apply to any assistance to indigent persons. In addition, **section 8** allows the board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to allocate money from its fund for medical assistance to indigent persons to make an intergovernmental transfer of money to the Division of Health Care Financing and Policy.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 428 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The Board of Trustees of the Fund for Hospital Care to Indigent Persons may enter into an agreement with the*



Division of Health Care Financing and Policy of the Department of Health and Human Services whereby:

(a) The Board agrees to transfer an agreed upon amount of money each year from the Fund to the Division;

(b) The Division agrees to use the money so transferred to include in the State Plan for Medicaid an enhanced rate of reimbursement for hospital care provided to recipients of Medicaid or to make supplemental payments to the hospital for the provision of such hospital care through increased federal financial participation and to satisfy any portion of the obligation of a county to pay the nonfederal share of expenditures pursuant to NRS 422.272;

(c) The Division agrees to return any money transferred to the Division pursuant to the agreement if the Federal Government does not approve the enhanced rate of reimbursement or supplemental payments included in the State Plan;

(d) The Board agrees to continue to transfer not less than the same amount of money as the previous year if the State Plan is approved by the Federal Government until the Board has requested the Division to exclude the enhanced rate of reimbursement or supplemental payments from the State Plan and the Federal Government approves the State Plan without such enhanced rates or supplemental payments; and

(e) The Division agrees to exclude the enhanced rate of reimbursement or supplemental payments from the State Plan when it is next submitted to the Federal Government for approval if so requested by the Board.

2. Any money transferred from the Fund to the Division pursuant to this section must not be used to replace or supplant funding available from other sources for the same purpose.

Sec. 3. 1. The Hospital Assessment Account, to be administered by the Board, is hereby created in the Fund. The interest and income earned on money in the Account, after deducting any applicable charges, must be credited to the Account.

2. If an agreement is entered into pursuant to section 2 of this act, each hospital in this State, other than a hospital certified as a critical access hospital by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, may be required by the Board to pay an annual assessment for deposit into the Account in an amount determined by the Board to be adequate to provide reimbursement or partial reimbursement to hospitals for uncompensated hospital care based upon the amount paid from the Account during the immediately preceding year.



* S B 4 5 2 R 1 *

1 3. *Any money remaining in the Account at the end of a fiscal*
2 *year that has not been committed for expenditure must be*
3 *reimbursed to each hospital that paid an assessment pursuant to*
4 *this section for that fiscal year in an amount proportional to the*
5 *amount of the assessment paid by the hospital compared to the*
6 *total amount of assessments collected.*

7 4. *Any assessments required pursuant to this section must be*
8 *paid at such times as are established by the Board and must be*
9 *deposited with the State Treasurer for credit to the Account.*

10 **Sec. 4.** NRS 428.115 is hereby amended to read as follows:

11 428.115 As used in NRS 428.115 to 428.255, inclusive, *and*
12 *sections 2 and 3 of this act*, unless the context otherwise requires,
13 the words and terms defined in NRS 428.125 to 428.165, inclusive,
14 have the meanings ascribed to them in those sections.

15 **Sec. 5.** NRS 428.175 is hereby amended to read as follows:

16 428.175 1. The Fund for Hospital Care to Indigent Persons is
17 hereby created as a special revenue fund for the purposes described
18 in NRS 428.115 to 428.255, inclusive ~~†~~, *and sections 2 and 3 of*
19 *this act.*

20 2. Except as otherwise provided in subsection 3, money
21 collected or recovered pursuant to NRS 428.115 to 428.255,
22 inclusive, *and sections 2 and 3 of this act* and the interest earned on
23 the money in the Fund must be deposited for credit to the Fund.

24 3. Any money paid by a county pursuant to NRS 428.255 must
25 be accounted for separately in the Fund and must be used to
26 reimburse or partially reimburse a hospital for unpaid charges for
27 hospital care pursuant to NRS 428.115 to 428.255, inclusive, *and*
28 *sections 2 and 3 of this act* as other claims against the Fund are
29 paid.

30 4. Claims against the Fund must be paid on claims approved by
31 the Board.

32 **Sec. 6.** NRS 428.205 is hereby amended to read as follows:

33 428.205 The Board shall administer the Fund and for that
34 purpose may:

35 1. Enter into all necessary contracts and agreements.

36 2. Purchase appropriate insurance to cover that portion of a
37 claim for which the Fund is liable and which exceeds an amount
38 agreed upon by the Board and the insurer.

39 3. Employ personnel as necessary and prescribe their
40 compensation and working conditions.

41 4. Enter into agreements ~~†with the Department of~~
42 ~~Administration†~~ to obtain the services of consultants, attorneys,
43 auditors, accountants, actuaries and managers of risk.

44 5. Rent, lease, purchase or otherwise procure or receive real or
45 personal property.



* S B 4 5 2 R 1 *

6. Adopt regulations necessary for carrying out the provisions of NRS 428.115 to 428.255, inclusive ~~H~~, and *sections 2 and 3 of this act.*

Sec. 7. NRS 428.285 is hereby amended to read as follows:

428.285 1. The board of county commissioners of each county shall establish a tax rate of at least 6 cents on each \$100 of assessed valuation for the purposes of the tax imposed pursuant to subsection 2. A board of county commissioners may increase the rate to not more than 10 cents on each \$100 of assessed valuation.

2. In addition to the levies provided in NRS 428.050 and 428.185 and any tax levied pursuant to NRS 450.425, the board of county commissioners shall levy a tax ad valorem at a rate necessary to produce revenue in an amount equal to an amount calculated by multiplying the assessed valuation of all taxable property in the county by the tax rate established pursuant to subsection 1, and subtracting from the product the amount of unencumbered money remaining in the fund on May 1 of the current fiscal year.

3. For each fiscal year beginning on or after July 1, 1989, the board of county commissioners of each county shall remit to the State Controller from the money in the fund an amount of money equivalent to 1 cent on each \$100 of assessed valuation of all taxable property in the county for credit to the ~~Supplemental~~ *Intergovernmental Transfer* Account ~~H~~ *in the State General Fund.*

4. *Not later than January 1, 2014, and not later than January 1 of each year thereafter, the board of county commissioners of each county shall remit to the State Controller an amount equal to the amount collected by the board of county commissioners pursuant to NRS 439B.340 for the previous fiscal year for credit to the Supplemental Account.*

5. The tax so levied and its proceeds must be excluded in computing the maximum amount of money which the county is permitted to receive from taxes ad valorem and the highest permissible rate of such taxes.

Sec. 8. NRS 428.295 is hereby amended to read as follows:

428.295 1. For each fiscal year the board of county commissioners shall, in the preparation of its final budget, allocate money for ~~medical~~ assistance to indigents pursuant to this chapter.

2. In a county whose population is less than 700,000, the amount allocated must be calculated by multiplying the amount allocated for that purpose for the previous fiscal year by 104.5 percent.

3. *In a county whose population is 100,000 or more, the board of county commissioners may allocate money from its fund for medical assistance to indigent persons to make an*



* S B 4 5 2 R 1 *

intergovernmental transfer of money to the Division of Health Care Financing and Policy of the Department of Health and Human Services in accordance with the regulations adopted pursuant to NRS 422.390.

4. When, during any fiscal year, the amount of money expended by the county for any program of medical assistance for those persons eligible pursuant to this chapter exceeds the amount allocated for that purpose in its budget, the board of county commissioners shall, to the extent that money is available in the fund, pay claims against the county from the fund for that purpose.

Sec. 9. NRS 439B.340 is hereby amended to read as follows:

439B.340 1. Before September 30 of each year, each county in which hospitals subject to the provisions of NRS 439B.300 to 439B.340, inclusive, are located shall provide to the Department a report showing:

(a) The total number of inpatients treated by each such hospital who are claimed by the hospital to be indigent;

(b) The number of such patients for whom no reimbursement was provided by the county because of the limitation imposed by subsection 3 of NRS 439B.320;

(c) The total amount paid to each such hospital for treatment of such patients; and

(d) The amount the hospital would have received for patients for whom no reimbursement was provided.

2. The Director shall verify the amount of treatment provided to indigent inpatients by each hospital to which no reimbursement was provided by:

(a) Determining the number of indigent inpatients who received treatment. For a hospital that has contracted with the Department pursuant to subsection 4 of NRS 428.030, the Director shall determine the number based upon the evaluations of eligibility made by the employee assigned to the hospital pursuant to the contract. For all other hospitals, the Director shall determine the number based upon the report submitted pursuant to subsection 1.

(b) Multiplying the number of indigent inpatients who received each type of treatment by the highest amount paid by the county for that treatment.

(c) Adding the products of the calculations made pursuant to paragraphs (a) and (b) for all treatment provided.

➤ If the total amount of treatment provided to indigent inpatients in the previous fiscal year by the hospital was less than its minimum obligation for the year, the Director shall assess the hospital for the amount of the difference between the minimum obligation and the



* S B 4 5 2 R 1 *

1 actual amount of treatment provided by the hospital to indigent
2 inpatients. If a decision of a county regarding the indigent status of
3 one or more inpatients is pending appeal before the Director or upon
4 receiving satisfactory proof from a hospital that the decision is
5 pending appeal before a court having general jurisdiction in the
6 county pursuant to subsection 4 of NRS 439B.330, the Director
7 shall defer assessing the hospital the amount that may be offset by
8 the determination on appeal until a final determination of the matter
9 is made.

10 3. If the Director determines that a hospital has met its
11 obligation to provide treatment to indigent inpatients, the Director
12 shall certify to the county in which the hospital is located that the
13 hospital has met its obligation. The county is not required to pay
14 the hospital for the costs of treating indigent inpatients until the
15 certification is received from the Director. The county shall pay
16 the hospital for such treatment within 30 days after receipt of the
17 certification to the extent that money was available for payment
18 pursuant to NRS 428.050, 428.285 and 450.425 at the time the
19 treatment was provided.

20 4. The Director shall determine the amount of the assessment
21 which a hospital must pay pursuant to this section and shall notify
22 the hospital in writing of that amount on or before November 1 of
23 each year. The notice must include, but is not limited to, a written
24 statement for each claim which is denied indicating why the claim
25 was denied. Payment is due 30 days after receipt of the notice,
26 except for assessments deferred pursuant to subsection 2 which, if
27 required, must be paid within 30 days after the court hearing the
28 appeal renders its decision. If a hospital fails to pay the assessment
29 when it is due the hospital shall pay, in addition to the assessment:

30 (a) Interest at a rate of 1 percent per month for each month after
31 the assessment is due in which it remains unpaid; and

32 (b) Any court costs and fees required by the Director to obtain
33 payment of the assessment and interest from the hospital.

34 5. Any money collected pursuant to this section must be paid to
35 the county in which the hospital paying the assessment is located .
36 ~~for use in paying other hospitals in the county for the treatment of~~
37 ~~indigent inpatients by those hospitals.~~ The money received by a
38 county from assessments made pursuant to this section does not
39 constitute revenue from taxes ad valorem for the purposes of NRS
40 354.59811, 428.050, 428.285 and 450.425, and must be excluded in
41 determining the maximum rate of tax authorized by those sections.

42 **Sec. 10.** The provisions of NRS 354.599 do not apply to any
43 additional expenses of a local government that are related to the
44 provisions of this act.



* S B 4 5 2 R 1 *

1 **Sec. 11.** This act becomes effective upon passage and
2 approval.

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* S B 4 5 2 R 1 *