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## DIGEST

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Abramson

HB No. 652

**Abstract:** Establishes the Supplemental Hospital Credit Program.

Proposed law provides that the purposes of the Act are to:

- (1) Preserve and enhance the availability of inpatient and outpatient hospital care for all patients.
- (2) Enhance the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation.
- (3) Ease "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment.

Proposed law creates the Supplemental Hospital Credit Program Trust Fund in the state treasury and requires that monies in the credit fund to be invested in the same manner as monies in the state general fund. Interest earned shall be deposited and remain in the credit fund.

Proposed law further provides for appropriation of monies from the fund.

Proposed law provides a method for the deposit of the revenue produced by the assessment provided by proposed law and limits the utilization of the monies to those programs for which federal financial participation is available.

Proposed law provides for definitions.

Proposed law requires the Dept. of Health and Hospitals, or its successor, to annually develop and adopt a formula which shall be used to determine the assessment provided for in proposed law, subject to approval of the legislature. Prior to approval of the formula by the legislature, the legislature may return the formula adopted by the department to the department and may recommend to the department an amended formula for consideration by the department and submission to the legislature for approval.

Proposed law requires the legislature to annually appropriate funds sufficient to fully fund the current cost to the state of the Supplemental Hospital Credit Program as determined by applying the approved formula. Neither the governor nor the legislature may reduce the appropriation, except that the governor may reduce the appropriation using means provided in the act containing

the appropriation provided that any such reduction is consented to in writing by two-thirds of the elected members of each house of the legislature.

Proposed law provides that, whenever the legislature fails to approve the formula most recently adopted by the department, or its successor, the last formula adopted by the department, or its successor, and approved by the legislature shall be used for the determination of the cost of the Supplemental Hospital Credit Program and for the allocation of funds appropriated.

Exempted from the term "hospitals" are:

- (1) All hospitals owned by the state, the United States or any agency or department thereof.
- (2) Rural hospitals as defined in present law.
- (3) Hospitals certified by Medicare as separately licensed long term acute care, rehabilitation, or psychiatric hospitals.

Proposed law defines "base year Medicare cost report" as the hospital's Medicare cost report filed for the full cost report year beginning in the Federal Fiscal Year 2012 (Oct. 2011 through Sept. 2012) or, if the hospital did not file a full year Medicare cost report for this period, the hospital's first full year Medicare cost report filed subsequent to that period.

Proposed law provides that the effective date of the assessment is the later of: (1) the date the required rates for uncompensated care, Medicaid psychiatric care, and outpatient rates become payable or (2) the first day of the quarter in which DHH seeks approval from CMS of the amendments to the state's Medicaid state plan.

Proposed law provides that the assessment shall be considered an allowable cost for purposes of Medicare and Medicaid cost reporting and reimbursement.

Proposed law prohibits hospitals from passing on the cost of this assessment or including the assessment as an itemized and separately listed amount on any statement, and requires any bill to contain a statement that the costs have not been passed on. Any hospital that violates proposed law after notice and hearing shall be considered to have violated "hospital minimum standards" and shall be subject to the sanctions applicable thereto, including suspension or revocation of its license by DHH. Additionally, DHH must order restitution of the amounts obtained.

Proposed law requires the assessment to be paid into the Supplemental Hospital Credit Program Trust Fund. Money in the fund may be appropriated only for purposes of the proposed law.

Proposed law provides that proceeds of the fund may be disbursed to DHH for use in the Medicaid program only when the following conditions have been met:

- (1) Total Medicaid funding and reimbursement rates paid in the "current fiscal year" for payments to all "nonstate hospitals" is not less than the "base year Medicaid hospital

funding", defined as the amount paid to all "nonstate hospitals" by the Medicaid program in FY 12-13, excluding Medicare upper payment limit payments.

- (2) The payments required to be made to hospitals under the Rural Hospital Preservation Act is not less than the base year.
- (3) An approved and final system is in place and fully funded to compensate "hospitals" for at least 75% of their "uncompensated care" (furnishing services to "uninsured people" as defined by DHH) as reported on the latest uncompensated care filing prior to May 31st of the previous fiscal year.

Hospitals which are not yet required by regulation to file, or without a full year report, or have not previously filed, may file an estimate within 45 days of the end of the quarter, subject to final adjustment as otherwise provided.

The uncompensated care payment is made in equal quarterly installments due on the 15<sup>th</sup> day of the 3<sup>rd</sup> month in each calendar quarter.

- (4) In the current fiscal year, Medicaid rates for all inpatient and outpatient services rendered by hospitals, including psychiatric care, are equal to the maximum allowable Medicare hospital rates for those services, respectively.

Proposed law provides that, if the above criteria have not been met, no assessments can be disbursed to DHH and must be refunded if not disbursed within 120 days of the end. No assessment may be thereafter imposed until the criteria has been met.

Proposed law requires DHH to adopt and promulgate rules and regulations necessary to implement the proposed law after submission to the secretary of the U.S. Dept. of Health and Human Services.

Proposed law prohibits other political subdivisions from collecting assessments from hospitals in a manner that treats them differently than other providers.

Proposed law requires "nonstate public hospitals" except "small rural hospitals" to certify to DHH the state, nonfederal share of expenditures for all their Medicaid claims and incurred uncompensated care costs that constitute "public expenditures" that are eligible for federal participation.

Proposed law provides for jurisdiction, should the provisions of law not be met, to enjoin the collection of the assessment and to prohibit the amounts from the fund from being transferred to DHH or any other agency of state government.

Proposed law will become null and void as of Jan. 1, 2015, if no proposed amendment of the Constitution of La. to establish the Supplemental Hospital Credit Program Act Trust Fund and to provide for the dedicated appropriation of the monies contained therein consistent with the

purposes of proposed law is adopted at a statewide election and becomes effective on or before Jan. 1, 2015.

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

(Adds R.S. 46:2921-2929)