

Senate Bill No. 456

(By Senator Stollings)

[Introduced January 31, 2014; referred to the
Committee on Health and Human Resources;
and then to the Committee on Finance.]

A BILL to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying the expiration date for tax rate on eligible acute care hospitals; changing the tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

Be it enacted by the Legislature of West Virginia:

That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

1 (a) In addition to the rate of the tax imposed by sections
2 nine and fifteen of this article on providers of inpatient and
3 outpatient hospital services, there ~~shall be~~ is imposed on
4 certain eligible acute care hospitals an additional tax of
5 ~~forty-five~~ sixty one hundredths of one percent on the gross
6 receipts received or receivable by eligible acute care
7 hospitals that provide inpatient or outpatient hospital services
8 in this state through a Medicaid upper payment limit
9 program.

10 (b) For purposes of this section, the term “eligible acute
11 care hospital” means any inpatient or outpatient hospital
12 conducting business in this state that is not:

13 (1) A state-owned or -designated facility;

14 (2) A nonstate, but government-owned facility such as a
15 county or city hospital;

16 (3) A critical access hospital, designated as a critical
17 access hospital after meeting all federal eligibility criteria;

18 (4) A licensed free-standing psychiatric or medical
19 rehabilitation hospital; or

20 (5) A licensed long-term acute care hospital.

21 ~~(b)~~ (c) The taxes imposed by this section may not be
22 imposed or collected until all of the following have occurred:

23 (1) A state plan amendment is developed by the Bureau
24 of Medical Services, as authorized by the Secretary of the
25 Department of Health and Human Resources;

26 (2) The state plan amendment is reviewed by the Medical
27 Fund Services Advisory Council;

28 (3) A comment period of not less than thirty days for
29 public comment on the state plan amendment shall have
30 passed; and

31 (4) The state plan amendment is approved by the Centers
32 for Medicare and Medicaid Services.

33 (d) The state plan amendment shall include all of the
34 following:

35 (1) The provisions of the proposed upper payment limit
36 program or programs;

37 (2) A state maintenance of effort to maintain adequate
38 Medicaid funding; and

39 (3) A provision that any other state Medicaid program
40 will not negatively impact the hospital upper payment limit
41 payments. The taxes imposed and collected may be imposed
42 and collected beginning on the earliest date permissible under
43 applicable federal law under the upper payment limit
44 program, as determined by the ~~West Virginia~~ secretary of
45 ~~Health and Human Resources~~.

46 ~~(c)~~ (e) There is ~~hereby created~~ continued a special
47 revenue account in the State Treasury, designated the
48 Medicaid State Share Fund. The amount of taxes collected
49 under this section, including any interest, additions to tax and
50 penalties collected under article ten of this chapter, less the
51 amount of allowable refunds, the amount of any interest
52 payable with respect to such refunds and costs of
53 administration and collection, shall be deposited into the
54 Special Revenue Fund and ~~shall~~ may not revert to general
55 revenue. The Tax Commissioner shall establish and maintain

56 a separate account and accounting for the funds collected
57 under this section in an account to be designated as the
58 Eligible Acute Care Provider Enhancement Account. The
59 amounts collected shall be deposited, within fifteen days after
60 receipt by the Tax Commissioner, into the Eligible Acute
61 Care Provider Enhancement Account. Disbursements from
62 the Eligible Acute Care Provider Enhancement Account
63 within the Medicaid State Share Fund may only be used as
64 set forth in this section.

65 ~~(d)~~ (f) The imposition and collection of taxes imposed by
66 this section ~~shall be~~ is suspended immediately upon the
67 occurrence of any of the following:

68 (1) The effective date of any action by Congress that
69 would disqualify the taxes imposed by this section from
70 counting toward state Medicaid funds available to be used to
71 determine the federal financial participation;

72 (2) The effective date of any decision, enactment or other
73 determination by the Legislature or by any court, officer,
74 department, agency or office of state or federal government

75 that has the effect of disqualifying the tax from counting
76 toward state Medicaid funds available to be used to
77 determine federal financial participation for Medicaid
78 matching funds, or creating for any reason a failure of the
79 state to use the assessment of the Medicaid program as
80 described in this section; and

81 (3) The effective date of an appropriation for any state
82 fiscal year for hospital payments under the state Medicaid
83 program that is less than the amount appropriate for state
84 fiscal year ending June 30, 2011. Fifty percent of any funds
85 remaining in the Eligible Acute Care Provider Enhancement
86 Account as of June 30, ~~2013~~, 2014, shall be transferred to the
87 West Virginia Medical Services Fund. This transfer shall
88 occur no later than September 30, ~~2013~~, 2014. These funds
89 shall be used during state fiscal year ~~2014~~ 2015 at the
90 discretion of the Bureau of Medical Services. The remaining
91 fifty percent of any funds in the Eligible Acute Care Provider
92 Enhancement Account as of June 30, ~~2013~~, 2014, shall
93 remain in the Eligible Acute Care Provider Enhancement
94 Account and shall be used in state fiscal year ~~2014~~ 2015. If

95 the program expires on June 30, ~~2014~~, 2015, as set forth in
96 subsection ~~(f)~~ (h) of this section, fifty percent of any funds
97 remaining as of June 30, ~~2015~~, 2016, shall be transferred on
98 that date to the West Virginia Medical Services Fund. This
99 transfer shall occur only after state fiscal year ~~2014~~ 2015
100 fourth quarter tax collections and program payments. The
101 remaining fifty percent of the funds shall be distributed to the
102 eligible acute care providers no later than June 30, ~~2015~~
103 2016. The distribution of funds to the eligible acute care
104 providers shall be made in the same proportion as the taxes
105 paid by the eligible acute care providers into the Eligible
106 Acute Care Provider Enhancement Fund during state fiscal
107 year ~~2014~~ 2015.

108 ~~(e)~~ (g) The provisions of this section are retroactive and
109 ~~shall~~ become effective on the first day of the quarter in which
110 the state plan amendment is submitted.

111 ~~(f)~~ (h) The tax imposed by this section ~~shall expire~~
112 expires on and after June 30, ~~2014~~, 2015, unless otherwise
113 extended by the Legislature.

(NOTE: The purpose of this bill is to remove the expiration date for the tax rate on eligible acute care hospitals.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)

FINANCE COMMITTEE AMENDMENT

On page two, section thirty-eight, line four, by striking out the word “sixty” and inserting in lieu thereof the word “sixty-two”.