

1 **H. B. 4299**

2
3 (By Delegates Perdue, Fleischauer, Campbell,
4 Diserio, Ellington, Kinsey, Poore, C. Miller,
5 Moore, Morgan, Staggers)

6 [Introduced January 24, 2014; referred to the
7 Committee on Health and Human Resources then Finance.]

**FISCAL
NOTE**

8
9
10 A BILL to amend and reenact §11-27-38 of the Code of West Virginia,
11 1931, as amended, relating generally to health care provider
12 taxes; modifying the expiration date for tax rate on eligible
13 acute care hospitals; changing the tax rate on eligible acute
14 care hospitals; and providing for disbursement of any funds
15 remaining in the Eligible Acute Care Provider Enhancement
16 Account.

17 *Be it enacted by the Legislature of West Virginia:*

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

20 **ARTICLE 27. HEALTH CARE PROVIDER TAXES.**

21 **§11-27-38. Contingent increase of tax rate on certain eligible**
22 **acute care hospitals.**

23 (a) In addition to the rate of the tax imposed by sections
24 nine and fifteen of this article on providers of inpatient and

1 outpatient hospital services, there ~~shall be~~ is imposed on certain
2 eligible acute care hospitals an additional tax of ~~forty-five~~ sixty
3 one hundredths of one percent on the gross receipts received or
4 receivable by eligible acute care hospitals that provide inpatient
5 or outpatient hospital services in this state through a Medicaid
6 upper payment limit program.

7 (b) For purposes of this section, the term "eligible acute
8 care hospital" means any inpatient or outpatient hospital
9 conducting business in this state that is not:

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

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

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

15 (4) A licensed free-standing psychiatric or medical
16 rehabilitation hospital; or

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

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

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

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

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

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

5 (d) The state plan amendment shall include all of the
6 following:

7 (1) The provisions of the proposed upper payment limit program
8 or programs;

9 (2) A state maintenance of effort to maintain adequate
10 Medicaid funding; and

11 (3) A provision that any other state Medicaid program will not
12 negatively impact the hospital upper payment limit payments. The
13 taxes imposed and collected may be imposed and collected beginning
14 on the earliest date permissible under applicable federal law under
15 the upper payment limit program, as determined by the ~~West Virginia~~
16 secretary. ~~of Health and Human Resources.~~

17 ~~(c)~~ (e) There is ~~hereby created~~ continued a special revenue
18 account in the State Treasury, designated the Medicaid State Share
19 Fund. The amount of taxes collected under this section, including
20 any interest, additions to tax and penalties collected under
21 article ten of this chapter, less the amount of allowable refunds,
22 the amount of any interest payable with respect to such refunds,
23 and costs of administration and collection, shall be deposited into
24 the Special Revenue Fund and ~~shall~~ may not revert to general

1 revenue. The Tax Commissioner shall establish and maintain a
2 separate account and accounting for the funds collected under this
3 section, in an account to be designated as the Eligible Acute Care
4 Provider Enhancement Account. The amounts collected shall be
5 deposited, within fifteen days after receipt by the Tax
6 Commissioner, into the Eligible Acute Care Provider Enhancement
7 Account. Disbursements from the Eligible Acute Care Provider
8 Enhancement Account within the Medicaid State Share Fund may only
9 be used as set forth in this section.

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

13 (1) The effective date of any action by Congress that would
14 disqualify the taxes imposed by this section from counting towards
15 state Medicaid funds available to be used to determine the federal
16 financial participation;

17 (2) The effective date of any decision, enactment or other
18 determination by the Legislature or by any court, officer,
19 department, agency of office of state or federal government that
20 has the effect of disqualifying the tax from counting towards state
21 Medicaid funds available to be used to determine federal financial
22 participation for Medicaid matching funds, or creating for any
23 reason a failure of the state to use the assessment of the Medicaid
24 program as described in this section; and

1 (3) The effective date of an appropriation for any state
2 fiscal year for hospital payments under the state Medicaid program
3 that is less than the amount appropriate for state fiscal year
4 ending June 30, 2011. Fifty percent of any funds remaining in the
5 Eligible Acute Care Provider Enhancement Account as of June 30,
6 ~~2013~~, 2014, shall be transferred to the West Virginia Medical
7 Services Fund. This transfer shall occur no later than September
8 30, ~~2013~~. 2014. These funds shall be used during state fiscal year
9 ~~2014~~ 2015 at the discretion of the Bureau of Medical Services. The
10 remaining fifty percent of any funds in the Eligible Acute Care
11 Provider Enhancement Account as of June 30, ~~2013~~, 2014, shall
12 remain in the Eligible Acute Care Provider Enhancement Account, and
13 shall be used in state fiscal year ~~2014~~ 2015. If the program
14 expires on June 30, ~~2014~~, 2015, as set forth in subsection ~~(f)~~ (h),
15 fifty percent of any funds remaining as of June 30, ~~2015~~, 2016,
16 shall be transferred on that date to the West Virginia Medical
17 Services Fund. This transfer shall occur only after state fiscal
18 year ~~2014~~ 2015 fourth quarter tax collections and program payments.
19 The remaining fifty percent of the funds shall be distributed to
20 the eligible acute care providers no later than June 30, ~~2015~~ 2016.
21 The distribution of funds to the eligible acute care providers
22 shall be made in the same proportion as the taxes paid by the
23 eligible acute care providers into the Eligible Acute Care Provider
24 Enhancement Fund during state fiscal year ~~2014~~ 2015.

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

4 ~~(f)~~ (h) The tax imposed by this section ~~shall expire~~ expires
5 on and after June 30, ~~2014~~, 2015, unless otherwise extended by the
6 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.