

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2652**

4 (By Delegates Ellington, Householder, Ashley, Boggs, Folk, Hamilton,  
5 Howell, McGeehan, Storch and Zatezalo)  
6

7 (Originating in the House Committee on Finance)

8 [February 23, 2015]  
9

10 A BILL to amend and reenact §16-29B-3 and §16-29B-8 of the Code of West Virginia, 1931, as  
11 amended, relating to annual assessments on hospitals by the West Virginia Health Care  
12 Authority; adding definitions; changing the basis for the annual assessment.

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

14 That §16-29B-3 and §16-29B-8 of the Code of West Virginia, 1931, as amended, be amended  
15 and reenacted to read as follows:

16 **ARTICLE 29B. HEALTH CARE AUTHORITY.**

17 **§16-29B-3. Definitions.**

18 Definitions of words and terms defined in articles two-d and five-f of this chapter are  
19 incorporated in this section unless this section has different definitions.

20 As used in this article, unless a different meaning clearly appears from the context:

21 (a) "Charges" means the economic value established for accounting purposes of the goods  
22 and services a hospital provides for all classes of purchasers;

23 (b) "Class of purchaser" means a group of potential hospital patients with common

1 characteristics affecting the way in which their hospital care is financed. Examples of classes of  
2 purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations established  
3 and operated pursuant to article twenty-four, chapter thirty-three of this code, members of health  
4 maintenance organizations and other groups as defined by the board;

5 (c) "Board" means the three-member board of directors of the West Virginia Health Care  
6 Authority, an autonomous division within the State Department of Health and Human Resources;

7 (d) "Contractual allowances" means the difference between net revenue at established rates  
8 and amounts realizable from third-party payors under contractual agreements.

9 (e) "Gross receipts" means the amount received or receivable, whether in cash or in kind,  
10 from patients, third-party payors and others for hospital services furnished by the provider, including  
11 retroactive adjustments under reimbursement agreements with third-party payors, without any  
12 deduction for operating expenses of any kind: *Provided*, That accrual basis providers shall be  
13 allowed to reduce gross receipts by their contractual allowances, to the extent such allowances are  
14 included therein, and by bad debts, to the extent the amount of such bad debts was previously  
15 included in gross receipts upon which the assessment imposed by this section was paid.

16 ~~(d)~~ (f) "Health care provider" means a person, partnership, corporation, facility, hospital or  
17 institution licensed, certified or authorized by law to provide professional health care service in this  
18 state to an individual during this individual's medical, remedial, or behavioral health care, treatment  
19 or confinement. For purposes of this article, "health care provider" shall not include the private  
20 office practice of one or more health care professionals licensed to practice in this state pursuant to  
21 the provisions of chapter thirty of this code.

22 ~~(e)~~ (g) "Hospital" means a facility subject to licensure as such under the provisions of article

1 five-b of this chapter, and any acute care facility operated by the state government which is primarily  
2 engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and  
3 therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons,  
4 and does not include state mental health facilities or state long-term care facilities;

5 ~~(f)~~ (h) "Person" means an individual, trust, estate, partnership, committee, corporation,  
6 association or other organization such as a joint stock company, a state or political subdivision or  
7 instrumentality thereof or any legal entity recognized by the state;

8 ~~(g)~~ (i) "Purchaser" means a consumer of patient care services, a natural person who is directly  
9 or indirectly responsible for payment for such patient care services rendered by a health care  
10 provider, but does not include third-party payers;

11 ~~(h)~~ (j) "Rates" means all value given or money payable to health care providers for health care  
12 services, including fees, charges and cost reimbursements;

13 ~~(i)~~ (k) "Records" means accounts, books and other data related to health care costs at health  
14 care facilities subject to the provisions of this article which do not include privileged medical  
15 information, individual personal data, confidential information, the disclosure of which is prohibited  
16 by other provisions of this code and the laws enacted by the federal government, and information,  
17 the disclosure of which would be an invasion of privacy;

18 ~~(j)~~ (l) "Third-party payor" means any natural person, person, corporation or government entity  
19 responsible for payment for patient care services rendered by health care providers; and

20 ~~(k)~~ (m) "Related organization" means an organization, whether publicly owned, nonprofit,  
21 tax-exempt or for profit, related to a health care provider through common membership, governing  
22 bodies, trustees, officers, stock ownership, family members, partners or limited partners including,

1 but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the  
2 purposes of this subsection family members shall mean brothers and sisters, whether by whole or  
3 half blood, spouse, ancestors and lineal descendants.

4 **§16-29B-8. Powers generally; budget expenses of the board.**

5 (a) In addition to the powers granted to the board elsewhere in this article, the board may:

6 (1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines and rules  
7 in accordance with article three, chapter twenty-nine-a of this code: Provided, That subsequent  
8 amendments and modifications to any rule promulgated pursuant to this article and not exempt from  
9 the provisions of article three, chapter twenty-nine-a of this code may be implemented by emergency  
10 rule;

11 (2) Hold public hearings, conduct investigations and require the filing of information relating  
12 to matters affecting the costs of health care services subject to the provisions of this article and may  
13 subpoena witnesses, papers, records, documents and all other data in connection therewith. The  
14 board may administer oaths or affirmations in any hearing or investigation;

15 (3) Apply for, receive and accept gifts, payments and other funds and advances from the  
16 United States, the state or any other governmental body, agency or agencies or from any other private  
17 or public corporation or person (with the exception of hospitals subject to the provisions of this  
18 article, or associations representing them, doing business in the state of West Virginia, except in  
19 accordance with subsection (c) of this section), and enter into agreements with respect thereto,  
20 including the undertaking of studies, plans, demonstrations or projects. Any such gifts or payments  
21 that may be received or any such agreements that may be entered into shall be used or formulated  
22 only so as to pursue legitimate, lawful purposes of the board, and shall in no respect inure to the

1 private benefit of a board member, staff member, donor or contracting party;

2 (4) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell,  
3 encumber and assign rights or dispose of any property, real or personal, consistent with the  
4 objectives of the board as set forth in this article: Provided, That such acquisition or purchase of real  
5 property or construction of facilities shall be consistent with planning by the state building  
6 commissioner and subject to the approval of the Legislature;

7 (5) Contract and be contracted with and execute all instruments necessary or convenient in  
8 carrying out the board's functions and duties; and

9 (6) Exercise, subject to limitations or restrictions herein imposed, all other powers which are  
10 reasonably necessary or essential to effect the express objectives and purposes of this article.

11 (b) The board shall annually prepare a budget for the next fiscal year for submission to the  
12 governor and the Legislature which shall include all sums necessary to support the activities of the  
13 board and its staff.

14 (c) Each hospital subject to the provisions of this article shall be assessed by the board on a  
15 pro rata basis using the gross ~~revenues~~ receipts of each hospital as reported under the authority of  
16 section eighteen of this article as the measure of the hospital's obligation. The amount of such fee  
17 shall be determined by the board except that in no case shall the hospital's obligation exceed one  
18 tenth of one percent of its gross ~~revenue~~ receipts. Such fees shall be paid on or before the first day  
19 of July in each year and shall be paid into the state treasury and kept as a special revolving fund  
20 designated "health care cost review fund", with the moneys in such fund being expendable after  
21 appropriation by the Legislature for purposes consistent with this article. Any balance remaining in  
22 said fund at the end of any fiscal year shall not revert to the treasury, but shall remain in said fund

1 and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal years.

2 (d) Each hospital's assessment shall be treated as an allowable expense by the board.

3 (e) The board is empowered to withhold rate approvals, certificates of need and rural health  
4 system loans and grants if any such fees remain unpaid, unless exempted under subsection (g),  
5 section four, article two-d of this chapter.”