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H. B. 2376

(By Delegates McGeehan, Faircloth, Hamrick, Folk, J. Nelson,
Canterbury, Storch, Householder and Ihle)

[Introduced January 26, 2015; referred to the
Committee on Government Organization then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, and to amend said code by adding thereto a new section, designated §11-27-39, all relating to creating the Save the Hospitals Act; exempting nonprofit hospitals that provide a certain amount of uncompensated care from sales tax; allowing all hospitals that provide a certain amount of uncompensated care a credit against medical provider tax; and requiring West Virginia Hospital Finance Authority to promulgate rules to effectuate this section.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-15-9o, and that said code be amended by adding thereto a new section, designated §11-27-39, all to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9o. Exemption for nonprofit hospitals providing uncompensated care.

(a) Short Title. – This section, along with section thirty-nine, article twenty seven of this

1 chapter, shall be known and may be cited as the "Save the Hospitals Act."

2 (b) Definitions. –

3 (1) "Hospital" has the same meaning as provided in section one, article five-b, chapter sixteen
4 of this code.

5 (2) "Nonprofit hospital" means any hospital that is exempt from federal income tax under
6 26 U.S.C. § 501(c)(3) of the Internal Revenue Code.

7 (3) "Taxable year" means the calendar year, or the fiscal year ending during such calendar
8 year, upon the basis of which tax liability is computed under this article. "Taxable year" means, in
9 case of a return made for a fractional part of a year under the provisions of this article, or under
10 regulations promulgated by the Tax Commissioner, the period for which such return is made.

11 (4) "Total net patient revenue" means the estimated net realized amounts from patients, third-
12 party payors and others for health care services rendered, including estimated retroactive adjustments
13 due to future audits, reviews, settlements and investigations.

14 (5) "Uncompensated care costs" means the dollar amount entered into Line 31 of Worksheet
15 S-10 of a provider's Medicare Cost Report and submitted to the United States Secretary of Health
16 and Human Services or his or her designee, pursuant to 42 USCS § 1395h and 42 C.F.R. §413.20.

17 (c) Notwithstanding any provision of this code, any nonprofit hospital that incurred
18 uncompensated care costs equal to or greater than four percent of the hospital's total net patient
19 revenue during the hospital's taxable year ending in the calendar year of 2014 is exempt from the tax
20 imposed by this article for the duration of the hospital's taxable year ending in 2015. Thereafter, any
21 nonprofit hospital that incurs uncompensated care costs equal to or greater than four percent of the
22 hospital's total net patient revenue during a taxable year is exempt from the tax imposed by the

1 article for the duration of the subsequent taxable year.

2 (d) The West Virginia Hospital Finance Authority shall issue a form by which a hospital may
3 apply for the exemption created by this section. The Tax Commissioner shall promptly issue a
4 certificate of exemption to any hospital that qualifies for an exemption under this section and files
5 an application for the exemption before the end of the taxable year in which the hospital is exempt.
6 If a hospital pays any amount of sales tax after applying for but before receiving a certificate of
7 exemption during a year in which the hospital is exempt under this section, the Tax Commissioner
8 shall issue a refund for any such amount.

9 (e) The West Virginia Hospital Finance Authority shall, no later than July 1, 2015,
10 promulgate rules to effectuate and administer this section.

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

12 **§11-27-39. Uncompensated care credit.**

13 (a) Definitions --

14 (1) "Hospital" has the same meaning as provided in section one, article five-b, chapter sixteen
15 of this code.

16 (2) "Taxable year" means the calendar year, or the fiscal year ending during such calendar
17 year, upon the basis of which tax liability is computed under this article. "Taxable year" means, in
18 case of a return made for a fractional part of a year under the provisions of this article, or under
19 regulations promulgated by the Tax Commissioner, the period for which such return is made.

20 (3) "Total net patient revenue" means the estimated net realized amounts from patients, third-
21 party payors and others for health care services rendered, including estimated retroactive adjustments
22 due to future audits, reviews, settlements and investigations.

1 (4) "Uncompensated care costs" means the dollar amount entered into Line 31 of Worksheet
2 S-10 of a provider's Medicare Cost Report and submitted to the United States Secretary of Health
3 and Human Services or his or her designee, pursuant to 42 USCS § 1395h and 42 C.F.R. §413.20.

4 (b) Notwithstanding any provision of this code, any hospital that incurs uncompensated care
5 costs that are equal to or greater than four percent of the hospital's total net patient revenue during
6 a taxable year is allowed a credit against each tax imposed by this article in the amount of one
7 hundred percent of the hospital's uncompensated care costs.

8 (c) The West Virginia Hospital Finance Authority shall, no later than July 1, 2015,
9 promulgate rules to effectuate and administer this section.

NOTE: The purpose of this bill is to create the Save the Hospitals Act; exempting nonprofit hospitals that provide a certain amount of uncompensated care from sales tax; allowing all hospitals that provide a certain amount of uncompensated care a credit against medical provider tax; and requiring West Virginia Hospital Finance Authority to promulgate rules to effectuate this section.

These sections are new; therefore, they have been completely underscored.