

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 395

**FISCAL
NOTE**

BY SENATORS FERNS, PLYMALE, STOLLINGS, PREZIOSO

AND UNGER

[Introduced January 27, 2016;

Referred to the Committee on Finance.]

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

Be it enacted by the Legislature of West Virginia:

1 That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and
 2 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 nine and fifteen of this article on
 2 providers of inpatient and outpatient hospital services, there is imposed on certain eligible acute
 3 care hospitals an additional tax of ~~seventy-two one hundredths~~ eighty-eight one hundredths of
 4 one percent on the gross receipts received or receivable by eligible acute care hospitals that
 5 provide inpatient or outpatient hospital services in this state through a Medicaid upper payment
 6 limit program.

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

- 9 (1) A state-owned or -designated facility;
- 10 (2) A nonstate, but government-owned facility such as a county or city hospital;
- 11 (3) A critical access hospital, designated as a critical access hospital after meeting all
 12 federal eligibility criteria;
- 13 (4) A licensed free-standing psychiatric or medical rehabilitation hospital; or
- 14 (5) A licensed long-term acute care hospital.

15 (c) The taxes imposed by this section may not be imposed or collected until all of the
 16 following have occurred:

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

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

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

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

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

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

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

27 (3) A provision that any other state Medicaid program will not negatively impact the
28 hospital upper payment limit payments. The taxes imposed and collected may be imposed and
29 collected beginning on the earliest date permissible under applicable federal law under the upper
30 payment limit program, as determined by the secretary.

31 (e) There is continued a special revenue account in the State Treasury designated the
32 Medicaid State Share Fund. The amount of taxes collected under this section, including any
33 interest, additions to tax and penalties collected under article ten of this chapter, less the amount
34 of allowable refunds, the amount of any interest payable with respect to such refunds and costs
35 of administration and collection, shall be deposited into the Special Revenue Fund and may not
36 revert to general revenue. The Tax Commissioner shall establish and maintain a separate account
37 and accounting for the funds collected under this section in an account to be designated as the
38 Eligible Acute Care Provider Enhancement Account. The amounts collected shall be deposited,
39 within fifteen days after receipt by the Tax Commissioner, into the Eligible Acute Care Provider
40 Enhancement Account. Disbursements from the Eligible Acute Care Provider Enhancement
41 Account within the Medicaid State Share Fund may only be used as set forth in this section.

42 (f) The imposition and collection of taxes imposed by this section is suspended

43 immediately upon the occurrence of any of the following:

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

47 (2) The effective date of any decision, enactment or other determination by the Legislature
48 or by any court, officer, department, agency or office of state or federal government that has the
49 effect of disqualifying the tax from counting toward state Medicaid funds available to be used to
50 determine federal financial participation for Medicaid matching funds or creating for any reason a
51 failure of the state to use the assessment of the Medicaid program as described in this section;
52 and

53 (3) The effective date of an appropriation for any state fiscal year for hospital payments
54 under the state Medicaid program that is less than the amount appropriate for state fiscal year
55 ending June 30, 2011. Fifty percent of any funds remaining in the Eligible Acute Care Provider
56 Enhancement Account as of June 30, ~~2015~~ 2016, shall be transferred to the West Virginia Medical
57 Services Fund. This transfer shall occur no later than September 30, ~~2015~~ 2016. These funds
58 shall be used during state fiscal year ~~2016~~ 2017 at the discretion of the Bureau for Medical
59 Services. The remaining fifty percent of any funds in the Eligible Acute Care Provider
60 Enhancement Account as of June 30, ~~2015~~ 2016, shall remain in the Eligible Acute Care Provider
61 Enhancement Account and shall be used in state fiscal year ~~2016~~ 2017. If the program expires
62 on June 30, ~~2016~~ 2017, as set forth in subsection (h) of this section, fifty percent of any funds
63 remaining as of June 30, ~~2017~~ 2018 shall be transferred on that date to the West Virginia Medical
64 Services Fund. This transfer shall occur only after state fiscal year ~~2016~~ 2017 fourth quarter tax
65 collections and program payments. The remaining fifty percent of the funds shall be distributed to
66 the eligible acute care providers no later than June 30, ~~2017~~ 2018. The distribution of funds to the
67 eligible acute care providers shall be made in the same proportion as the taxes paid by the eligible
68 acute care providers into the Eligible Acute Care Provider Enhancement Fund during state fiscal

69 year ~~2016~~ 2017.

70 (g) The changes to the tax rate in this section enacted in the ~~2015~~ 2016 Regular Session
71 are effective July 1, ~~2015~~ 2016 upon the approval of the state plan amendment.

72 (h) The tax imposed by this section expires on and after June 30, ~~2016~~ 2017 unless
73 otherwise extended by the Legislature.

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

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