

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 3102

BY DELEGATES ELLINGTON, SUMMERS AND

HOUSEHOLDER

[Originating in the Committee on Finance;

March 23, 2017]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §9-5-26, relating to the selling of a certain state owned health care facility and
3 appurtenances by the Secretary of the Department of Health and Human Resources;
4 ensuring the transfer of existing patients and the construction of a replacement facility;
5 exempting certain laws; creating a fund; implementing a benefits package for employees;
6 and providing statutory construction.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §9-5-26, to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-26. Selling of Hopemont Hospital.

1 (a) The Secretary of the Department of Health and Human Resources shall divest of the
2 facilities; land; buildings and improvements; contents; employment, patient and contractual
3 interests; licenses; and all other assets excluding any cash, cash equivalents and marketable
4 securities of the long-term care facility known as the Hopemont Hospital.

5 (b) The secretary shall ensure that the patients are transferred to an area facility and shall
6 minimize effects on long-term care facility residents, including any potential risk that could arise
7 from relocating current residents, and shall provide updates to the Joint Committee on
8 Government and Finance and LOCHRA, pursuant to state law.

9 (c) The secretary shall assure that a replacement facility of at least 60 beds be constructed
10 to accommodate the needs of the patient population at Hopemont and be operated as a geriatric
11 psychiatric nursing home accepting only individuals with high acuity needs such as geri-psych,
12 behavioral symptoms, Alzheimer's, Intellectual and Developmental Disabilities, and patients with
13 criminal histories who do not present a danger to staff or other residents.

14 (d) This section is not subject to the purchasing requirements of article three, chapter five-
15 a of this code.

16 (e) Sales and transfers under this section are exempt from certificate of need requirements
17 provided in article two-d, chapter sixteen of this code.

18 (f) Sales and transfers under this section are exempt from Medicaid rules and policies.

19 (g) The secretary, in consultation with the Director of the Division of Personnel, shall create
20 a plan and coordinate with the secretary to create a strategy to minimize the effects on employees.

21 (h) The Department, in consultation with the Division of Personnel, the Consolidated
22 Public Retirement Board, and any other state agency as applicable, shall prepare a benefit
23 package for employees of Hopemont Hospital who are laid off, employed by a successor company
24 or retire as a result of the divestment. Such benefits may include, but are not limited to, investment
25 in retraining, placement on the Division of Personnel's reemployment list with preference, the
26 purchase of actuarially sound years of service based on prior years of service with Hopemont
27 Hospital or its predecessors, or any other benefits otherwise permitted under state law. The
28 Division of Personnel, the Consolidated Public Retirement Board and any other necessary state
29 agency shall cooperate and take any such action as necessary to implement such benefit
30 package. Benefits packages as described in this subsection may be funded by the Hopemont
31 Long Term Care Facility Development Fund. As used in this subsection "successor company"
32 means any company who purchases any of the assets as described in subsection (a) of this
33 section: *Provided*, That no provision of this subsection may be construed to require any further
34 appropriation by the Legislature: *Provided, however*, that the Department of Health and Human
35 Services shall enter into memoranda of understanding with the Division of Personnel, the
36 Consolidated Public Retirement Board, and the Public Employees Insurance Agency prior to
37 implementation of any benefit package with any employee which must state any cost to any
38 affected retirement system and that this cost is to be paid by the Department of Health and Human

39 Resources. No benefit package may be granted unless memoranda of understanding are filed
40 with the Division of Personnel, the Consolidated Public Retirement Board, and the Public
41 Employees Insurance Agency, and the agreement of the Department of Health and Human
42 Resources to pay the same by a date certain, or if there is not cost, the agreement of the parties
43 to the same. Any benefit package granted without such memoranda of understanding is unlawful.

44 (i) The secretary shall prepare a complete accounting of all assets to the Joint Committee
45 on Government and Finance.

46 (j) There is created in the State Treasury a special revenue account to be known as the
47 “Hopemont Long Term Care Facility Development Fund”. The fund shall consist of appropriations
48 to effectuate the purposes of this section and any revenue or sales proceeds derived from
49 activities provided for in accordance with this section. Expenditures from the fund are for the
50 purposes set forth in this section and are not authorized from collections but are to be made only
51 in accordance with appropriation by the Legislature and in accordance with the provisions of
52 article three, chapter twelve of this code.

53 (k) This section shall be construed broadly as to provide the secretary with the latitude to
54 accomplish the goals of this section.