

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 3063

**FISCAL
NOTE**

BY DELEGATE ROWE

[Introduced March 14, 2017; Referred
to the Committee on Health and Human Resources
then Finance.]

1 A BILL to amend and reenact §11-27-9 and §11-27-15 of the Code of West Virginia, 1931, as
2 amended, all relating to raising the tax on providers of inpatient and outpatient hospital
3 services for two years.

Be it enacted by the Legislature of West Virginia:

1 That §11-27-9 and §11-27-15 of the Code of West Virginia, 1931, as amended, be
2 amended and reenacted, all to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-9. Imposition of tax on providers of inpatient hospital services.

1 (a) *Imposition of tax.* -- For the privilege of engaging or continuing within this state in the
2 business of providing inpatient hospital services, there is hereby levied and shall be collected
3 from every person rendering such service an annual broad-based health care related tax:
4 *Provided,* That a hospital which meets all the requirements of section twenty-one, article twenty-
5 nine-b, chapter sixteen of this code and regulations thereunder may change or amend its
6 schedule of rates to the extent necessary to compensate for the tax in accordance with the
7 following procedures:

8 (1) The health care cost review authority shall allow a temporary change in a hospital's
9 rates which may be effective immediately upon filing and in advance of review procedures when
10 a hospital files a verified claim that such temporary rate changes are in the public interest, and
11 are necessary to prevent insolvency, to maintain accreditation or for emergency repairs or to
12 relieve undue financial hardship. The verified claim shall state the facts supporting the hospital's
13 position, the amount of increase in rates required to alleviate the situation and shall summarize
14 the overall effect of the rate increase. The claim shall be verified by either the chairman of the
15 hospital's governing body or by the chief executive officer of the hospital.

16 (2) Following receipt of the verified claim for temporary relief, the health care cost review
17 authority shall review the claim through its usual procedures and standards; however, this power
18 of review does not affect the hospital's ability to place the temporary rate increase into effect

19 immediately. The review of the hospital's claim shall be for a permanent rate increase and the
20 health care cost review authority may include such other factual information in the review as may
21 be necessary for a permanent rate increase review. As a result of its findings from the permanent
22 review, the health care cost review authority may allow the temporary rate increase to become
23 permanent, to deny any increase at all, to allow a lesser increase, or to allow a greater increase.

24 (3) When any change affecting an increase in rates goes into effect before a final order is
25 entered in the proceedings, for whatever reasons, where it deems it necessary and practicable,
26 the health care cost review authority may order the hospital to keep a detailed and accurate
27 account of all amounts received by reason of the increase in rates and the purchasers and third-
28 party payors from whom such amounts were received. At the conclusion of any hearing, appeal
29 or other proceeding, the health care cost review authority may order the hospital to refund with
30 interest to each affected purchaser and/or third-party payor any part of the increase in rates that
31 may be held to be excessive or unreasonable. In the event a refund is not practicable, the hospital
32 shall, under appropriate terms and conditions determined by the health care cost review authority,
33 charge over and amortize by means of a temporary decrease in rates whatever income is realized
34 from that portion of the increase in rates which was subsequently held to be excessive or
35 unreasonable.

36 (4) The health care cost review authority, upon a determination that a hospital has
37 overcharged purchasers or charged purchasers at rates not approved by the health care cost
38 review authority or charged rates which were subsequently held to be excessive or unreasonable,
39 may prescribe rebates to purchasers and third-party payors in effect by the aggregate total of the
40 overcharge.

41 (5) The rate adjustment provided for in this section is limited to a single adjustment during
42 the initial year of the imposition of the tax provided for in this section.

43 (b) *Rate and measure of tax.* -- The tax imposed in subsection (a) of this section shall be
44 two and ~~one-half~~ seventy-five hundredths percent of the gross receipts derived by the taxpayer
45 from furnishing inpatient hospital services in this state.

46 (c) *Definitions.* --

47 (1) "Gross receipts" means the amount received or receivable, whether in cash or in kind,
48 from patients, third-party payors and others for inpatient hospital services furnished by the
49 provider, including retroactive adjustments under reimbursement agreements with third-party
50 payors, without any deduction for any expenses of any kind: *Provided*, That accrual basis
51 providers shall be allowed to reduce gross receipts by their contractual allowances, to the extent
52 such allowances are included therein, and by bad debts, to the extent the amount of such bad
53 debts was previously included in gross receipts upon which the tax imposed by this section was
54 paid.

55 (2) "Contractual allowances" means the difference between revenue (gross receipts) at
56 established rates and amounts realizable from third-party payors under contractual agreements.

57 (3) "Inpatient hospital services" means those services that are inpatient hospital services
58 for purposes of Section 1903(w) of the Social Security Act.

59 (d) *Effective date.* -- The tax imposed by this section shall apply to gross receipts received
60 or receivable by providers after ~~May 31, 1993~~ July 1, 2017.

61 (e) The increase in the tax rate enacted during the 2017, regular session of the Legislature
62 shall expire after two years and the previous rate shall go back into effect. The money collected
63 after the increase in rate shall be deposited in the General Revenue Fund.

§ 11-27-15. Imposition of tax on providers of outpatient hospital services.

1 (a) *Imposition of tax.* -- For the privilege of engaging or continuing within this state in the
2 business of providing outpatient hospital services, there is hereby levied and shall be collected

3 from every person rendering such service an annual broad-based health care related tax.

4 (b) *Rate and measure of tax.* -- The tax imposed in subsection (a) of this section shall be
5 two and ~~one-half~~ seventy-five hundredths percent of the gross receipts derived by the taxpayer
6 from furnishing outpatient hospital services in this state.

7 (c) *Definitions.* --

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

16 (2) "Contractual allowances" means the difference between revenue (gross receipts) at
17 established rates and amounts realizable from third-party payors under contractual agreements.

18 (3) "Outpatient hospital services" means those services that are outpatient hospital
19 services for purposes of Section 1903(w) of the Social Security Act.

20 (d) *Effective date.* -- The tax imposed by this section shall apply to gross receipts received
21 or receivable by providers after ~~May 31, 1993~~ June 30, 1970.

22 (e) The increase in the tax rate enacted during the 2017, regular session of the Legislature
23 shall expire after two years and the previous rate shall go back into effect. The money collected
24 after the increase in rate shall be deposited in the General Revenue fund.

NOTE: The purpose of this bill is to increase the tax on providers of inpatient and outpatient hospital services for two years.

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