

**WEST VIRGINIA LEGISLATURE**  
**2017 FIRST EXTRAORDINARY SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 113**

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Passed June 16, 2017; in effect ninety days from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §9-5-25, 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; allowing the secretary to determine need for a  
5 new facility; setting forth requirements for new facility; providing for continuation of  
6 licenses of existing beds; exempting certain laws; creating a fund; implementing a benefits  
7 package for employees; defining terms; and providing for 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 §9-5-25, to read as follows:

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-25. Selling of state-owned health care facilities.**

1 (a) The Secretary of the Department of Health and Human Resources may divest of the  
2 facilities; land; buildings and improvements; contents; employment, patient and contractual  
3 interests; licenses for staffed beds; and all other assets utilized in the current operation of the  
4 facility excluding any cash, cash equivalents and marketable securities of the long-term care  
5 facility known as the Jackie Withrow Hospital.

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

11 (c) When the secretary determines a new specialized long-term care facility is needed, the  
12 new specialized long-term care facility shall:

13 (1) Have at least 90 beds;

14           (2) Be located within a five-mile radius of the current facility with preference being given  
15 to locating the facility on the property of the current Jackie Withrow Hospital; and

16           (3) May admit only specialized long-term care residents.

17           (d) Any licensed beds remaining above the 90 beds required in subsection (c) of this  
18 section shall remain licensed as specialized long-term care facility beds and may only be used by  
19 specialized long-term care residents.

20           (e) This section is not subject to the purchasing requirements of article three, chapter five-  
21 a of this code.

22           (f) Sales and transfers pursuant to this section are exempt from certificate of need  
23 requirements provided in article two-d, chapter sixteen of this code.

24           (g) Sales and transfers under this section are exempt from Medicaid rules and policies.

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

27           (i) The Department of Health and Human Resources, in consultation with the Division of  
28 Personnel, the Consolidated Public Retirement Board and any other state agency as applicable,  
29 shall prepare a benefit package for employees of Jackie Withrow Hospital who are laid off,  
30 employed by a successor company or retire as a result of the divestment. Such benefits may  
31 include, but are not limited to, investment in retraining, placement on the Division of Personnel's  
32 reemployment list with preference, the purchase of actuarially sound years of service based on  
33 prior years of service with Jackie Withrow Hospital or its predecessors or any other benefits  
34 otherwise permitted under state law. The Division of Personnel, the Consolidated Public  
35 Retirement Board and any other necessary state agency shall cooperate and take any such action  
36 as necessary to implement such benefit package. Benefits packages as described in this  
37 subsection may be funded by the Jackie Withrow Long Term Care Facility Development Fund.  
38 As used in this subsection "successor company" means any company who purchases any of the  
39 assets as described in subsection (a) of this section: *Provided*, That no provision of this subsection

40 may be construed to require any further appropriation by the Legislature: *Provided, however,* That  
41 the Department of Health and Human Resources shall enter into a memorandum of  
42 understanding with the Division of Personnel, the Consolidated Public Retirement Board, and the  
43 Public Employees Insurance Agency prior to implementation of any benefit package with any  
44 employee which must state any cost to any affected retirement system and that this cost is to be  
45 paid by the Department of Health and Human Resources. No benefit package may be granted  
46 unless memoranda of understanding are filed with the Division of Personnel, the Consolidated  
47 Public Retirement Board, and the Public Employees Insurance Agency, and the agreement of the  
48 Department of Health and Human Resources to pay the same by a date certain, or if there is not  
49 cost, the agreement of the parties to the same. Any benefit package granted without such  
50 memoranda of understanding is unlawful.

51 (j) The secretary shall prepare a complete accounting of all assets to the Joint Committee  
52 on Government and Finance.

53 (k) There is created in the state treasury a special revenue account to be known as the  
54 “Jackie Withrow Long Term Care Facility Development Fund”. The fund shall consist of  
55 appropriations to effectuate the purposes of this section and any revenue or sales proceeds  
56 derived from activities provided for in accordance with this section. Expenditures from the fund  
57 are for the purposes set forth in this section and are not authorized from collections but are to be  
58 made only in accordance with appropriation by the Legislature and in accordance with the  
59 provisions of article three, chapter twelve of this code.

60 (l) For the purposes of this section a “specialized long-term care facility” means a facility  
61 that serves residents who:

62 (1) Are high acuity patients; and

63 (2) May present as a danger to themselves or others, may have a criminal background,  
64 residents with psychiatric and behavioral disorders, traumatic brain injury with varying

65 neurological disorders, geri-psychiatric, individuals with intellectual and developmental  
66 disabilities, as well as Alzheimer's disease or dementia with combative behaviors.

67 (m) This section shall be construed broadly as to provide the secretary with the latitude to  
68 accomplish the goals of this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2017.

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*Governor*