

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 1011

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Health and Human

Resources; reported on May 24, 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; 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 §9-5-26, 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 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 Hopemont 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) If the secretary determines a new specialized long-term care facility is needed, the new
12 specialized long-term care facility shall:

13 (1) Have at least sixty beds;

14 (2) Be located in the State of West Virginia within a five-mile radius of the current facility
15 with preference being given to locating the facility on the property of the current Hopemont
16 Hospital; and

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

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

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

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

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

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

28 (i) The Department of Health and Human Resources, in consultation with the Division of
29 Personnel, the Consolidated Public Retirement Board and any other state agency as applicable,
30 shall prepare a benefit package for employees of Hopemont Hospital who are laid off, employed
31 by a successor company or retire as a result of the divestment. Such benefits may include, but
32 are not limited to, investment in retraining, placement on the Division of Personnel's
33 reemployment list with preference, the purchase of actuarially sound years of service based on
34 prior years of service with Hopemont Hospital or its predecessors or any other benefits otherwise
35 permitted under state law. The Division of Personnel, the Consolidated Public Retirement Board
36 and any other necessary state agency shall cooperate and take any such action as necessary to
37 implement such benefit package. Benefits packages as described in this subsection may be
38 funded by the Hopemont Long Term Care Facility Development Fund. As used in this subsection,

39 “successor company” means any company who purchases any of the assets as described in
40 subsection (a) of this section: *Provided*, That no provision of this subsection may be construed to
41 require any further appropriation by the Legislature: *Provided, however*, That the Department of
42 Health and Human Resources shall enter into a memoranda of understanding with the Division
43 of Personnel, the Consolidated Public Retirement Board and the Public Employees Insurance
44 Agency prior to implementation of any benefit package with any employee which must state any
45 cost to any affected retirement system and that this cost is to be paid by the Department of Health
46 and Human Resources. No benefit package may be granted unless memoranda of understanding
47 are filed with the Division of Personnel, the Consolidated Public Retirement Board and the Public
48 Employees Insurance Agency, and the agreement of the Department of Health and Human
49 Resources to pay the same by a date certain, or if there is not cost, the agreement of the parties
50 to the same. Any benefit package granted without such 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 Hopemont Long Term Care Facility Development Fund. The fund shall consist of appropriations
55 to effectuate the purposes of this section and any revenue or sales proceeds derived from
56 activities provided for in accordance with this section. Expenditures from the fund are for the
57 purposes set forth in this section and are not authorized from collections but are to be made only
58 in accordance with appropriation by the Legislature and in accordance with the provisions of
59 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.