

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

**Introduced**

**Senate Bill 1012**

**FISCAL  
NOTE**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

[BY REQUEST OF THE EXECUTIVE]

[Introduced May 24, 2017; Referred

to the Committee on Health and Human Resources]

1 A BILL 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 exempting certain laws; creating a fund; implementing a benefits package for employees;  
 5 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 §9-5-25, 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 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 Jackie Withrow 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 Legislative Oversight Commission Health and Human Resources  
 9 Accountability, pursuant to state law.

10 (c) This section is not subject to the purchasing requirements of article three, chapter five-  
 11 a of this code.

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

14 (e) Sales and transfers under this section are exempt from Medicaid rules and policies.

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

17           (g) The department, in consultation with the Division of Personnel, the Consolidated Public  
18 Retirement Board, and any other state agency as applicable, shall prepare a benefit package for  
19 employees of Jackie Withrow Hospital who are laid off, employed by a successor company or  
20 retire as a result of the divestment. Such benefits may include, but are not limited to, investment  
21 in retraining, placement on the Division of Personnel's reemployment list with preference, the  
22 purchase of actuarially sound years of service based on prior years of service with Jackie Withrow  
23 Hospital or its predecessors, or any other benefits otherwise permitted under state law. The  
24 Division of Personnel, the Consolidated Public Retirement Board and any other necessary state  
25 agency shall cooperate and take any such action as necessary to implement such benefit  
26 package. Benefits packages as described in this subsection may be funded by the Jackie Withrow  
27 Long-Term Care Facility Development Fund. As used in this subsection "successor company"  
28 means any company who purchases any of the assets as described in subsection (a) of this  
29 section: *Provided*, That no provision of this subsection may be construed to require any further  
30 appropriation by the Legislature: *Provided, however*, that the Department of Health and Human  
31 Resources shall enter into memoranda of understanding with the Division of Personnel, the  
32 Consolidated Public Retirement Board, and the Public Employees Insurance Agency prior to  
33 implementation of any benefit package with any employee which must state any cost to any  
34 affected retirement system and that this cost is to be paid by the Department of Health and Human  
35 Resources. No benefit package may be granted unless memoranda of understanding are filed  
36 with the Division of Personnel, the Consolidated Public Retirement Board, and the Public  
37 Employees Insurance Agency, and the agreement of the Department of Health and Human  
38 Resources to pay the same by a date certain, or if there is not cost, the agreement of the parties  
39 to the same. Any benefit package granted without such memoranda of understanding is unlawful.

40           (h) The secretary shall prepare a complete accounting of all assets to the Joint Committee  
41 on Government and Finance.

42           (i) There is created in the State Treasury a special revenue account to be known as the

43 “Jackie Withrow Long-Term Care Facility Development Fund” The fund shall consist of  
44 appropriations to effectuate the purposes of this section and any revenue or sales proceeds  
45 derived from activities provided for in accordance with this section. Expenditures from the fund  
46 are for the purposes set forth in this section and are not authorized from collections but are to be  
47 made only in accordance with appropriation by the Legislature and in accordance with the  
48 provisions of article three, chapter twelve of this code.

49 (j) This section shall be construed broadly as to provide the secretary with the latitude to  
50 accomplish the goals of this section.

NOTE: The purpose of this bill is to require the selling of Jackie Withrow Hospital by the Secretary of the Department of Health and Human Resources.

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