

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2366

BY DELEGATES ELLINGTON AND SUMMERS

[Originating in the Committee on Finance;

March 20, 2017]

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 LOCHRA, pursuant to state law.

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

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

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

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

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

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

48 (j) This section shall be construed broadly as to provide the secretary with the latitude to
49 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.