

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

Committee Substitute

for

Senate Bill 486

SENATORS TAKUBO AND STOLLINGS, *original sponsors*

[Passed April 7, 2017; to take effect July 1, 2017]

1 AN ACT to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended,
2 relating to health care provider taxes; making conforming amendments consistent with
3 federal law; changing the rate of tax on eligible acute care hospitals for fiscal year 2018;
4 modifying eligibility criteria for “eligible acute care hospital”; removing conditions precedent
5 for taxation; changing condition precedent for the automatic suspension of taxation;
6 specifying purposes for which funds may be collected; providing for distribution of
7 remaining funds at the end of fiscal year; providing for an effective date; and extending
8 the expiration date for the tax.

Be it enacted by the Legislature of West Virginia:

1 That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

1 (a) In addition to the rate of the tax imposed by sections nine and fifteen of this article on
2 providers of inpatient and outpatient hospital services, there is imposed on certain eligible acute
3 care hospitals an additional tax of seventy-five one-hundredths of one percent on the gross
4 receipts received or receivable by eligible acute care hospitals that provide inpatient or outpatient
5 hospital services in this state through a directed payment program, or its successor, in accordance
6 with 42 C. F. R. 438.6.

7 (b) For purposes of this section, the term “eligible acute care hospital” means any inpatient
8 or outpatient hospital conducting business in this state that is not:

9 (1) A state-owned or -designated facility;

10 (2) A critical access hospital, designated as a critical access hospital after meeting all
11 federal eligibility criteria;

12 (3) A licensed free-standing psychiatric or medical rehabilitation hospital; or

13 (4) A licensed long-term acute care hospital.

14 (c) There is continued a special revenue account in the State Treasury designated the
15 Medicaid State Share Fund. The amount of taxes collected under this section, including any
16 interest, additions to tax and penalties collected under article ten of this chapter, less the amount
17 of allowable refunds, the amount of any interest payable with respect to such refunds and costs
18 of administration and collection, shall be deposited into the Special Revenue Fund and may not
19 revert to general revenue. The Tax Commissioner shall establish and maintain a separate account
20 and accounting for the funds collected under this section in an account to be designated as the
21 Eligible Acute Care Provider Enhancement Account. The amounts collected shall be deposited,
22 within fifteen days after receipt by the Tax Commissioner, into the Eligible Acute Care Provider
23 Enhancement Account. Disbursements from the Eligible Acute Care Provider Enhancement
24 Account within the Medicaid State Share Fund may only be used to support West Virginia
25 Medicaid and the directed payment program, or its successor, in accordance with 42 C. F. R.
26 438.6 and as otherwise set forth in this section.

27 (d) The imposition and collection of taxes imposed by this section is suspended
28 immediately upon the occurrence of any of the following:

29 (1) The effective date of any action by Congress that would disqualify the taxes imposed
30 by this section from counting toward state Medicaid funds available to be used to determine the
31 federal financial participation;

32 (2) The effective date of any decision, enactment or other determination by the Legislature
33 or by any court, officer, department, agency or office of state or federal government that has the
34 effect of disqualifying the tax from counting toward state Medicaid funds available to be used to
35 determine federal financial participation for Medicaid matching funds or creating for any reason a
36 failure of the state to use the assessment of the Medicaid program as described in this section;
37 and

38 (3) If the tax payments remitted by the eligible acute care hospitals are not used to
39 effectuate the provisions of this article.

40 (e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of
41 June 30, 2017, shall be transferred to the West Virginia Medical Services Fund. This transfer shall
42 occur no later than September 30, 2017. These funds shall be used during state fiscal year 2018
43 at the discretion of the Bureau for Medical Services.

44 (f) The changes to the tax rate in this section enacted in the 2017 regular session are
45 effective July 1, 2017.

46 (g) The tax imposed by this section expires on and after June 30, 2018, unless otherwise
47 extended by the Legislature.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2017.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2017.

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Governor