

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

### Introduced

## Senate Bill 553

FISCAL  
NOTE

BY SENATORS SYPOLT, AZINGER, CLEMENTS, GRADY,  
HAMILTON, KARNES, MARTIN, MAYNARD, PHILLIPS,  
ROBERTS, SMITH, STOVER, SWOPE, TAKUBO, TARR,  
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[Introduced February 01, 2022; referred  
to the Committee on Government Organization; and  
then to the Committee on Finance]

1 A BILL to amend and reenact §16-29B-8, §16-29B-24, and §16-29B-25 of the Code of West  
 2 Virginia, 1931, as amended, all relating to the powers of the West Virginia Health Care  
 3 Authority; removing authority to adopt, amend, and repeal policy guidelines; making  
 4 technical changes; requiring legislative rulemaking regarding the Uniform Bill; permitting  
 5 fees for custom data request; and requiring the Secretary of the Department of Health and  
 6 Human Resources to give notice and file legislative rules when assuming the West Virginia  
 7 Health Care Authority's data repository powers and duties.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 29B. HEALTH CARE AUTHORITY.**

**§16-29B-8. Powers generally; budget expenses of the authority.**

1 (a) The authority may:

2 (1) ~~Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in~~  
 3 ~~in~~ cooperation with the secretary, propose legislative rules in accordance with §29A-3-1 *et seq.*  
 4 of this code;

5 (2) Hold public hearings, conduct investigations and require the filing of information  
 6 relating to matters affecting the costs of health care services subject to the provisions of this article  
 7 and may subpoena witnesses, papers, records, documents and all other data in connection  
 8 therewith. The board may administer oaths or affirmations in any hearing or investigation;

9 (3) Exercise, subject to limitations or restrictions herein imposed, all other powers which  
 10 are reasonably necessary or essential to effect the express objectives and purposes of this article.

11 ~~(4) Assess a fee on a pro-rata basis on hospitals, except critical access hospital, using net~~  
 12 ~~patient revenue, as defined under generally accepted accounting principles. The assessment~~  
 13 ~~may not exceed a total five one hundredths of one percent of its net patient revenue in a fiscal~~  
 14 ~~year. The amount of the assessment shall be determined by the authority based upon the~~  
 15 ~~information provided in a hospital's most recent audited financial statement. The authority shall~~  
 16 ~~collect the assessment on a semi-annual basis. Two hundred and fifty thousandths of one percent~~

17 ~~shall be collected on July 1<sup>st</sup>. The amount of the second assessment shall be based upon the~~  
18 ~~projected expenses to perform the duties consistent with article twenty-nine-b, chapter sixteen,~~  
19 ~~and article two-d, chapter sixteen, but may not exceed two hundred and fifty thousandths of one~~  
20 ~~percent and shall be collected after the first of January of the next year. The assessment shall be~~  
21 ~~paid into the state treasury and kept as a special revolving fund designated "Health Care Cost~~  
22 ~~Review Fund", with the moneys in the fund being expendable after appropriation by the~~  
23 ~~Legislature for purposes consistent with article twenty-nine-b, chapter sixteen, article two-d,~~  
24 ~~chapter sixteen. The Secretary may use any balance remaining in the "Health Care Cost Review~~  
25 ~~Fund" at the end of June 30, 2017 to support the financial viability of certain critical access~~  
26 ~~hospitals that operate rural health clinics in West Virginia. Any balance remaining in the fund at~~  
27 ~~the end of June 30, 2018 and thereafter shall not revert to the treasury, but shall remain in said~~  
28 ~~fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal~~  
29 ~~years. The assessment shall terminate on July 1, 2020.~~

30 ~~(b) The Legislature finds that health care services will be disrupted and important data~~  
31 ~~could be lost which could create significant hardships upon health care providers and the citizens~~  
32 ~~of this state, therefore an emergency exists and the authority shall promulgate emergency rules~~  
33 ~~pursuant to the provisions of section fifteen, article three, chapter twenty-nine of this code, to~~  
34 ~~effectuate the changes in this article by July 1, 2017~~

**§16-29B-24. Reports required to be filed.**

1 (a) A covered facility, within one hundred twenty days after the end of its fiscal year, unless  
2 an extension be granted by the authority, shall file with the authority its annual financial report  
3 prepared by an accountant or auditor.

4 (b) A covered facility, if applicable by legislative rule, shall submit upon request of the  
5 authority but at least annually:

6 (1) A statement of charges for all services rendered, except a behavioral health facility  
7 shall submit its gross rates for its top thirty services by utilization;

8 (2) The Health Care Authority Financial Report, through the Uniform Reporting System;

9 (3) The current Uniform Bill form in effect for inpatients. This data is not subject to the  
10 provisions of §16-29B-25(f) of this code: Provided, That the authority, in cooperation with the  
11 secretary, shall propose rules for legislative approval in accordance with the provisions of §29A-  
12 3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during  
13 its regular session in the year 2023. The legislative rule shall include the following:

14 (A) Procedures for the collection, retention, use, and disclosure of data from the Uniform  
15 Bill database, including provisions and safeguards to protect the privacy, integrity, confidentiality,  
16 and availability of any data;

17 (i) Procedures for the collection of required data elements, required data format, code  
18 tables, edit specifications, thresholds required for a submission to be deemed complete, methods  
19 for submitting data, and submission schedules.

20 (B) Fees not to exceed \$50 per custom data request payable by users of the data, if any;

21 (C) All other existing policies, manuals, and guidelines regarding the submission of  
22 Uniform Bill data promulgated by the authority will be repealed as of the effective date of the  
23 legislative rule or July 1, 2024, whichever comes first.

24 (c) The authority may request from a covered facility, except hospitals, the information  
25 from §16-29B-24(a) and §16-29B-24(b) of this code from its related organization.

26 (d) A home health agency shall annually submit a utilization survey.

27 (e) A covered facility failing to submit a report to the authority shall be notified by the  
28 authority and, if the failure continues for ten days after receipt of the notice, the delinquent facility  
29 or organization is subject to a penalty of \$1,000 for each day thereafter that the failure continues.

**§16-29B-25. Data repository.**

1 (a) The authority shall:

2 (1) Coordinate and oversee the health data collection of state agencies;

3 (2) Lead state agencies' efforts to make the best use of emerging technology to effect the

4 expedient and appropriate exchange of health care information and data, including patient records  
5 and reports; and

6 (3) Coordinate database development, analysis and report to facilitate cost management,  
7 review utilization review and quality assurance efforts by state payor and regulatory agencies,  
8 insurers, consumers, providers and other interested parties.

9 (b) A state agency collecting health data shall work through the authority to develop an  
10 integrated system for the efficient collection, responsible use and dissemination of data and to  
11 facilitate and support the development of statewide health information systems that will allow for  
12 the electronic transmittal of all health information and claims processing activities of a state  
13 agency within the state and to coordinate the development and use of electronic health  
14 information systems within state government.

15 (c) The authority shall establish minimum requirements and issue reports relating to  
16 information systems of state health programs, including simplifying and standardizing forms and  
17 establishing information standards and reports for capitated managed care programs;

18 (d) The authority shall develop a comprehensive system to collect ambulatory health care  
19 data.

20 (e) The authority may access any health-related database maintained or operated by a  
21 state agency for the purposes of fulfilling its duties. The use and dissemination of information from  
22 that database shall be subject to the confidentiality provisions applicable to that database.

23 (f) A report, statement, schedule or other filing may not contain any medical or individual  
24 information personally identifiable to a patient or a consumer of health services, whether directly  
25 or indirectly.

26 (g) A report, statement, schedule or other filing filed with the authority is open to public  
27 inspection and examination during regular hours. A copy shall be made available to the public  
28 upon request upon payment of a fee.

29 (h) The authority may require the production of any records necessary to verify the

30 accuracy of any information set forth in any statement, schedule or report filed under the  
31 provisions of this article.

32 (i) The authority may provide requested aggregate data to an entity. The authority may  
33 charge a fee to an entity to obtain the data collected by the authority. The authority may not  
34 charge a fee to a covered entity to obtain the data collected by the authority.

35 (j) The authority shall provide to the Legislative Oversight Commission on Health and  
36 Human Resources Accountability before July 1, 2018, and every other year thereafter, a strategic  
37 data collection and analysis plan:

38 (1) What entities are submitting data;

39 (2) What data is being collected;

40 (3) The types of analysis performed on the submitted data;

41 (4) A way to reduce duplicative data submissions;

42 (5) The current and projected expenses to operate the data collection and analysis  
43 program.

44 (k) The Secretary of the Department of Health and Human Resources may assume the  
45 powers and duties provided to the authority in this section, if the Secretary determines it is more  
46 efficient and cost effective to have direct control over the data repository program. To the extent  
47 that the secretary assumes the powers and duties in this section, the secretary shall inform the  
48 Legislative Oversight Commission on Health and Human Resources Accountability by July 1,  
49 2023, and on July 1 of each year thereafter, regarding each program for which he or she is  
50 exercising such authority and shall propose rules for legislative approval in accordance with the  
51 provisions of §29A-3-1 et seq. of this code within the time limit to be considered by the Legislature  
52 during its next regular session. In the event that the secretary has already assumed the powers  
53 and duties provided to the authority in this section, the secretary shall propose rules for legislative  
54 approval in accordance with the provisions of §29A-3-1 et seq. of this code within the time limit to  
55 be considered by the Legislature during its regular session in the year 2023.

NOTE: The purpose of this bill is to remove the power of the West Virginia Health Care Authority to adopt, amend, or repeal lawful policy guidelines and to require the authority, in cooperation with the DHHR secretary to file a legislative rule regarding collection, retention and use of Uniform Bill data. The bill sets a fee for the request for custom data requests for Uniform Bill data. Requiring the Secretary of the Department of Health and Human Resources to file a report with the Legislative Oversight Commission on Health and Human Resources regarding his or her assumption of the West Virginia Health Care Authority's data repository powers and duties and the filing of a legislative rule.

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