

FILED

2013 APR 30 PM 2:41

SB195

**WEST VIRGINIA LEGISLATURE**

**EIGHTY-FIRST LEGISLATURE**

**REGULAR SESSION, 2013**



**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 195**

(SENATORS STOLLINGS, JENKINS, KIRKENDOLL, LAIRD, MILLER,  
PALUMBO, PLYMALE, PREZIOSO, TUCKER, YOST, BOLEY,  
M. HALL AND BEACH, *ORIGINAL SPONSORS*)

[PASSED APRIL 12, 2013; TO TAKE EFFECT JULY 1, 2013.]

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SENATE OF STATE

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**Senate Bill No. 195**

(SENATORS STOLLINGS, JENKINS, KIRKENDOLL, LAIRD, MILLER,  
PALUMBO, PLYMALE, PREZIOSO, TUCKER, YOST, BOLEY, M. HALL  
AND BEACH, *original sponsors*)

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[Passed April 12, 2013; to take effect July 1, 2013.]

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AN ACT to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying the expiration date for tax rate on eligible acute care hospitals; changing the tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

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

That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and 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
- 2 nine and fifteen of this article on providers of inpatient and
- 3 outpatient hospital services, there shall be imposed on certain

4 eligible acute care hospitals an additional tax of forty-five  
5 one hundredths of one percent on the gross receipts received  
6 or receivable by eligible acute care hospitals that provide  
7 inpatient or outpatient hospital services in this state through  
8 a Medicaid upper payment limit program. For purposes of  
9 this section, the term “eligible acute care hospital” means any  
10 inpatient or outpatient hospital conducting business in this  
11 state that is not: (1) A state-owned or -designated facility; (2)  
12 a nonstate, but government-owned facility such as a county  
13 or city hospital; (3) a critical access hospital, designated as a  
14 critical access hospital after meeting all federal eligibility  
15 criteria; (4) a licensed free-standing psychiatric or medical  
16 rehabilitation hospital; or (5) a licensed long-term acute care  
17 hospital.

18 (b) The taxes imposed by this section may not be imposed  
19 or collected until all of the following have occurred: (1) A  
20 state plan amendment is developed by the Bureau of Medical  
21 Services, as authorized by the Secretary of the Department of  
22 Health and Human Resources; (2) the state plan amendment  
23 is reviewed by the Medical Fund Services Advisory Council;  
24 (3) a comment period of not less than thirty days for public  
25 comment on the state plan amendment shall have passed; and  
26 (4) the state plan amendment is approved by the Centers for  
27 Medicare and Medicaid Services. The state plan amendment  
28 shall include all of the following: (1) The provisions of the  
29 proposed upper payment limit program or programs; (2) a  
30 state maintenance of effort to maintain adequate Medicaid  
31 funding; and (3) a provision that any other state Medicaid  
32 program will not negatively impact the hospital upper  
33 payment limit payments. The taxes imposed and collected  
34 may be imposed and collected beginning on the earliest date  
35 permissible under applicable federal law under the upper  
36 payment limit program, as determined by the West Virginia  
37 Secretary of Health and Human Resources.

38 (c) There is hereby created a special revenue account in  
39 the State Treasury, designated the Medicaid State Share  
40 Fund. The amount of taxes collected under this section,  
41 including any interest, additions to tax and penalties collected  
42 under article ten of this chapter, less the amount of allowable  
43 refunds, the amount of any interest payable with respect to  
44 such refunds, and costs of administration and collection, shall  
45 be deposited into the Special Revenue Fund and shall not  
46 revert to general revenue. The Tax Commissioner shall  
47 establish and maintain a separate account and accounting for  
48 the funds collected under this section, in an account to be  
49 designated as the Eligible Acute Care Provider Enhancement  
50 Account. The amounts collected shall be deposited, within  
51 fifteen days after receipt by the Tax Commissioner, into the  
52 Eligible Acute Care Provider Enhancement Account.  
53 Disbursements from the Eligible Acute Care Provider  
54 Enhancement Account within the Medicaid State Share Fund  
55 may only be used as set forth in this section.

56 (d) The imposition and collection of taxes imposed by  
57 this section shall be suspended immediately upon the  
58 occurrence of any of the following: (1) The effective date of  
59 any action by Congress that would disqualify the taxes  
60 imposed by this section from counting towards state  
61 Medicaid funds available to be used to determine the federal  
62 financial participation; (2) the effective date of any decision,  
63 enactment or other determination by the Legislature or by any  
64 court, officer, department, agency of office of state or federal  
65 government that has the effect of disqualifying the tax from  
66 counting towards state Medicaid funds available to be used  
67 to determine federal financial participation for Medicaid  
68 matching funds, or creating for any reason a failure of the  
69 state to use the assessment of the Medicaid program as  
70 described in this section; and (3) the effective date of an  
71 appropriation for any state fiscal year for hospital payments  
72 under the state Medicaid program that is less than the amount  
73 appropriate for state fiscal year ending June 30, 2011. Fifty

74 percent of any funds remaining in the Eligible Acute Care  
75 Provider Enhancement Account as of June 30, 2013, shall be  
76 transferred to the West Virginia Medical Services Fund. This  
77 transfer shall occur no later than September 30, 2013. These  
78 funds shall be used during state fiscal year 2014 at the  
79 discretion of the Bureau of Medical Services. The remaining  
80 fifty percent of any funds in the Eligible Acute Care Provider  
81 Enhancement Account as of June 30, 2013, shall remain in  
82 the Eligible Acute Care Provider Enhancement Account, and  
83 shall be used in state fiscal year 2014. If the program expires  
84 on June 30, 2014, as set forth in subsection (f), fifty percent  
85 of any funds remaining as of June 30, 2015, shall be  
86 transferred on that date to the West Virginia Medical Services  
87 Fund. This transfer shall occur only after state fiscal year  
88 2014 fourth quarter tax collections and program payments.  
89 The remaining fifty percent of the funds shall be distributed  
90 to the eligible acute care providers no later than June 30,  
91 2015. The distribution of funds to the eligible acute care  
92 providers shall be made in the same proportion as the taxes  
93 paid by the eligible acute care providers into the Eligible  
94 Acute Care Provider Enhancement Fund during state fiscal  
95 year 2014.

96 (e) The provisions of this section are retroactive and shall  
97 become effective on the first day of the quarter in which the  
98 state plan amendment is submitted.

99 (f) The tax imposed by this section shall expire on and  
100 after June 30, 2014, unless otherwise extended by the  
101 Legislature.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2013.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

2013 APR 30 PM 2:41  
SECRETARY OF STATE  
STATE OF TEXAS

The within *is approved* this the *30th*  
Day of *April*, 2013.

*[Signature]*  
.....  
Governor

**PRESENTED TO THE GOVERNOR**

**APR 23 2013**

**Time** 1:20 pm