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.]
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 nine and fifteen of this article on providers of inpatient and outpatient hospital services, there shall be imposed on certain
eligible acute care hospitals an additional tax of forty-five
one hundredths of one percent on the gross receipts received
or receivable by eligible acute care hospitals that provide
inpatient or outpatient hospital services in this state through
a Medicaid upper payment limit program. For purposes of
this section, the term "eligible acute care hospital" means any
inpatient or outpatient hospital conducting business in this
state that is not: (1) A state-owned or -designated facility; (2)
a nonstate, but government-owned facility such as a county
or city hospital; (3) a critical access hospital, designated as a
critical access hospital after meeting all federal eligibility
criteria; (4) a licensed free-standing psychiatric or medical
rehabilitation hospital; or (5) a licensed long-term acute care
hospital.

(b) The taxes imposed by this section may not be imposed
or collected until all of the following have occurred: (1) A
state plan amendment is developed by the Bureau of Medical
Services, as authorized by the Secretary of the Department of
Health and Human Resources; (2) the state plan amendment
is reviewed by the Medical Fund Services Advisory Council;
(3) a comment period of not less than thirty days for public
comment on the state plan amendment shall have passed; and
(4) the state plan amendment is approved by the Centers for
Medicare and Medicaid Services. The state plan amendment
shall include all of the following: (1) The provisions of the
proposed upper payment limit program or programs; (2) a
state maintenance of effort to maintain adequate Medicaid
funding; and (3) a provision that any other state Medicaid
program will not negatively impact the hospital upper
payment limit payments. The taxes imposed and collected
may be imposed and collected beginning on the earliest date
permissible under applicable federal law under the upper
payment limit program, as determined by the West Virginia
Secretary of Health and Human Resources.
(c) There is hereby created a special revenue account in the State Treasury, designated the Medicaid State Share Fund. The amount of taxes collected under this section, including any interest, additions to tax and penalties collected under article ten of this chapter, less the amount of allowable refunds, the amount of any interest payable with respect to such refunds, and costs of administration and collection, shall be deposited into the Special Revenue Fund and shall not revert to general revenue. The Tax Commissioner shall establish and maintain a separate account and accounting for the funds collected under this section, in an account to be designated as the Eligible Acute Care Provider Enhancement Account. The amounts collected shall be deposited, within fifteen days after receipt by the Tax Commissioner, into the Eligible Acute Care Provider Enhancement Account. Disbursements from the Eligible Acute Care Provider Enhancement Account within the Medicaid State Share Fund may only be used as set forth in this section.

(d) The imposition and collection of taxes imposed by this section shall be suspended immediately upon the occurrence of any of the following: (1) The effective date of any action by Congress that would disqualify the taxes imposed by this section from counting towards state Medicaid funds available to be used to determine the federal financial participation; (2) the effective date of any decision, enactment or other determination by the Legislature or by any court, officer, department, agency of office of state or federal government that has the effect of disqualifying the tax from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds, or creating for any reason a failure of the state to use the assessment of the Medicaid program as described in this section; and (3) the effective date of an appropriation for any state fiscal year for hospital payments under the state Medicaid program that is less than the amount appropriate for state fiscal year ending June 30, 2011. Fifty
percent of any funds remaining in the Eligible Acute Care Provider Enhancement Account as of June 30, 2013, shall be transferred to the West Virginia Medical Services Fund. This transfer shall occur no later than September 30, 2013. These funds shall be used during state fiscal year 2014 at the discretion of the Bureau of Medical Services. The remaining fifty percent of any funds in the Eligible Acute Care Provider Enhancement Account as of June 30, 2013, shall remain in the Eligible Acute Care Provider Enhancement Account, and shall be used in state fiscal year 2014. If the program expires on June 30, 2014, as set forth in subsection (f), fifty percent of any funds remaining as of June 30, 2015, shall be transferred on that date to the West Virginia Medical Services Fund. This transfer shall occur only after state fiscal year 2014 fourth quarter tax collections and program payments. The remaining fifty percent of the funds shall be distributed to the eligible acute care providers no later than June 30, 2015. The distribution of funds to the eligible acute care providers shall be made in the same proportion as the taxes paid by the eligible acute care providers into the Eligible Acute Care Provider Enhancement Fund during state fiscal year 2014.

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

(f) The tax imposed by this section shall expire on and after June 30, 2014, unless otherwise extended by the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originated in the Senate.

To take effect July 1, 2013.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker of the House of Delegates

[Signature]

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

Governor

[Signature]
PRESENTED TO THE GOVERNOR

APR 23 2013

Time 1:20 pm