

SENATE BILL 938

J3, K3

0lr1396
CF HB 1571

By: ~~Senator Hayes~~ Senators Hayes, Hershey, Kelley, Feldman, Augustine, Beidle, Benson, Jennings, Klausmeier, Kramer, and Reilly

Introduced and read first time: February 3, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2020

CHAPTER _____

1 AN ACT concerning

2 **Hospitals – Changes in Status – Hospital Employee Retraining and Placement**

3 FOR the purpose of ~~requiring each hospital~~ providing that the assessment of a certain fee
4 by the State Health Services Cost Review Commission for funding the Hospital
5 Employees Retraining Fund is to be in the case of a hospital closure, merger, or full
6 delicensure; altering the circumstances under which hospitals are required to pay a
7 certain fee directly to the Maryland Department of Labor on a certain date each year;
8 requiring certain hospitals to pay a certain direct remittance to the Department on
9 a certain date each year; requiring the Secretary of Labor to pay certain fees
10 remittances into a certain fund the Fund; requiring the State Health Services Cost
11 Review Commission to collect certain additional fees for a certain purpose under
12 certain circumstances; authorizing the Commission to require certain hospitals to
13 pay to the Department a certain remittance for a certain purpose under certain
14 circumstances; prohibiting the Commission from raising certain rates as part of a
15 certain update factor for a certain purpose; requiring each hospital and certain
16 employee organizations to submit certain reports to the Commission and the
17 Department; altering the purposes of a certain program required to be established
18 by the Department; requiring that a certain program include certain job-seeking
19 assistance and training and skills development; requiring that a certain program to
20 require that the hospital work with certain persons for a certain purpose; authorizing
21 the Department to use certain other programs before using a certain program
22 established under a certain provision of law; authorizing the Department to use
23 vendors for certain purposes and to pay the vendors using a certain fund; requiring
24 that certain unexpended funds be returned to certain hospitals on a certain basis;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



requiring the Department, in conjunction with the Commission, to submit a certain report to certain committees of the General Assembly on or before a certain date; requiring certain money to be returned to certain hospitals under certain circumstances; defining certain terms; making conforming and stylistic changes; providing for the termination of this Act; and generally relating to the retraining and placement of hospital employees related to changes in hospital status.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–223 and 19–326.1

Annotated Code of Maryland

(2019 Replacement Volume)

~~BY adding to~~

~~Article – Health – General~~

~~Section 19–326.1 and 19–326.2~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume)~~

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 11–201

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–223.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CLOSURE” MEANS THE COMPLETE CESSATION OF ALL SERVICES IN A HEALTH CARE FACILITY WHOSE RATES ARE SET BY THE COMMISSION.

(3) “FULL DELICENSURE” MEANS THE TOTAL WITHDRAWAL BY THE SECRETARY OF THE LICENSE TO OPERATE SERVICES IN ACCORDANCE WITH THE PROCESS ESTABLISHED UNDER § 19–325 OF THIS TITLE.

(4) “MERGER” MEANS THE UNION OF TWO OR MORE HOSPITALS BY THE TRANSFER OF ALL THE PROPERTY OF ONE OR MORE OF THE HOSPITALS TO ONE OF THE HOSPITALS THAT CONTINUES TO EXIST.

(B) The Commission shall assess a fee on all hospitals whose rates have been approved by the Commission to pay for:

(1) To the extent provided for in Title 10, Subtitle 3, Part IV of the Economic Development Article, the amounts required by § 10–350 of the Economic Development Article with respect to public obligations or closure costs of a closed or delicensed hospital; and

(2) Funding the Hospital Employees Retraining Fund IN THE CASE OF A HOSPITAL CLOSURE, MERGER, OR FULL DELICENSURE.

~~§~~19–326.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ACQUISITION” MEANS:

(I) ANY TRANSFER OF STOCK OR ASSETS THAT RESULT IN A CHANGE OF THE PERSON OR PERSONS WHO CONTROL A HEALTH CARE FACILITY; OR

(II) THE TRANSFER OF ANY STOCK OR OWNERSHIP INTEREST IN A HEALTH CARE FACILITY IN EXCESS OF 25%.

(3) “CLOSURE” MEANS THE COMPLETE CESSATION OF ALL SERVICES IN A HEALTH CARE FACILITY WHOSE RATES ARE SET BY THE COMMISSION.

(4) “COMMISSION” MEANS THE STATE HEALTH SERVICES COST REVIEW COMMISSION.

(5) “DOWNSIZE” MEANS TO REDUCE THE NUMBER OF EMPLOYEES OF A HEALTH CARE FACILITY BY AT LEAST 17 FULL–TIME EQUIVALENT EMPLOYEES IN ANY CONSECUTIVE 3–MONTH PERIOD.

(6) “FULL DELICENSURE” MEANS THE TOTAL WITHDRAWAL BY THE SECRETARY OF THE LICENSE TO OPERATE SERVICES IN ACCORDANCE WITH THE PROCESS ESTABLISHED UNDER § 19–325 OF THIS SUBTITLE.

(7) “MERGER” MEANS THE UNION OF TWO OR MORE HOSPITALS BY THE TRANSFER OF ALL THE PROPERTY OF ONE OR MORE OF THE HOSPITALS TO ONE OF THE HOSPITALS THAT CONTINUES TO EXIST.

(8) “PARTIAL CLOSURE” MEANS THE CLOSURE OF A SERVICE LINE OF A HEALTH CARE FACILITY WHOSE RATES ARE SET BY THE COMMISSION.

(9) “PARTIAL DELICENSURE” MEANS WITHDRAWAL BY THE SECRETARY OF THE LICENSE TO OPERATE A PORTION OF BEDS OR SERVICES IN A HEALTH CARE FACILITY WHOSE RATES ARE SET BY THE COMMISSION IN ACCORDANCE WITH THE PROCESS ESTABLISHED UNDER § 19-325 OF THIS TITLE.

(10) “SERVICE LINE” MEANS A GROUPING OF SERVICES INTO HIGHER LEVEL CATEGORIES THAT REFLECT SIMILAR CLINICAL DELIVERY.

(B) (1) If a hospital ~~voluntarily~~ closes, merges, or is FULLY delicensed under § 19-325 of this subtitle and workers are displaced, ~~(1) Each~~, EACH hospital shall pay a fee directly to the Maryland Department of Labor.

(2) The fee ~~shall~~ MAY not exceed 0.01 percent of the gross operating revenue for the fiscal year immediately preceding the closure or delicensing of the hospital.

(3) A fee shall only be assessed once for each ~~voluntary~~ closure, merger, or FULL delicensure.

~~(2)~~ (4) The Secretary of Labor shall pay the fees received under this section into the Hospital Employees ~~Training~~ RETRAINING Fund established under § 11-201 of the Labor and Employment Article.~~1~~

~~19-326.1.~~

~~(A)~~ (C) (1) ON JULY 1 EACH YEAR, EACH HOSPITAL REGULATED BY THE COMMISSION SHALL PAY DIRECTLY TO THE MARYLAND DEPARTMENT OF LABOR A FEE DIRECT REMITTANCE EQUAL TO 0.006% OF THE HOSPITAL’S TOTAL GROSS PATIENT ANNUAL REVENUE APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION FOR THE HOSPITAL FOR THE IMMEDIATELY PRECEDING YEAR.

(2) THE SECRETARY OF LABOR SHALL PAY THE FEES REMITTANCE PAID UNDER THIS SECTION INTO THE HOSPITAL EMPLOYEES TRAINING RETRAINING FUND ESTABLISHED UNDER § 11-201 OF THE LABOR AND EMPLOYMENT ARTICLE.

~~(B)~~ (D) IN ANY YEAR, IF THE FUND BALANCE IN THE HOSPITAL EMPLOYEES RETRAINING FUND IS DEPLETED, THE STATE HEALTH SERVICES COST REVIEW COMMISSION SHALL REQUIRE EACH HOSPITAL TO PAY ADDITIONAL FEES TO THE MARYLAND DEPARTMENT OF LABOR A DIRECT REMITTANCE IN ORDER TO ADDRESS THE NEEDS OF ANY PARTIAL CLOSURE, MERGER DOWNSIZING, ACQUISITION, OR PARTIAL DELICENSURE OF A HOSPITAL.

~~19-326.2.~~

(E) THE COMMISSION MAY NOT RAISE HOSPITAL RATES AS PART OF THE ANNUAL UPDATE FACTOR TO OFFSET THE HOSPITALS' DIRECT REMITTANCES TO THE HOSPITAL EMPLOYEES RETRAINING FUND UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION.

(F) EACH HOSPITAL SHALL SUBMIT AN ANNUAL REPORT TO THE ~~HEALTH SERVICES COST REVIEW~~ COMMISSION AND THE MARYLAND DEPARTMENT OF LABOR ON:

(1) THE NUMBER OF HOSPITAL EMPLOYEES DISPLACED DUE TO LAYOFFS; AND

(2) THE CATEGORIES OF HOSPITAL EMPLOYEES DISPLACED DUE TO LAYOFFS; ~~AND~~

~~(3) THE NUMBER OF HOSPITAL EMPLOYEES TO WHOM HOSPITALS DIRECTLY PROVIDED FUNDING FOR RETRAINING PURPOSES.~~

(G) AN ORGANIZATION REPRESENTING HOSPITAL EMPLOYEES THAT RECEIVES FUNDING FROM HOSPITALS FOR THE PURPOSE OF WORKER RETRAINING SHALL SUBMIT AN ANNUAL REPORT TO THE MARYLAND DEPARTMENT OF LABOR AND THE COMMISSION THAT DETAILS THE FUNDING RECEIVED AND THE TRAINING PROVIDED.

Article – Labor and Employment

11–201.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ACQUISITION” MEANS:

(I) ANY TRANSFER OF STOCK OR ASSETS THAT RESULTS IN A CHANGE OF THE PERSON OR PERSONS WHO CONTROL A HEALTH CARE FACILITY; OR

(II) THE TRANSFER OF ANY STOCK OR OWNERSHIP INTEREST IN A HEALTH CARE FACILITY IN EXCESS OF 25%.

(3) “CLOSURE” MEANS THE COMPLETE CESSATION OF ALL SERVICES IN A HEALTH CARE FACILITY WHOSE RATES ARE SET BY THE COMMISSION.

(4) “COMMISSION” MEANS THE STATE HEALTH SERVICES COST REVIEW COMMISSION.

~~(2)~~ (5) “DOWNSIZE” MEANS TO REDUCE THE NUMBER OF EMPLOYEES OF AN ~~ACUTE CARE HOSPITAL LOCATION SITE REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION ENTITY~~ BY AT LEAST 17 FULL-TIME EQUIVALENT EMPLOYEES IN ANY CONSECUTIVE 3-MONTH PERIOD.

(6) “MERGER” MEANS THE UNION OF TWO OR MORE HOSPITALS BY THE TRANSFER OF ALL THE PROPERTY OF ONE OR MORE OF THE HOSPITALS TO ONE OF THE HOSPITALS THAT CONTINUES TO EXIST.

~~(3)~~ (7) “PARTIAL CLOSURE” MEANS TO CLOSE A SERVICE LINE OF AN ACUTE CARE HOSPITAL.

~~(4)~~ (8) “SERVICE LINE” MEANS A GROUPING OF SERVICES INTO HIGHER LEVEL CATEGORIES THAT REFLECT SIMILAR CLINICAL DELIVERY.

[~~(a)~~] (B) (1) The Department shall establish a program for the retraining [and placement] of, AND JOB-SEEKING ASSISTANCE FOR, hospital employees who are NONEXECUTIVE EMPLOYEES, WHO ARE NOT LICENSED PHYSICIANS OR ~~PHYSICAL~~ PHYSICIAN ASSISTANTS, AND WHO ARE unemployed or who may become unemployed as a result of the closing, PARTIAL CLOSURE, delicensing, downsizing, or [possible downsizing] ACQUISITION of a hospital or the merging of hospitals under [§ 19-325] TITLE 19, SUBTITLE 3 of the Health – General Article.

(2) THE PROGRAM ESTABLISHED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) JOB-SEEKING ASSISTANCE WITH AN AFFILIATED HOSPITAL OR HEALTH CARE ENTITY, AN UNAFFILIATED HOSPITAL OR HEALTH CARE ENTITY, OR A NONHEALTH CARE-RELATED POSITION; AND

(II) TRAINING AND SKILLS DEVELOPMENT THROUGH PROGRAMS FUNDED BY THE DEPARTMENT, BY THE HOSPITAL OR HEALTH SYSTEM, OR BY OTHER PROGRAMS AVAILABLE TO PROVIDE TRAINING AND SKILLS DEVELOPMENT.

(C) THE PROGRAM ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL REQUIRE THAT THE HOSPITAL WORK WITH EMPLOYEES AND, IF APPLICABLE, THE EMPLOYEES’ REPRESENTATIVES TO IDENTIFY AVAILABLE AND APPROPRIATE TRAINING OR RETRAINING PROGRAMS THAT MAY BE USED IN ANTICIPATION OF THE CLOSURE, PARTIAL CLOSURE, OR CONVERSION TO A FREESTANDING MEDICAL FACILITY.

1 **(D) BEFORE THE DEPARTMENT USES THE PROGRAM ESTABLISHED UNDER**
2 **SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT MAY USE OTHER PROGRAMS**
3 **IN THE DEPARTMENT TO PROVIDE TRAINING AND ASSISTANCE TO THE HOSPITAL**
4 **EMPLOYEES WHO WOULD BE ELIGIBLE FOR TRAINING AND ASSISTANCE UNDER THE**
5 **PROGRAM.**

6 **(E) THE DEPARTMENT MAY:**

7 **(1) USE VENDORS TO PROVIDE THE SERVICES REQUIRED UNDER THIS**
8 **SECTION; AND**

9 **(2) USE THE FUND ESTABLISHED UNDER SUBSECTION (G) OF THIS**
10 **SECTION TO PAY THE VENDORS.**

11 **[(b)] (F)** The Secretary and the Secretary of Health shall adopt regulations to
12 implement this section.

13 **[(c)] (G)** There is a Hospital Employees Retraining Fund. The Fund shall be
14 used:

15 **(1)** for the purposes described in this section; and

16 **(2)** to pay any and all expenses of the Department in administering this
17 section.

18 **[(d)] (H)** Any unexpended funds remaining in the Hospital Employees
19 Retraining Fund at the end of the fiscal year:

20 **(1)** may not revert to the General Fund of the State; AND

21 **(2) SHALL BE RETURNED TO THE HOSPITALS THAT CONTRIBUTED TO**
22 **THE FUND ON A PRO RATA BASIS.**

23 **(I) (1) ON OR BEFORE SEPTEMBER 30, 2023, THE DEPARTMENT, IN**
24 **CONJUNCTION WITH THE ~~STATE HEALTH SERVICES COST REVIEW~~ COMMISSION,**
25 **SHALL SUBMIT A REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE**
26 **HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH §**
27 **2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF THIS**
28 **SECTION.**

29 **(2) THE REPORT SHALL INCLUDE:**

30 **(I) THE ANNUAL FEE CONTRIBUTED BY EACH HOSPITAL TO THE**
31 **HOSPITAL EMPLOYEES RETRAINING FUND;**

(II) ANY ADDITIONAL FEE REQUIRED BY THE ~~STATE HEALTH SERVICES COST REVIEW~~ COMMISSION UNDER § 19-326.1(B) OF THE HEALTH - GENERAL ARTICLE AND PAID TO THE HOSPITAL EMPLOYEES RETRAINING FUND;

(III) THE ~~QUARTERLY~~ ANNUAL REPORTS SUBMITTED BY EACH HOSPITAL UNDER § ~~19-326.2~~ 19-326.1 OF THE HEALTH - GENERAL ARTICLE;

(IV) THE AMOUNT OF MONEY DRAWN FROM THE HOSPITAL EMPLOYEES RETRAINING FUND FOR RETRAINING PROGRAMS AND THE FUND BALANCE;

(V) THE NUMBER OF ELIGIBLE EMPLOYEES THAT USED THE PROGRAM ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION DURING THE REPORTING PERIOD;

(VI) THE NUMBER OF ELIGIBLE EMPLOYEES THAT USED OTHER PROGRAMS UNDER SUBSECTION (D) OF THIS SECTION; AND

(VII) THE NUMBER OF ELIGIBLE EMPLOYEES DENIED ACCESS TO THE PROGRAM ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION DUE TO FUNDING SHORTAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That any monies remaining in the Hospital Employees Retraining Fund on September 30, 2023, shall be returned to the contributing hospitals, pro rata.

SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020. It shall remain effective for a period of 3 years and, at the end of September 30, 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.