

The Senate Finance Committee offered the following substitute to HB 117:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated,
2 relating to the Indigent Care Trust Fund, so as to establish a segregated account within the
3 Indigent Care Trust Fund; to amend Title 48 of the Official Code of Georgia Annotated,
4 relating to tax revenue and taxation, so as to provide that the person listed on the closing
5 statement as the seller shall be treated as the seller and shall be subject to the withholding and
6 documentation requirements; to change and provide definitions and to thereby provide for
7 sales tax upon certain health care services; to provide for related matters; to provide an
8 effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Article 6 of Chapter 8 of Title 31, relating to the Indigent Care Trust Fund, is amended by
12 adding a new Code section to read as follows:

13 "31-8-152.1.

14 (a) There is established within the trust fund a segregated account for revenues raised
15 through the sales tax on charges defined in subparagraph (H) of paragraph (31) of Code
16 Section 48-8-2. All such revenues shall be credited to the segregated account within the
17 trust fund and shall be invested in the same manner as authorized for investing other
18 moneys in the state treasury.

19 (b) Notwithstanding any other provision of this chapter, the General Assembly is
20 authorized to appropriate as state funds to the department for use in any fiscal year all
21 revenues dedicated and deposited into the segregated account. Such appropriations shall
22 be authorized to be made for the sole purpose of obtaining federal financial participation
23 for medical assistance payments. Any appropriation from the segregated account for any
24 purpose other than such medical assistance payments shall be void.

25 (c) Revenues appropriated to the department pursuant to this Code section shall be used
 26 to match federal funds that are available for the purpose for which such trust funds have
 27 been appropriated.

28 (d) Appropriations from the segregated account to the department shall not lapse to the
 29 general fund at the end of the fiscal year.

30 (e) If the centers for medicare and medicaid services of the United States Department of
 31 Health and Human Services determines that the taxation of charges described in
 32 subparagraph (H) of paragraph (31) of Code Section 48-8-2 constitutes an impermissible
 33 health care-related tax under section 1903(w) of the 'Social Security Act,' 49 Stat. 620
 34 (1935), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the
 35 Commissioner of the Department of Community Health shall notify the tax commissioner
 36 of that determination and the charges described in subparagraph (H) of paragraph (31) of
 37 Code Section 48-8-2 shall not constitute sales for purposes of Article 1 of Chapter 8 of
 38 Title 48.

39 (f) This Code Section shall stand repealed on June 30, 2014."

40 **SECTION 2.**

41 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 42 amended in subsection (b) of Code Section 48-7-128, relating to withholding tax on sale or
 43 transfer of real property and associated tangible personal property by nonresidents, by adding
 44 a new paragraph to read as follows:

45 "(3) The person or entity identified as the seller on the settlement statement shall be
 46 considered the seller for all purposes regarding this Code section, including, but not
 47 limited to, executing and delivering to the buyer or transferee all forms or other
 48 documents incident to determining the appropriate amount of tax to be withheld or the
 49 appropriate amount exempt from withholding requirements."

50 **SECTION 3.**

51 Said title is further amended in paragraph (31) of Code Section 48-8-2, relating to definitions
 52 applicable to sales and use tax, by deleting "or" at the end of subparagraph (F), by replacing
 53 the period with "; or" at the end of subparagraph (G), and by adding a new subparagraph to
 54 read as follows:

55 "(H) Charges made for primary care services, inpatient and outpatient hospital services,
 56 nursing homecare services, home health services, and ancillary services by a person
 57 upon a referral from a SOURCE Case Management Provider. The tax imposed by this
 58 paragraph shall apply only to the services provided that were the subject of a referral

59 from a SOURCE Case Management Provider. This subparagraph shall stand repealed
60 on June 30, 2014."

61 **SECTION 4.**

62 Said title is further amended in said Code section by adding two new paragraphs to read as
63 follows:

64 "(30.1) 'Referral from a SOURCE Case Management Provider' means the authorization
65 of, arrangement for, or coordination of primary care, inpatient and outpatient hospital
66 services, nursing home care, home health services, or ancillary services by a SOURCE
67 Case Management Provider within the scope of the SOURCE Case Management
68 Provider's responsibilities in the Section 1915(c) Home and Community Based Services
69 Medicaid Waiver Program."

70 "(34.1) 'SOURCE Case Management Provider' means an entity that has successfully
71 completed the Georgia Medicaid Enhanced Case Management Application and
72 enrollment process, including any related required training, and has entered into a
73 contract with the Department of Community Health, Division of Medical Assistance to
74 provide the enhanced primary care case management services specified in the Section
75 1915(c) Home and Community Based Services Medicaid Waiver Program."

76 **SECTION 5.**

77 This Act shall become effective upon its approval by the Governor or upon its becoming law
78 without such approval.

79 **SECTION 6.**

80 All laws and parts of laws in conflict with this Act are repealed.