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**SENATE BILL 5767**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Randall, Rolfes, Frame, Hasegawa, Nobles, Robinson, Stanford, Trudeau, Valdez, Wellman, and C. Wilson

AN ACT Relating to funding health care access by imposing an excise tax on the annual compensation paid to certain highly compensated hospital employees; and adding a new chapter to Title 82 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  INTENT. (1) The legislature finds that Washington state has many competing and important public service needs, including meaningful access to a more robust and affordable health care system. With abundant wealth concentrated in specific sectors and among particular companies and individuals, there is a need to prioritize and direct financial resources to those most vulnerable in need of health care. Washingtonians depend on our nonprofit hospitals to care for our loved ones during their greatest times of need.

(2) The legislature further finds that some nonprofit hospitals find themselves with large revenues and inflated administrative salaries but fail to fulfill their fundamental responsibilities to the communities they are meant to serve. This neglect of their duties, including failure to offer essential reproductive health services, provide safe working conditions to frontline staff, and care for our most vulnerable populations, while simultaneously engaging in excessive compensation of top earners, erodes trust in the health care system.

(3) The legislature intends to expand access to affordable health care by controlling health care administrative costs through a tax on excess compensation paid by hospitals. This additional revenue will provide funding to increase Washingtonians' access to health care, including funding programs that advance health equity and expand access to reproductive care.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual total compensation" means the total compensation of a covered employee as required to be reported to the department of health under RCW 43.70.052(3).

(2) "Average annual wage" has the same meaning as in RCW 50.04.355.

(3) "Covered employees" means the five highest compensated employees of a hospital, who do not have any direct patient responsibilities, and for whom the hospital must report compensation under RCW 43.70.052(3). If the five highest compensated employees do not include the lead administrator for the hospital, "covered employee" also includes the lead administrator.

(4) "Excess compensation" means the annual total compensation of a covered employee, as required to be reported under RCW 43.70.052(3) on or before December 31st of the tax year, that exceeds 10 times the average annual wage most recently published, as of December 31st of the tax year, by the employment security department.

(5) "Hospital" means any hospital licensed under chapter 70.41 RCW.

(6) "Tax year" means the calendar year immediately preceding the year in which the tax under this chapter is due and payable to the department.

NEW SECTION. **Sec.**  EXCESS COMPENSATION TAX. (1) Beginning January 1, 2024, for taxes due in 2025, an excess compensation tax is imposed on the hospitals that pay covered employees excess compensation. The tax equals the sum of the annual total compensation, as required to be reported to the department of health under RCW 43.70.052(3) during the tax year, of any covered employee that is paid excess compensation during the tax year, multiplied by 7.5 percent.

(2) Taxpayers owing tax under this chapter must file, on forms prescribed by the department, a return and pay the tax due as provided in RCW 82.32.045(3).

(3) The department may allow hospitals that are affiliated, as defined in RCW 82.04.299, with each other to report on a single return.

(4) The tax imposed under this chapter is in addition to any tax imposed under chapter 82.04 RCW.

NEW SECTION. **Sec.**  DEDUCTION. A hospital may deduct from the measure of tax imposed under section 3 of this act that portion of a covered employee's annual total compensation for work performed outside of this state when such out-of-state work is not in the furtherance of the hospital's business activities in this state. The deduction is determined by multiplying a covered employee's annual total compensation by a fraction. The numerator of the fraction is the total hours that the covered employee worked outside of this state during the tax year not in the furtherance of the hospital's business activities in this state, and the denominator of the fraction is the total hours that the covered employee worked anywhere during the tax year.

NEW SECTION. **Sec.**  PROCESSES. (1) Except as otherwise provided by law and to the extent not inconsistent with the provisions of this chapter, chapter 82.32 RCW applies to the administration of taxes imposed under this chapter.

(2) The department may enter into data-sharing agreements with the department of health for the data collected under RCW 43.70.052(3).

NEW SECTION. **Sec.**  SHORT TITLE. This act may be known and cited as the hospital executive excess compensation tax act.

NEW SECTION. **Sec.**  SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act constitute a new chapter in Title 82 RCW.

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