

Finance, Revenue and Bonding Committee JOINT FAVORABLE REPORT

Bill No.: SB-1107

AN ACT CONCERNING THE TAXATION OF AMBULATORY SURGICAL
Title: CENTER SERVICES.

Vote Date: 4/22/2021

Vote Action: Joint Favorable

PH Date: 4/20/2021

File No.:

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SPONSORS OF BILL:

Finance, Revenue and Bonding Committee

REASONS FOR BILL:

The purpose of this bill is :

- 1) to establish a retroactive deduction against the current Ambulatory Surgical Centers (ASC) tax for COVID-19-related expenses during all of FY 2021
- 2) sunset the current 6% ASC Tax by June 30, 2021
- 3) subject ASC services to the State's 6.35% Sales Tax beginning July 1, 2021.

RESPONSE FROM ADMINISTRATION/AGENCY:

Melissa Mccaw, Secretary of the Office of Policy and Management – State of Connecticut – Opposed

Secretary Mccaw testified in opposition of the bill and is concerned with its federal compliance and federal reimbursement. With the COVID-19-related expenses deduction retroactive for FY 2021, the bill would be creating a stratified rate structure. Under federal law, the tax must be applied uniformly. Exempting certain gross receipts with a 0% tax rate while other gross receipts are taxed at the 6% rate does not comply with federal regulations and can jeopardize the state's receipt of federal reimbursement both retroactively and going forward. It is for this reason that the Governor has proposed in H.B. 6433 to remove from current law the exemption of the first \$1 million of gross receipts. As such, since the provisions of this bill are impermissible under federal law, this bill would further risk federal

reimbursement. The other major component of this bill is converting the ASC Tax to the Sales Tax which does not alleviate the necessity of complying with federal health provider tax regulations. Specifically, in order for federal law governing health care provider taxes to apply, a tax must be of general applicability. Movement of the ASC Tax to the Sales Tax falls short of this and various provisions contained in this sales tax proposal would move this component away from general applicability, therefore continuing to make all federal limitations apply. The tax credit that is offered in the last section of the legislation would be impermissible as federal Medicaid law prohibits credits on health care related taxes thus continuing to put at risk federal reimbursement.

NATURE AND SOURCES OF SUPPORT:

Connecticut Hospital Association

The testimony presented by the Connecticut Hospital Association requests the following changes to the tax on ambulatory surgery centers (ASC) from a provider tax under Section 12-263i of the general statutes to a sales tax under Section 12-407. The current language in Section 1, subdivision (b)(1)(B), excludes “net revenue of a hospital that is subject to the tax imposed under Section 12-263q” from the calculation of the tax. This provision ensures that ambulatory surgery services provided in a hospital outpatient department are not subject to multiple taxes. We request that subdivision (45) of subsection (a) of Section 12-407, in Section 3 of the bill, be amended, to be consistent with the original intent of Section 12-263i, to exclude net revenue of a hospital that is subject to the tax imposed under Section 12-263q from the calculation of the sales tax under Section 12-407.

The following testified in support of the bill stating that for many ASCs, the 6% tax on gross receipts translates to an effective income tax rate of 30 percent because of the way it is structured. Unlike large hospital systems, ASCs operate like small businesses and pay all the local, state and federal taxes that small businesses pay. Ambulatory Surgical Centers provide high quality, cost effective care to patients across Connecticut. The government and private insurers pay ASCs about 50% less than hospitals, saving Medicare billions annually and lowering employer health care costs. ASCs also save Connecticut patients money through lower co-payments and deductibles. Significant savings are also possible for the Medicaid program and the State Employee Health Program.

Michael Aronow, MD, President of the Connecticut Orthopaedic Society
Connecticut State Medical Society
Patrick Albergo
Danilo D'Aprile, Orthopaedic Specialty Surgery Center
Digestive Disease Associates LLC
Eastern Connecticut Endoscopy Center
Jenn Gale, Manager of Operations, Surgical Care Affiliates
Christine Jackson, Executive Director, Lighthouse Surgery Center
Guen Kaffenberger, Administrator, Danbury Surgical Center
Ken Larsen, Executive Director, Endoscopy Center of Connecticut, LLC
Marc Lederman, Medical Director, Bloomfield Ambulatory Surgery Center

Maurizio Nichele, Shoreline Colonoscopy Suites
North Haven Surgery Center
David M. Sones, Administrator, Southwest Connecticut Surgery Center, LLC
The physicians and staff of Gastroenterology Associates of Fairfield County
Diane Heelan, CEO, Western Connecticut Orthopedic Surgery Center
Lori Woodworth, Administrator, Guilford Surgery Center

NATURE AND SOURCES OF OPPOSITION:

None expressed

Reported by: Dawn Silveira

Date: 5/6/21