

ASSEMBLY, No. 4903

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 14, 2015

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
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District 29 (Essex)
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District 33 (Hudson)
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District 38 (Bergen and Passaic)

SYNOPSIS

Maintains property tax exemption for certain nonprofit hospitals with on-site for-profit medical providers; requires these hospitals to pay community service contributions to host municipalities; establishes Nonprofit Hospital Community Service Contribution Study Commission.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/18/2015)

A4903 BURZICHELLI, PINTOR MARIN

2

1 AN ACT concerning the property tax status of certain nonprofit
2 hospitals, supplementing chapter 48 of Title 40 and chapter 4 of
3 Title 54 of the Revised Statutes, and amending R.S.54:4-3.6.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. The owner of property used as an acute
9 care hospital, which property is exempt from taxation pursuant to
10 R.S.54:4-3.6 and section 2 of P.L. , c. (C.) (pending before
11 the Legislature as this bill), shall, except as otherwise provided
12 under this section, annually be assessed a community service
13 contribution to the municipality in which the licensed beds of the
14 exempt acute care hospital are located and, in the case of a satellite
15 emergency care facility, to the municipality in which such facility is
16 located, which contributions shall be remitted to the municipalities
17 to which the community service contributions are assessed.

18 b. The annual community service contribution required
19 pursuant to subsection a. of this section shall be equal to \$2.50 a
20 day for each licensed bed at the exempt acute care hospital property
21 in the prior tax year, except that in the case of a licensed satellite
22 emergency care facility the contribution shall be equal to \$750 a
23 day in the prior tax year for each such facility; provided, however,
24 that the amount shall be reduced by the amount of any payments
25 remitted to the municipality in which the licensed beds of the
26 exempt acute care hospital or licensed satellite emergency care
27 facility, as the case may be, are located pursuant to a voluntary
28 agreement operative in the prior tax year between the owner and the
29 municipality to compensate for public safety services provided that
30 benefit the occupants and premises of the exempt acute care
31 hospital property. The annual community service contribution shall
32 be payable in equal quarterly installments. The first installment
33 shall be payable on February 1, the second installment on May 1,
34 the third installment on August 1, and the fourth installment on
35 November 1.

36 c. The obligation to remit a community service contribution
37 pursuant to subsection a. of this subsection is legal, valid, and
38 binding. If an annual community service contribution installment is
39 not paid as and when due pursuant to subsection b. of this section,
40 interest shall accrue and be due to the municipality on the unpaid
41 balance at the rate of one and one-half percent per month until the
42 unpaid balance and all interest accrued thereon is fully paid to the
43 municipality; and the municipality may, in a civil action, recover
44 the unpaid balance and all interest accrued thereon, together with
45 attorney's fees and costs, in a court of competent jurisdiction.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 d. A municipality that receives a community service
2 contribution pursuant to subsection a. of this section, or a payment
3 under a voluntary agreement that reduces the amount of such
4 contribution pursuant to subsection b. of this section, shall forthwith
5 upon receipt remit five percent of the contribution or voluntary
6 payment, as the case may be, to the county in which the
7 municipality is located.

8 e. The proceeds from a community service contribution, and
9 any interest accrued on any unpaid balance thereof, collected
10 pursuant to this section, shall be used solely to fund police or fire
11 protection; first aid, emergency, rescue, or ambulance services; any
12 other public safety purpose; or to reduce the property tax levy.

13 f. An owner required to remit a community service
14 contribution pursuant to subsection a. of this section may, by
15 February 1, apply to the New Jersey Health Care Facilities
16 Financing Authority in the Department of Health for the issuance of
17 a certificate exempting the owner from that requirement for the
18 current tax year for exempt property used as an acute care hospital
19 in a municipality, if that acute care hospital had a negative
20 operating margin in the prior tax year or the owner is not in full
21 compliance with the financial terms of any bond covenants related
22 to that acute care hospital. An application pursuant to this
23 paragraph shall include the audited financial results for the acute
24 care hospital from the prior tax year or other financial records
25 showing that the owner is not in full compliance with its bond
26 covenants related to that acute care hospital. If audited financial
27 results from the prior tax year are not available by February 1, a
28 certification of the chief financial officer of the acute care hospital
29 shall be submitted by that date, and audited financial results shall be
30 submitted within 15 days of such results being completed. The
31 authority shall issue a determination on an application submitted
32 pursuant to this subsection by April 1, or within 60 days of receipt
33 of the audited financial results if such results are submitted after
34 February 1.

35 If the authority determines that an acute care hospital that is the
36 subject of an application submitted pursuant to this subsection had a
37 negative operating margin in the prior tax year based on the audited
38 financial results for that acute care hospital from that tax year or
39 that the owner is not in full compliance with the financial terms of
40 any bond covenants related to that acute care hospital, the authority
41 shall grant the application and issue a certificate exempting the
42 owner from the community service contribution otherwise required
43 for the acute care hospital to the municipal tax collector of the
44 municipality otherwise owed the contribution. A certificate issued
45 pursuant to this paragraph shall be valid for the current tax year.

46 If the authority denies an application, any community service
47 contribution owing shall bear interest from the original payment
48 date pursuant to subsection c. of this section.

1 g. The Commissioner of Health, in consultation with the New
2 Jersey Health Care Facilities Financing Authority in the Department
3 of Health and the Director of the Division of Local Government
4 Services in the Department of Community Affairs, shall adopt
5 regulations necessary to effectuate the provisions of this section
6 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
7 (C.52:14B-1 et seq.).

8 h. As used in this section:

9 "Acute care hospital" means a hospital, other than a hospital the
10 property of which is exempt from taxation pursuant to R.S.54:4-3.3,
11 which maintains and operates organized facilities and services as
12 approved and licensed by the Department of Health for the
13 diagnosis, treatment, or care of persons suffering from acute illness,
14 injury, or deformity and in which all diagnosis, treatment, and care
15 are administered by or performed under the direction of persons
16 licensed to practice medicine or osteopathy in the State of New
17 Jersey, and includes all land and buildings that are used in the
18 delivery of health care services by such hospital and its medical
19 providers or that are used for the management, maintenance,
20 administration, and security of such hospital and its medical
21 providers, and any licensed satellite emergency care facility of such
22 hospital.

23 "Licensed bed" means one of the total number of beds for which
24 an acute care hospital is approved for patient care by the
25 Commissioner of Health.

26 "Medical provider" means an individual or entity which, acting
27 within the scope of a licensure or certification, provides health care
28 services, and includes, but is not limited to, a physician, physician
29 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
30 respiratory care practitioner, medical or laboratory technician,
31 ambulance or emergency medical worker, orthotist or prosthetist,
32 radiological or other diagnostic service facility, bioanalytical
33 laboratory, health care facility, and further includes administrative
34 support staff of the individual or entity.

35 "Owner" means an association or corporation organized as a
36 nonprofit pursuant to Title 15 of the Revised Statutes or Title 15A
37 of the New Jersey Statutes exclusively for hospital purposes that
38 owns an acute care hospital.

39

40 2. (New section) a. Property, including land and buildings,
41 used as an acute care hospital, which is owned by an association or
42 corporation organized as a nonprofit association or corporation
43 pursuant to Title 15 of the Revised Statutes or Title 15A of the New
44 Jersey Statutes exclusively for hospital purposes, shall be exempt
45 from taxation, provided that, except in the case of a lease to or use
46 by a profit-making medical provider for medical purposes, if any
47 portion of the property is leased to a profit-making organization or
48 otherwise used for purposes which are not themselves exempt from

1 taxation, that portion shall be subject to taxation and the remaining
2 portion only shall be exempt from taxation. If any portion of an
3 acute care hospital is leased to or otherwise used by a profit-making
4 medical provider for medical purposes, that portion shall be exempt
5 from taxation.

6 b. The owner of property used as an acute care hospital exempt
7 from taxation pursuant to subsection a. of this section shall be
8 assessed a community service contribution pursuant to section 1 of
9 P.L. , c. (C.) (pending before the Legislature as this bill).

10 c. As used in this section:

11 “Acute care hospital” means a hospital which maintains and
12 operates organized facilities and services as approved and licensed
13 by the Department of Health for the diagnosis, treatment, or care of
14 persons suffering from acute illness, injury, or deformity and in
15 which all diagnosis, treatment, and care are administered by or
16 performed under the direction of persons licensed to practice
17 medicine or osteopathy in the State of New Jersey, and includes all
18 land and buildings that are used in the delivery of health care
19 services by such hospital and its medical providers or that are used
20 for the management, maintenance, administration, and security of
21 such hospital and its medical providers, and any licensed satellite
22 emergency care facility of such hospital.

23 “Medical provider” means an individual or entity which, acting
24 within the scope of a licensure or certification, provides health care
25 services, and includes, but is not limited to, a physician, physician
26 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
27 respiratory care practitioner, medical or laboratory technician,
28 ambulance or emergency medical worker, orthotist or prosthetist,
29 radiological or other diagnostic service facility, bioanalytical
30 laboratory, health care facility, and further includes administrative
31 support staff of the individual or entity.

32

33 3. (New section) a. There is established a commission to be
34 known as the Nonprofit Hospital Community Service Contribution
35 Study Commission. The commission shall consist of nine members
36 as follows: the Commissioner of Health, ex officio; two members of
37 the Senate to be appointed by the President of the Senate, who shall
38 not both be of the same political party; two members of the
39 Assembly to be appointed by the Speaker of the Assembly, who
40 shall not both be of the same political party; two members,
41 appointed by the Governor, who are mayors of municipalities
42 receiving community service contributions pursuant to section 1 of
43 P.L. , c. (C.) (pending before the Legislature as this bill);
44 and two members, appointed by the Governor, who are chief
45 executive officers of nonprofit hospitals assessed community
46 service contributions pursuant to section 1 of P.L. , c. (C.)
47 (pending before the Legislature as this bill). Each member may
48 designate a representative to attend meetings of the commission,

1 and each designee may lawfully vote and otherwise act on behalf of
2 the member who designated that individual to serve as a designee.
3 The members shall serve until the commission submits its report to
4 the Governor and the Legislature pursuant to subsection e. of this
5 section. Vacancies in the membership of the commission shall be
6 filled in the same manner as the original appointments.

7 b. The members shall be appointed within 60 days following
8 the effective date of P.L. , c. (C.) (pending before the
9 Legislature as this bill). The commission shall organize as soon as
10 practicable after the appointment of its members and shall select a
11 chair and a treasurer from among its members, and a secretary who
12 need not be a member of the commission. The presence of five
13 members of the commission shall constitute a quorum. The
14 commission may conduct business without a quorum, but may only
15 vote on the issuance of the report required to be submitted to the
16 Governor and the Legislature pursuant to subsection e. of this
17 section, and on any recommendations, when a quorum is present.

18 c. All commission members shall serve without compensation,
19 but shall be eligible for reimbursement of necessary and reasonable
20 expenses incurred in the performance of their official duties within
21 the limits of funds appropriated or otherwise made available to the
22 commission for its purposes.

23 d. The commission may meet and hold public hearings at the
24 place or places it designates during the sessions or recesses of the
25 Legislature.

26 e. The commission shall study the implementation of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) and shall
28 issue a report to the Governor and the Legislature, pursuant to
29 section 2 of P.L.1991, c.164 (C.52:14-19.1), within one year
30 following the effective date of P.L. , c. (C.) (pending
31 before the Legislature as this bill). The report shall include an
32 analysis of the financial impact of P.L. , c. (C.) (pending
33 before the Legislature as this bill) on both nonprofit hospitals
34 assessed community service contributions thereunder and the
35 municipalities receiving such contributions, and an analysis of the
36 administration and equity of these contributions. The report shall
37 include any recommendations that the commission determines
38 would improve the administration, equity, or any other aspect of the
39 nonprofit hospital community service contribution system
40 established by P.L. , c. (C.) (pending before the Legislature
41 as this bill).

42 f. The commission shall expire 90 days after the issuance of
43 the report pursuant to subsection e. of this section.

44

45 4. R.S.54:4-3.6 is amended to read as follows:

46 54:4-3.6. The following property shall be exempt from taxation
47 under this chapter: all buildings actually used for colleges, schools,
48 academies or seminaries, provided that if any portion of such

1 buildings are leased to profit-making organizations or otherwise
2 used for purposes which are not themselves exempt from taxation,
3 said portion shall be subject to taxation and the remaining portion
4 only shall be exempt; all buildings actually used for historical
5 societies, associations or exhibitions, when owned by the State,
6 county or any political subdivision thereof or when located on land
7 owned by an educational institution which derives its primary
8 support from State revenue; all buildings actually and exclusively
9 used for public libraries, asylum or schools for adults and children
10 with intellectual disabilities; all buildings used exclusively by any
11 association or corporation formed for the purpose and actually
12 engaged in the work of preventing cruelty to animals; all buildings
13 actually and exclusively used and owned by volunteer first-aid
14 squads, which squads are or shall be incorporated as associations
15 not for pecuniary profit; all buildings actually used in the work of
16 associations and corporations organized exclusively for the moral
17 and mental improvement of men, women and children, provided
18 that if any portion of a building used for that purpose is leased to
19 profit-making organizations or is otherwise used for purposes which
20 are not themselves exempt from taxation, that portion shall be
21 subject to taxation and the remaining portion only shall be exempt;
22 all buildings actually used in the work of associations and
23 corporations organized exclusively for religious purposes, including
24 religious worship, or charitable purposes, provided that if any
25 portion of a building used for that purpose is leased to a profit-
26 making organization or is otherwise used for purposes which are not
27 themselves exempt from taxation, that portion shall be subject to
28 taxation and the remaining portion shall be exempt from taxation,
29 and provided further that if any portion of a building is used for a
30 different exempt use by an exempt entity, that portion shall also be
31 exempt from taxation; all buildings actually used in the work of
32 associations and corporations organized exclusively for hospital
33 purposes, provided that , except in the case of an acute care hospital
34 as provided in section 2 of P.L. , c. (C.) (pending before
35 the Legislature as this bill), if any portion of a building used for
36 hospital purposes is leased to profit-making organizations or
37 otherwise used for purposes which are not themselves exempt from
38 taxation, that portion shall be subject to taxation and the remaining
39 portion only shall be exempt; all buildings owned or held by an
40 association or corporation created for the purpose of holding the
41 title to such buildings as are actually and exclusively used in the
42 work of two or more associations or corporations organized
43 exclusively for the moral and mental improvement of men, women
44 and children; all buildings owned by a corporation created under or
45 otherwise subject to the provisions of Title 15 of the Revised
46 Statutes or Title 15A of the New Jersey Statutes and actually and
47 exclusively used in the work of one or more associations or
48 corporations organized exclusively for charitable or religious

1 purposes, which associations or corporations may or may not pay
2 rent for the use of the premises or the portions of the premises used
3 by them; the buildings, not exceeding two, actually occupied as a
4 parsonage by the officiating clergymen of any religious corporation
5 of this State, together with the accessory buildings located on the
6 same premises; the land whereon any of the buildings hereinbefore
7 mentioned are erected, and which may be necessary for the fair
8 enjoyment thereof, and which is devoted to the purposes above
9 mentioned and to no other purpose and does not exceed five acres in
10 extent; the furniture and personal property in said buildings if used
11 in and devoted to the purposes above mentioned; all property owned
12 and used by any nonprofit corporation in connection with its
13 curriculum, work, care, treatment and study of men, women, or
14 children with intellectual disabilities shall also be exempt from
15 taxation, provided that such corporation conducts and maintains
16 research or professional training facilities for the care and training
17 of men, women, or children with intellectual disabilities; provided,
18 in case of all the foregoing except for an acute care hospital , the
19 buildings, or the lands on which they stand, or the associations,
20 corporations or institutions using and occupying them as aforesaid,
21 are not conducted for profit, except that the exemption of the
22 buildings and lands used for charitable, benevolent or religious
23 purposes shall extend to cases where the charitable, benevolent or
24 religious work therein carried on is supported partly by fees and
25 charges received from or on behalf of beneficiaries using or
26 occupying the buildings; provided the building is wholly controlled
27 by and the entire income therefrom is used for said charitable,
28 benevolent or religious purposes; and any tract of land purchased
29 pursuant to subsection (n) of section 21 of P.L.1971, c.199
30 (C.40A:12-21), and located within a municipality, actually used for
31 the cultivation and sale of fresh fruits and vegetables and owned by
32 a duly incorporated nonprofit organization or association which
33 includes among its principal purposes the cultivation and sale of
34 fresh fruits and vegetables, other than a political, partisan, sectarian,
35 denominational or religious organization or association. The
36 foregoing exemption shall apply only where the association,
37 corporation or institution claiming the exemption owns the property
38 in question and is incorporated or organized under the laws of this
39 State and authorized to carry out the purposes on account of which
40 the exemption is claimed or where an educational institution, as
41 provided herein, has leased said property to a historical society or
42 association or to a corporation organized for such purposes and
43 created under or otherwise subject to the provisions of Title 15 of
44 the Revised Statutes or Title 15A of the New Jersey Statutes.

45 As used in this section **["hospital"]** :

46 “Acute care hospital” means the same as that term is defined in
47 section 2 of P.L. , c. (C.) (pending before the Legislature
48 as this bill).

1 "Hospital purposes" includes acute care hospitals, health care
2 facilities for the elderly, such as nursing homes; residential health
3 care facilities; assisted living residences; facilities with a Class C
4 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
5 "Rooming and Boarding House Act of 1979"; similar facilities that
6 provide medical, nursing or personal care services to their residents;
7 and that portion of the central administrative or service facility of a
8 continuing care retirement community that is reasonably allocable
9 as a health care facility for the elderly.

10 (cf: P.L.2011, c.171, s.4)

11
12 5. This act shall take effect on January 1, 2016, except the
13 Commissioner of Health may take any anticipatory administrative
14 action in advance as shall be necessary for the implementation of
15 this act.

16
17
18 STATEMENT

19
20 This bill would maintain the property tax exempt status of a
21 nonprofit hospital with for-profit medical providers on site as long
22 as the hospital remains organized as a nonprofit institution under
23 State law, and would require nonprofit hospitals to, in lieu of
24 property taxes, pay an annual community service contribution to
25 their host municipalities. The bill would clarify that complex,
26 modern nonprofit hospitals, which provide nonprofit medical
27 services while also hosting for-profit medical activities, remain
28 exempt from property taxation for the portions of hospital property
29 used for medical purposes, but are responsible for providing some
30 financial support to their host communities to offset the costs of
31 public safety services, such as police and fire safety services, that
32 benefit these hospitals. This bill would establish a clear and
33 predictable system by which all nonprofit hospitals make a
34 reasonable contribution to their host communities.

35 The Tax Court recently held that a nonprofit hospital was not
36 entitled to a property tax exemption because profit-making medical
37 services were provided throughout the hospital, and there was no
38 separate accounting of nonprofit and for-profit medical activities to
39 delineate exempt property from non-exempt property. Since for-
40 profit medical services are commonly provided at nonprofit
41 hospitals, this ruling could potentially be applied to many other
42 nonprofit hospitals throughout the State. This bill would eliminate
43 any uncertainty over the property tax exempt status of nonprofit
44 hospitals that lease space to or share space with for-profit medical
45 providers, but still qualify as nonprofit institutions, while ensuring
46 that a readily calculable fair share contribution is made to the host
47 communities that expend significant sums providing essential
48 services that benefit these hospitals. Any voluntary payments made

1 by a nonprofit hospital for the same purpose would count towards
2 the obligation to provide a community service contribution.

3 The bill would require municipalities to provide five percent of a
4 nonprofit hospital community service contribution, or voluntary
5 payment that counts against such contribution, to the county in
6 which the municipality is located to offset public safety services
7 expenses borne by the county which benefit the hospital.

8 In addition, the bill requires that all community service
9 contribution proceeds be used to fund public safety services such as
10 police and fire protection, and emergency medical services, or be
11 used to reduce the property tax levy.

12 The bill also permits a nonprofit hospital to apply to the New
13 Jersey Health Care Facilities Financing Authority for an exemption
14 from a community service contribution if the hospital had a
15 negative operating margin in the prior tax year or is not in full
16 compliance with the financial terms of any bond covenants to which
17 it is subject, to help ensure that these hospitals may continue to
18 operate and serve the community.

19 Hospitals owned by the State or any political subdivision thereof
20 would not be subject to the community service contribution
21 required by the bill.

22 The bill would also establish a commission, known as the
23 Nonprofit Hospital Community Service Contribution Study
24 Commission, to study and issue a report on the community service
25 contribution system created by the bill. The report may include any
26 recommendations on how to improve the administration, fairness, or
27 any other aspect of this system.