

[First Reprint]

SENATE, No. 3299

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED DECEMBER 7, 2015

Sponsored by:

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District 3 (Cumberland, Gloucester and Salem)

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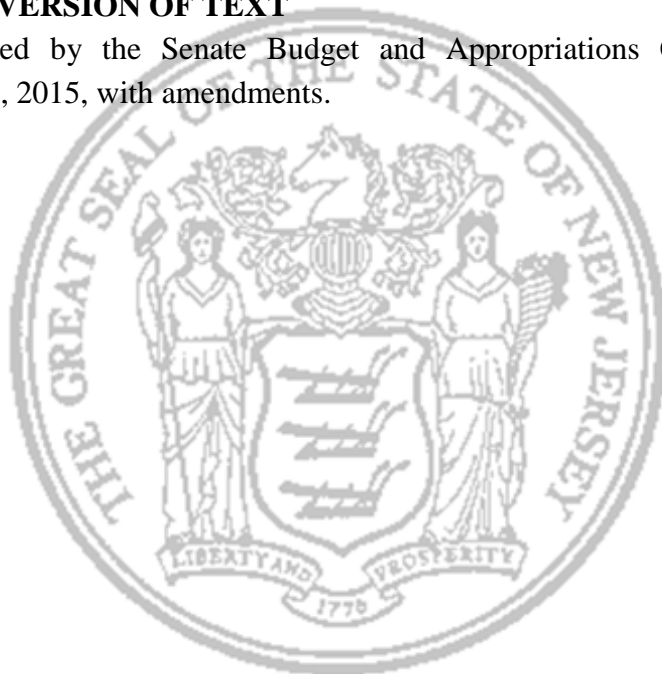
District 19 (Middlesex)

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 reported by the Senate Budget and Appropriations Committee on December 21, 2015, with amendments.



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 ¹**["licensed"]**¹
22 satellite emergency care facility the contribution shall be equal to
23 ¹**["\$750"]** \$250¹ a day in the prior tax year for each such facility;
24 provided, however, that the amount shall be reduced by the amount
25 of any payments remitted to the municipality in which the licensed
26 beds of the exempt acute care hospital or ¹**["licensed"]** in which the¹
27 satellite emergency care facility, as the case may be, are located
28 pursuant to a voluntary agreement operative in the prior tax year
29 between the owner and the municipality to compensate for public
30 safety services provided that benefit the occupants and premises of
31 the exempt acute care hospital property. The annual community
32 service contribution shall be payable in equal quarterly installments.
33 The first installment shall be payable on February 1, the second
34 installment on May 1, the third installment on August 1, and the
35 fourth installment on 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 ¹**["municipality may, in a civil action, recover**
44 the unpaid balance and all interest accrued thereon, together with

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 21, 2015.

1 attorney's fees and costs, in a court of competent jurisdiction] unpaid balance shall constitute a municipal lien on the acute care
2 hospital property after 30 days, and shall be enforced and collected,
3 with interest as provided in this subsection, in the same manner as
4 unpaid property taxes¹.

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

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

18 f. An owner required to remit a community service
19 contribution pursuant to subsection a. of this section may, by
20 February 1, apply to the New Jersey Health Care Facilities
21 Financing Authority in the Department of Health for the issuance of
22 a certificate exempting the owner from that requirement for the
23 current tax year for exempt property used as an acute care hospital
24 ¹, including a satellite emergency care facility,¹ in a municipality, if
25 that acute care hospital ¹had a negative operating margin in the
26 prior tax year or the owner is not in full compliance with the
27 financial terms of any bond covenants related to that acute care
28 hospital] or satellite emergency care facility, as the case may be, is
29 in financial distress or at risk of being in financial distress. At the
30 same time such an application is made, the applicant owner shall
31 provide notice to the chief financial officer of the municipality in
32 which the acute care hospital or satellite emergency care facility
33 that is the subject of the application is located¹.

34 An application pursuant to this ¹[paragraph] subsection¹ shall
35 include the audited financial results for the acute care hospital ¹or
36 satellite emergency care facility¹ from the prior tax year or other
37 ¹relevant¹ financial records ¹showing that the owner is not in full
38 compliance with its bond covenants related to that acute care
39 hospital] and proof that notice of the application was provided to
40 the chief financial officer of the municipality in which the acute
41 care hospital or satellite emergency care facility that is the subject
42 of the application is located¹. If audited financial results from the
43 prior tax year are not available by February 1, a certification of the
44 chief financial officer of the acute care hospital ¹or satellite
45 emergency care facility¹ shall be submitted by that date, and
46 audited financial results shall be submitted within 15 days of such
47 results being completed.

1 The authority shall issue a determination on an application
2 submitted pursuant to this subsection by April 1, or within 60 days
3 of receipt of the audited financial results if such results are
4 submitted after February 1. ¹In making such determination, the
5 authority may consider factors including, but not limited to,
6 whether the acute care hospital or satellite emergency care facility
7 had a negative operating margin in the prior tax year based on the
8 audited financial results from that tax year, the owner is not in full
9 compliance with the financial terms of any bond covenants related
10 to the acute care hospital or satellite emergency care facility, or the
11 acute care hospital or satellite emergency care facility is a safety net
12 hospital or facility.¹

13 If the authority determines that an acute care hospital ¹or satellite
14 emergency care facility¹ that is the subject of an application
15 submitted pursuant to this subsection ¹【had a negative operating
16 margin in the prior tax year based on the audited financial results
17 for that acute care hospital from that tax year or that the owner is
18 not in full compliance with the financial terms of any bond
19 covenants related to that acute care hospital】 is in financial distress
20 or at risk of being in financial distress¹, the authority shall grant the
21 application and issue a certificate exempting the owner from the
22 community service contribution otherwise required for the acute
23 care hospital ¹or satellite emergency care facility¹ to the municipal
24 tax collector of the municipality otherwise owed the contribution.
25 A certificate issued pursuant to this paragraph shall be valid for the
26 current tax year.

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

30 g. The Commissioner of Health, in consultation with the New
31 Jersey Health Care Facilities Financing Authority in the Department
32 of Health and the Director of the Division of Local Government
33 Services in the Department of Community Affairs, shall ¹, by
34 January 1, 2017,¹ adopt regulations necessary to effectuate the
35 provisions of this section pursuant to the "Administrative Procedure
36 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ¹, which shall include
37 specific guidelines for what constitutes being in financial distress or
38 at risk of being in financial distress for purposes of qualifying for
39 an exemption certificate pursuant to subsection f. of this section¹.

40 h. As used in this section:

41 "Acute care hospital" means a hospital, other than a hospital the
42 property of which is exempt from taxation pursuant to R.S.54:4-3.3,
43 which maintains and operates organized facilities and services as
44 approved and licensed by the Department of Health for the
45 diagnosis, treatment, or care of persons suffering from acute illness,
46 injury, or deformity and in which all diagnosis, treatment, and care
47 are administered by or performed under the direction of persons

1 licensed to practice medicine or osteopathy in the State of New
2 Jersey, and includes all land and buildings that are used in the
3 delivery of health care services by such hospital and its medical
4 providers or that are used for the management, maintenance,
5 administration, and security of such hospital and its medical
6 providers, and any ¹**[licensed]**¹ satellite emergency care facility of
7 such hospital.

8 “Licensed bed” means one of the total number of ¹acute care¹
9 beds for which an acute care hospital is approved for patient care by
10 the Commissioner of Health.

11 “Medical provider” means an individual or entity which, acting
12 within the scope of a licensure or certification, provides health care
13 services, and includes, but is not limited to, a physician, physician
14 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
15 respiratory care practitioner, medical or laboratory technician,
16 ambulance or emergency medical worker, orthotist or prosthetist,
17 radiological or other diagnostic service facility, bioanalytical
18 laboratory, health care facility, and further includes administrative
19 support staff of the individual or entity.

20 “Owner” means an association or corporation organized as a
21 nonprofit pursuant to Title 15 of the Revised Statutes or Title 15A
22 of the New Jersey Statutes exclusively for hospital purposes that
23 owns an acute care hospital.

24 ¹Satellite emergency care facility” means a facility, which is
25 owned and operated by an acute care hospital, and which provides
26 emergency care and treatment for patients.¹

27

28 2. (New section) a. Property, including land and buildings,
29 used as an acute care hospital, which is owned by an association or
30 corporation organized as a nonprofit association or corporation
31 pursuant to Title 15 of the Revised Statutes or Title 15A of the New
32 Jersey Statutes exclusively for hospital purposes, shall be exempt
33 from taxation, provided that, except in the case of a lease to or use
34 by a profit-making medical provider for medical purposes, if any
35 portion of the property is leased to a profit-making organization or
36 otherwise used for purposes which are not themselves exempt from
37 taxation, that portion shall be subject to taxation and the remaining
38 portion only shall be exempt from taxation. If any portion of an
39 acute care hospital is leased to or otherwise used by a profit-making
40 medical provider for medical purposes, that portion shall be exempt
41 from taxation.

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

46 c. As used in this section:

47 “Acute care hospital” means a hospital which maintains and
48 operates organized facilities and services as approved and licensed

1 by the Department of Health for the diagnosis, treatment, or care of
2 persons suffering from acute illness, injury, or deformity and in
3 which all diagnosis, treatment, and care are administered by or
4 performed under the direction of persons licensed to practice
5 medicine or osteopathy in the State of New Jersey, and includes all
6 land and buildings that are used in the delivery of health care
7 services by such hospital and its medical providers or that are used
8 for the management, maintenance, administration, and security of
9 such hospital and its medical providers, and any ¹【licensed】¹
10 satellite emergency care facility of such hospital.

11 “Medical provider” means an individual or entity which, acting
12 within the scope of a licensure or certification, provides health care
13 services, and includes, but is not limited to, a physician, physician
14 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
15 respiratory care practitioner, medical or laboratory technician,
16 ambulance or emergency medical worker, orthotist or prosthetist,
17 radiological or other diagnostic service facility, bioanalytical
18 laboratory, health care facility, and further includes administrative
19 support staff of the individual or entity.

20 ¹“Satellite emergency care facility” means a facility, which is
21 owned and operated by an acute care hospital, and which provides
22 emergency care and treatment for patients. ¹
23

24 3. (New section) a. There is established ¹, in but not of the
25 Department of Health, ¹ a commission to be known as the Nonprofit
26 Hospital Community Service Contribution Study Commission. The
27 commission shall consist of nine members as follows: the
28 Commissioner of Health, ex officio; two members of the Senate to
29 be appointed by the President of the Senate, who shall not both be
30 of the same political party; two members of the Assembly to be
31 appointed by the Speaker of the Assembly, who shall not both be of
32 the same political party; two members, appointed by the Governor,
33 who are mayors of municipalities receiving community service
34 contributions pursuant to section 1 of P.L. , c. (C.)
35 (pending before the Legislature as this bill); and two members,
36 appointed by the Governor, who are chief executive officers of
37 nonprofit hospitals assessed community service contributions
38 pursuant to section 1 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill). Each
40 member may designate a representative to attend meetings of the
41 commission, and each designee may lawfully vote and otherwise act
42 on behalf of the member who designated that individual to serve as
43 a designee. The members shall serve ¹【until the commission
44 submits its report to the Governor and the Legislature pursuant to
45 subsection e. of this section】 for terms of three years, commencing
46 on the date of appointment, and may be reappointed ¹. Vacancies in
47 the membership of the commission shall be filled in the same
48 manner as the original appointments.

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

12 c. All commission members shall serve without compensation,
13 but shall be eligible for reimbursement of necessary and reasonable
14 expenses incurred in the performance of their official duties within
15 the limits of funds appropriated or otherwise made available to the
16 commission for its purposes.

17 d. The commission may meet and hold public hearings at the
18 place or places it designates during the sessions or recesses of the
19 Legislature.

20 e. The commission shall study the implementation of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) and shall
22 issue a report to the Governor and the Legislature, pursuant to
23 section 2 of P.L.1991, c.164 (C.52:14-19.1), ¹【within one year
24 following】 every three years from¹ the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) ¹;
26 provided, however, that the initial report shall be issued within one
27 year following the effective date¹. The report shall include an
28 analysis of the financial impact of P.L. , c. (C.) (pending
29 before the Legislature as this bill) on both nonprofit hospitals
30 assessed community service contributions thereunder and the
31 municipalities receiving such contributions, ¹the adequacy of the
32 amount of the community service contributions,¹ and an analysis of
33 the administration and equity of these contributions. The report
34 shall include any recommendations that the commission determines
35 would improve the administration, equity, or any other aspect of the
36 nonprofit hospital community service contribution system
37 established by P.L. , c. (C.) (pending before the Legislature
38 as this bill) ¹, and shall include an assessment of the adequacy of
39 the amount of the community service contributions¹.

40 ¹【f. The commission shall expire 90 days after the issuance of
41 the report pursuant to subsection e. of this section.】¹

42
43 ¹4. (New section) For tax years 2014 and 2015, property that
44 would have been exempt from taxation pursuant to R.S.54:4-3.6 and
45 section 2 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), had P.L. , c. (C.) (pending before the
47 Legislature as this bill) been effective in those tax years, shall not

1 be assessed as omitted property pursuant to P.L.1947, c.413
2 (C.54:4-63.12 et seq.). This section shall apply to the omitted
3 assessment of such property that is the subject of litigation that is
4 pending or that may be subject to appeal before the county board of
5 taxation, the tax court, or any other court on or after the effective
6 date of P.L. , c. (C.) (pending before the Legislature as this
7 bill).¹

8
9 ¹[4.] ^{5.}¹ R.S.54:4-3.6 is amended to read as follows:

10 54:4-3.6. The following property shall be exempt from taxation
11 under this chapter: all buildings actually used for colleges, schools,
12 academies or seminaries, provided that if any portion of such
13 buildings are leased to profit-making organizations or otherwise
14 used for purposes which are not themselves exempt from taxation,
15 said portion shall be subject to taxation and the remaining portion
16 only shall be exempt; all buildings actually used for historical
17 societies, associations or exhibitions, when owned by the State,
18 county or any political subdivision thereof or when located on land
19 owned by an educational institution which derives its primary
20 support from State revenue; all buildings actually and exclusively
21 used for public libraries, asylum or schools for adults and children
22 with intellectual disabilities; all buildings used exclusively by any
23 association or corporation formed for the purpose and actually
24 engaged in the work of preventing cruelty to animals; all buildings
25 actually and exclusively used and owned by volunteer first-aid
26 squads, which squads are or shall be incorporated as associations
27 not for pecuniary profit; all buildings actually used in the work of
28 associations and corporations organized exclusively for the moral
29 and mental improvement of men, women and children, provided
30 that if any portion of a building used for that purpose is leased to
31 profit-making organizations or is otherwise used for purposes which
32 are not themselves exempt from taxation, that portion shall be
33 subject to taxation and the remaining portion only shall be exempt;
34 all buildings actually used in the work of associations and
35 corporations organized exclusively for religious purposes, including
36 religious worship, or charitable purposes, provided that if any
37 portion of a building used for that purpose is leased to a profit-
38 making organization or is otherwise used for purposes which are not
39 themselves exempt from taxation, that portion shall be subject to
40 taxation and the remaining portion shall be exempt from taxation,
41 and provided further that if any portion of a building is used for a
42 different exempt use by an exempt entity, that portion shall also be
43 exempt from taxation; all buildings actually used in the work of
44 associations and corporations organized exclusively for hospital
45 purposes, provided that , except in the case of an acute care hospital
46 as provided in section 2 of P.L. , c. (C.) (pending before
47 the Legislature as this bill), if any portion of a building used for
48 hospital purposes is leased to profit-making organizations or

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

1 corporation or institution claiming the exemption owns the property
2 in question and is incorporated or organized under the laws of this
3 State and authorized to carry out the purposes on account of which
4 the exemption is claimed or where an educational institution, as
5 provided herein, has leased said property to a historical society or
6 association or to a corporation organized for such purposes and
7 created under or otherwise subject to the provisions of Title 15 of
8 the Revised Statutes or Title 15A of the New Jersey Statutes.

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

10 "Acute care hospital" means the same as that term is defined in
11 section 2 of P.L. , c. (C.) (pending before the Legislature
12 as this bill).

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

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

23

24 ¹**[5.] 6.**¹ This act shall take effect on January 1, 2016, except
25 ¹**[the Commissioner of Health may take any anticipatory**
26 **administrative action in advance as shall be necessary for the**
27 **implementation of this act]** that section 4 of the bill shall apply to
28 tax years 2014 and 2015 only¹.