

SENATE, No. 72

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Restores property tax exemption for 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

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the property tax status of nonprofit hospitals,
2 supplementing chapter 48 of Title 40 and chapter 4 of Title 54 of
3 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 care
9 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. (1) (a) 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 satellite emergency
22 care facility the contribution shall be equal to \$250 a day in the
23 prior tax year for each such facility.

24 (b) For tax year 2019 and each tax year thereafter, the per day
25 amount used to calculate an annual community service contribution
26 for an acute care hospital and a satellite emergency care facility
27 shall increase by two percent over the prior tax year. The
28 Commissioner of Health shall promulgate annually the per day
29 amount to apply for each tax year.

30 (2) (a) Up to seventy-five percent of the amount payable as an
31 annual community service contribution pursuant to paragraph (1) of
32 this subsection shall be reduced by the amount of any payments
33 remitted to the municipality in which the licensed beds of the
34 exempt acute care hospital or in which the satellite emergency care
35 facility, as the case may be, are located pursuant to a voluntary
36 agreement operative in the prior tax year between the owner and the
37 municipality to compensate for public safety services.

38 (b) Up to twenty-five percent of the amount payable as an annual
39 community service contribution pursuant to paragraph (1) of this
40 subsection shall be reduced by the amount of any payments remitted
41 to the municipality in which the licensed beds of the exempt acute
42 care hospital or in which the satellite emergency care facility, as the
43 case may be, are located pursuant to a voluntary agreement
44 operative in the prior tax year between the owner and the

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 municipality to compensate for the provision of affordable housing
2 in the municipality.

3 (3) An annual community service contribution shall be payable
4 in equal quarterly installments. The first installment shall be
5 payable on February 1, the second installment on May 1, the third
6 installment on August 1, and the fourth installment on November 1.

7 c. The obligation to remit a community service contribution
8 pursuant to subsection a. of this subsection is legal, valid, and
9 binding. If an annual community service contribution installment is
10 not paid as and when due pursuant to subsection b. of this section,
11 the unpaid balance shall constitute a municipal lien on the acute
12 care hospital property after 30 days, and shall be enforced and
13 collected in the same manner as unpaid property taxes.

14 d. Of the proceeds that a municipality receives from a
15 community service contribution, including any interest accrued on
16 any unpaid balance thereof, pursuant to this section, (1) seventy-
17 five percent of that amount shall be used to fund police or fire
18 protection; first aid, emergency, rescue, or ambulance services; any
19 other public safety purpose; or to reduce the property tax levy; and
20 (2) the remaining thirty percent of that amount shall be used for the
21 provision of affordable housing in the municipality in accordance
22 with regulations adopted by the Commissioner of Community
23 Affairs, pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.).

25 e. A municipality that receives a community service
26 contribution pursuant to subsection a. of this section, or a payment
27 under a voluntary agreement that reduces the amount of such
28 contribution pursuant to subparagraph (a) of paragraph (2) of
29 subsection b. of this section, shall forthwith upon receipt remit five
30 percent of the contribution or voluntary payment, as the case may
31 be, reserved for the compensation of public safety services to the
32 county in which the municipality is located.

33 f. An owner required to remit a community service
34 contribution pursuant to subsection a. of this section may, by
35 February 1, apply to the New Jersey Health Care Facilities
36 Financing Authority in the Department of Health for the issuance of
37 a certificate exempting the owner from that requirement for the
38 current tax year for exempt property used as an acute care hospital,
39 including a satellite emergency care facility, in a municipality, if
40 that acute care hospital or satellite emergency care facility, as the
41 case may be, is in financial distress or at risk of being in financial
42 distress. At the same time such an application is made, the
43 applicant owner shall provide notice to the chief financial officer of
44 the municipality in which the acute care hospital or satellite
45 emergency care facility that is the subject of the application is
46 located.

47 An application pursuant to this subsection shall include the
48 audited financial results for the acute care hospital or satellite

1 emergency care facility from the prior tax year or other relevant
2 financial records and proof that notice of the application was
3 provided to the chief financial officer of the municipality in which
4 the acute care hospital or satellite emergency care facility that is the
5 subject of the application is located. If audited financial results
6 from the prior tax year are not available by February 1, a
7 certification of the chief financial officer of the acute care hospital
8 or satellite emergency care facility shall be submitted by that date,
9 and audited financial results shall be submitted within 15 days of
10 such results being completed.

11 The authority shall issue a determination on an application
12 submitted pursuant to this subsection by April 1, or within 60 days
13 of receipt of the audited financial results if such results are
14 submitted after February 1. In making such determination, the
15 authority may consider factors including, but not limited to,
16 whether the acute care hospital or satellite emergency care facility
17 had a negative operating margin in the prior tax year based on the
18 audited financial results from that tax year, whether the owner is not
19 in full compliance with the financial terms of any bond covenants
20 related to the acute care hospital or satellite emergency care facility,
21 the overall financial health of the hospital system if the acute care
22 hospital or satellite emergency care facility is part of a hospital
23 system responsible for the debts and liabilities of the acute care
24 hospital or satellite emergency care facility, or whether the acute
25 care hospital or satellite emergency care facility is a safety net
26 hospital or facility.

27 If the authority determines that an acute care hospital or satellite
28 emergency care facility that is the subject of an application
29 submitted pursuant to this subsection is in financial distress or at
30 risk of being in financial distress, the authority shall grant the
31 application and issue a certificate exempting the owner from the
32 community service contribution otherwise required for the acute
33 care hospital or satellite emergency care facility to the municipal
34 tax collector of the municipality otherwise owed the contribution.
35 A certificate issued pursuant to this subsection shall be valid for the
36 current tax year.

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

40 g. The Commissioner of Health, in consultation with the New
41 Jersey Health Care Facilities Financing Authority in the Department
42 of Health and the Director of the Division of Local Government
43 Services in the Department of Community Affairs, shall, by January
44 1, 2019, adopt regulations necessary to effectuate the provisions of
45 this section pursuant to the "Administrative Procedure Act,"
46 P.L.1968, c.410 (C.52:14B-1 et seq.), which shall include specific
47 guidelines for what constitutes being in financial distress or at risk

1 of being in financial distress for purposes of qualifying for an
2 exemption certificate pursuant to subsection f. of this section.

3 h. As used in this section:

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

17 “Licensed bed” means one of the total number of acute care beds
18 for which an acute care hospital is approved for patient care by the
19 Commissioner of Health.

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

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

33 “Satellite emergency care facility” means a facility, which is
34 owned and operated by an acute care hospital, and which provides
35 emergency care and treatment for patients.

36

37 2. (New section) a. There is established, in but not of the
38 Department of Health, a commission to be known as the Nonprofit
39 Hospital Community Service Contribution Study Commission. The
40 commission shall consist of nine members as follows: the
41 Commissioner of Health, ex officio; two members of the Senate to
42 be appointed by the President of the Senate, who shall not both be
43 of the same political party; two members of the Assembly to be
44 appointed by the Speaker of the Assembly, who shall not both be of
45 the same political party; two members, appointed by the Governor,
46 who are mayors of municipalities receiving community service
47 contributions pursuant to section 1 of P.L. , c. (C.)
48 (pending before the Legislature as this bill); and two members,

1 appointed by the Governor, who are chief executive officers of
2 nonprofit hospitals assessed community service contributions
3 pursuant to section 1 of P.L. , c. (C.) (pending before the
4 Legislature as this bill). Each member may designate a
5 representative to attend meetings of the commission, and each
6 designee may lawfully vote and otherwise act on behalf of the
7 member who designated that individual to serve as a designee. The
8 members shall serve for terms of three years, commencing on the
9 date of appointment, and may be reappointed. Vacancies in the
10 membership of the commission shall be filled in the same manner
11 as the original appointments.

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

23 c. All commission members shall serve without compensation,
24 but shall be eligible for reimbursement of necessary and reasonable
25 expenses incurred in the performance of their official duties within
26 the limits of funds appropriated or otherwise made available to the
27 commission for its purposes.

28 d. The commission may meet and hold public hearings at the
29 place or places it designates during the sessions or recesses of the
30 Legislature.

31 e. The commission shall study the implementation of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) and shall
33 issue a report to the Governor and the Legislature, pursuant to
34 section 2 of P.L.1991, c.164 (C.52:14-19.1), every three years from
35 the effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill); provided, however, that the initial report
37 shall be issued within one year following the effective date. The
38 report shall include an analysis of the financial impact of P.L. ,
39 c. (C.) (pending before the Legislature as this bill) on both
40 nonprofit hospitals assessed community service contributions
41 thereunder and the municipalities receiving such contributions, the
42 adequacy of the amount of the community service contributions,
43 and an analysis of the administration and equity of these
44 contributions. The report shall include any recommendations that
45 the commission determines would improve the administration,
46 equity, or any other aspect of the nonprofit hospital community
47 service contribution system established by P.L. , c. (C.)
48 (pending before the Legislature as this bill), and shall include an

1 assessment of the adequacy of the amount of the community service
2 contributions.

3
4 3. (New section) a. Property, including land and buildings,
5 used as an acute care hospital, which is owned by an association or
6 corporation organized as a nonprofit association or corporation
7 pursuant to Title 15 of the Revised Statutes or Title 15A of the New
8 Jersey Statutes exclusively for hospital purposes, shall be exempt
9 from taxation, provided that, except in the case of a lease to or use
10 by a profit-making medical provider for medical purposes, if any
11 portion of the property is leased to a profit-making organization or
12 otherwise used for purposes which are not themselves exempt from
13 taxation, that portion shall be subject to taxation and the remaining
14 portion only shall be exempt from taxation. If any portion of an
15 acute care hospital is leased to or otherwise used by a profit-making
16 medical provider for medical purposes, that portion shall be exempt
17 from taxation.

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

22 c. As used in this section:

23 “Acute care hospital” means a hospital which maintains and
24 operates organized facilities and services as approved and licensed
25 by the Department of Health for the diagnosis, treatment, or care of
26 persons suffering from acute illness, injury, or deformity and in
27 which all diagnosis, treatment, and care are administered by or
28 performed under the direction of persons licensed to practice
29 medicine or osteopathy in the State of New Jersey, and includes all
30 land and buildings that are used in the delivery of health care
31 services by such hospital and its medical providers or that are used
32 for the management, maintenance, administration, and security of
33 such hospital and its medical providers, and any satellite emergency
34 care facility of such hospital.

35 “Medical provider” means an individual or entity which, acting
36 within the scope of a licensure or certification, provides health care
37 services, and includes, but is not limited to, a physician, physician
38 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
39 respiratory care practitioner, medical or laboratory technician,
40 ambulance or emergency medical worker, orthotist or prosthetist,
41 radiological or other diagnostic service facility, bioanalytical
42 laboratory, health care facility, and further includes administrative
43 support staff of the individual or entity.

44 “Satellite emergency care facility” means a facility, which is
45 owned and operated by an acute care hospital, and which provides
46 emergency care and treatment for patients.

1 4. (New section) For tax years 2016 and 2017, property that
2 would have been exempt from taxation pursuant to R.S.54:4-3.6 and
3 section 2 of P.L. , c. (C.) (pending before the Legislature
4 as this bill), had P.L. , c. (C.) (pending before the
5 Legislature as this bill) been effective in those tax years, shall not
6 be assessed as omitted property pursuant to P.L.1947, c.413
7 (C.54:4-63.12 et seq.). This section shall apply to the omitted
8 assessment of such property that is the subject of litigation that is
9 pending or that may be subject to appeal before the county board of
10 taxation, the tax court, or any other court on or after the effective
11 date of P.L. , c. (C.) (pending before the Legislature as this
12 bill).

13

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

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

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

1 a duly incorporated nonprofit organization or association which
2 includes among its principal purposes the cultivation and sale of
3 fresh fruits and vegetables, other than a political, partisan, sectarian,
4 denominational or religious organization or association. The
5 foregoing exemption shall apply only where the association,
6 corporation or institution claiming the exemption owns the property
7 in question and is incorporated or organized under the laws of this
8 State and authorized to carry out the purposes on account of which
9 the exemption is claimed or where an educational institution, as
10 provided herein, has leased said property to a historical society or
11 association or to a corporation organized for such purposes and
12 created under or otherwise subject to the provisions of Title 15 of
13 the Revised Statutes or Title 15A of the New Jersey Statutes.

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

15 “Acute care hospital” means the same as that term is defined in
16 section 3 of P.L. , c. (C.) (pending before the Legislature
17 as this bill).

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

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

28

29 6. This act shall take effect on January 1, 2018, except that the
30 Commissioner of Health may take any anticipatory administrative
31 action in advance as shall be necessary for the implementation of
32 this act and that section 4 of the bill shall apply to tax years 2016
33 and 2017 only.

34

35

36

STATEMENT

37

38 This bill would restore the property tax exempt status of a
39 nonprofit hospital with for-profit medical providers on site as long
40 as the hospital remains organized as a nonprofit institution under
41 State law, and would require these nonprofit hospitals to, in lieu of
42 property taxes, pay an annual community service contribution to
43 their host municipalities. The bill would clarify that complex,
44 modern nonprofit hospitals, which provide nonprofit medical
45 services while also hosting for-profit medical activities, remain
46 exempt from property taxation for the portions of hospital property
47 used for medical purposes, but are responsible for providing some
48 financial support to their host communities to offset the costs of

1 public safety services, such as police and fire safety services, as
2 well as the costs of providing affordable housing, all of which
3 directly benefit these hospitals and their employees. This bill
4 would establish a clear and predictable system in which nonprofit
5 hospitals make a reasonable contribution to their host communities.

6 In a 2015 decision, the Tax Court held that a nonprofit hospital
7 was not entitled to a property tax exemption because nonprofit and
8 for-profit medical services were provided throughout the hospital in
9 a commingled manner that did not allow taxing authorities to
10 distinguish taxable for-profit uses of the hospital property from tax-
11 exempt nonprofit uses of the property. Since for-profit medical
12 services are commonly provided at nonprofit hospitals,
13 municipalities began challenging the property tax exempt status
14 held by other nonprofit hospitals, creating uncertainty and questions
15 of fairness over the tax obligations of these non-profit hospitals.
16 This bill would eliminate any uncertainty over the property tax
17 status of nonprofit hospitals that lease space to or share space with
18 for-profit medical providers, but still qualify as nonprofit
19 institutions, while ensuring that a readily calculable fair share
20 contribution is made to the host communities that expend
21 significant sums providing essential services that benefit these
22 hospitals. Any voluntary payments made by a nonprofit hospital for
23 the same purposes would count towards the obligation to provide a
24 community service contribution.

25 The bill requires municipalities to provide five percent of a
26 nonprofit hospital community service contribution, or voluntary
27 payment that counts against such contribution, to the county in
28 which the municipality is located to offset public safety services
29 expenses borne by the county which benefit the hospital.

30 The bill also permits a nonprofit hospital to apply to the New
31 Jersey Health Care Facilities Financing Authority for an exemption
32 from a community service contribution if the hospital or its satellite
33 emergency care facility is in financial distress or at risk of being in
34 financial distress. Notice of such an application is required to be
35 provided to the municipality in which the hospital or satellite
36 emergency care facility that is the subject of the application is
37 located.

38 Hospitals owned by the State or any political subdivision thereof
39 are not subject to the community service contribution required by
40 the bill.

41 The bill also establishes a permanent commission, known as the
42 Nonprofit Hospital Community Service Contribution Study
43 Commission, to study and issue a report, every three years, on the
44 community service contribution system created by the bill. The
45 initial report is due within one year of the effective date of the bill.
46 The report may include any recommendations on how to improve
47 the administration, fairness, or any other aspect of this system, but

S72 SINGLETON

12

- 1 must include an assessment of the adequacy of the amount of the
- 2 community service contributions.
- 3 The bill prohibits the assessment of a nonprofit hospital as an
- 4 omitted property for tax years 2016 and 2017.