

ASSEMBLY, No. 1683

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

Co-Sponsored by:

Assemblymen Dancer, Giblin and Assemblywoman Chaparro

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

Introduced Pending Technical Review by Legislative Counsel.



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.

46 d. A municipality that receives a community service
47 contribution pursuant to subsection a. of this section, or a payment

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

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

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

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

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

47 g. The Commissioner of Health, in consultation with the New
48 Jersey Health Care Facilities Financing Authority in the Department

1 of Health and the Director of the Division of Local Government
2 Services in the Department of Community Affairs, shall adopt
3 regulations necessary to effectuate the provisions of this section
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.).

6 h. As used in this section:

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

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

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

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

37

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

1 acute care hospital is leased to or otherwise used by a profit-making
2 medical provider for medical purposes, that portion shall be exempt
3 from taxation.

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

8 c. As used in this section:

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

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

30
31 3. (New section) a. There is established a commission to be
32 known as the Nonprofit Hospital Community Service Contribution
33 Study Commission. The commission shall consist of nine members
34 as follows: the Commissioner of Health, ex officio; two members of
35 the Senate to be appointed by the President of the Senate, who shall
36 not both be of the same political party; two members of the
37 Assembly to be appointed by the Speaker of the Assembly, who
38 shall not both be of the same political party; two members,
39 appointed by the Governor, who are mayors of municipalities
40 receiving community service contributions pursuant to section 1 of
41 P.L. , c. (C.) (pending before the Legislature as this bill);
42 and two members, appointed by the Governor, who are chief
43 executive officers of nonprofit hospitals assessed community
44 service contributions pursuant to section 1 of P.L. , c. (C.)
45 (pending before the Legislature as this bill). Each member may
46 designate a representative to attend meetings of the commission,
47 and each designee may lawfully vote and otherwise act on behalf of
48 the member who designated that individual to serve as a designee.

1 The members shall serve until the commission submits its report to
2 the Governor and the Legislature pursuant to subsection e. of this
3 section. Vacancies in the membership of the commission shall be
4 filled in the same manner as the original appointments.

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

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

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

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

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

42

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

44 54:4-3.6. The following property shall be exempt from taxation
45 under this chapter: all buildings actually used for colleges, schools,
46 academies or seminaries, provided that if any portion of such
47 buildings are leased to profit-making organizations or otherwise
48 used for purposes which are not themselves exempt from taxation,

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

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

43 As used in this section **["hospital"]** ;
44 “Acute care hospital” means the same as that term is defined in
45 section 2 of P.L. , c. (C.) (pending before the Legislature
46 as this bill).
47 “Hospital purposes” includes acute care hospitals, health care
48 facilities for the elderly, such as nursing homes; residential health

1 care facilities; assisted living residences; facilities with a Class C
2 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
3 "Rooming and Boarding House Act of 1979"; similar facilities that
4 provide medical, nursing or personal care services to their residents;
5 and that portion of the central administrative or service facility of a
6 continuing care retirement community that is reasonably allocable
7 as a health care facility for the elderly.
8 (cf: P.L.2011, c.171, s.4)

9
10 5. This act shall take effect on January 1, 2016, except the
11 Commissioner of Health may take any anticipatory administrative
12 action in advance as shall be necessary for the implementation of
13 this act.

14 15 16 STATEMENT

17
18 This bill would maintain the property tax exempt status of a
19 nonprofit hospital with for-profit medical providers on site as long
20 as the hospital remains organized as a nonprofit institution under
21 State law, and would require nonprofit hospitals to, in lieu of
22 property taxes, pay an annual community service contribution to
23 their host municipalities. The bill would clarify that complex,
24 modern nonprofit hospitals, which provide nonprofit medical
25 services while also hosting for-profit medical activities, remain
26 exempt from property taxation for the portions of hospital property
27 used for medical purposes, but are responsible for providing some
28 financial support to their host communities to offset the costs of
29 public safety services, such as police and fire safety services, that
30 benefit these hospitals. This bill would establish a clear and
31 predictable system by which all nonprofit hospitals make a
32 reasonable contribution to their host communities.

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

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

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

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

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

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