LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 357 and 624

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: OCTOBER 30, 2020

SUMMARY

Synopsis: Reinstates prior property tax exemption for nonprofit hospitals with on-site for-profit medical providers; requires some of these hospitals to pay community service contributions; establishes Nonprofit Hospital Community Service Contribution Study Commission; prohibits certain third-party property tax appeals.

Type of Impact: Potential increase in annual State expenditures; indeterminate impact on annual local government revenue; and potential decrease in annual local government expenditures.

Agencies Affected: Department of Health, certain municipalities and counties.

Office of Legislative Services Estimate

Fiscal Impact	Tax Year 2021 and Thereafter
Potential Annual State Expenditure Increase	Indeterminate
Annual Local Revenue Impact	Indeterminate
Potential Annual Local Expenditure Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would have an indeterminate annual impact on local government revenue collections. Although the new community service contributions by nonprofit hospitals could raise as much as $18.2 million in annual municipal and county revenue, any revenue increase would be reduced by the indeterminate loss in property tax revenue as a result of the bill exempting these hospitals from property taxation. This analysis assumes that all other revenue and spending decisions by local governments would not change because of the enactment of this bill.

- As the bill prohibits property taxpayers from filing property tax appeals with respect to the property of others, the OLS holds that any reduction in the number of property tax appeals filed could lower local and county government operating expenditures.

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- The OLS also estimates the bill could potentially increase annual State expenses due to the operation of the new Nonprofit Hospital Community Service Contribution Study Commission.

BILL DESCRIPTION

This bill would reinstate the property tax exemption of nonprofit hospitals and satellite emergency care facilities, including hospital property that is leased to or otherwise used by a profit-making medical provider for medical purposes related to the delivery of health care services directly to the hospital.

These hospitals would instead be required to pay annual community service contributions to their host municipalities. For tax year 2021, the annual contribution for a hospital would equal $2.50 a day for each licensed bed at the hospital in the prior tax year, and the contribution for a satellite emergency care facility would equal $250 for each day in the prior tax year. For each tax year thereafter, the per day amounts would increase by two percent. The number of licensed beds per hospital would not be fewer than the number of such beds in existence on January 1, 2020.

If a hospital and a host municipality have entered into a voluntary agreement prior to the bill's enactment, the hospital would be required to pay the greater of the community service contribution or the voluntary agreement. Additionally, a hospital's annual community service contribution would be reduced by the amount paid pursuant to a voluntary agreement.

The bill also requires municipalities to provide five percent of an annual community service contribution, or a voluntary payment that counts against such contribution, to the county in which the municipality is located.

Furthermore, a hospital would not have to pay a community service contribution for a tax year if the hospital certifies to the Department of Health (DOH) that it did not balance bill or collect payment from an individual for inpatient services rendered by its employed physicians during the current calendar year and the hospital provided community benefits over the preceding three years averaging at least 12 percent of the hospital's total expenses.

The bill prohibits the assessment of a nonprofit hospital as an omitted property for tax years 2014 through 2020, and clarifies that a municipality is not required to refund any taxes previously paid on such property.

The bill also prohibits property taxpayers from filing property tax appeals with respect to the property of others generally.

Lastly, the bill establishes a permanent Nonprofit Hospital Community Service Contribution Study Commission "in but not of" the DOH to study and issue a report to the Governor and the Legislature on the annual community service contribution system created by the bill. The initial report is due within one year of the effective date of that provision of the bill, and subsequent reports are due every three years from that effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would have an indeterminate annual impact on local government revenue collections. Although the new community service contributions by nonprofit hospitals could raise as much as $18.2 million in annual municipal and county revenue, any revenue increase would be reduced by the indeterminate loss in property tax revenue as a result of the bill exempting these hospitals from property taxation. This analysis assumes that all other revenue and spending decisions by local governments would not change because of the enactment of this bill.

In addition, as the bill prohibits property taxpayers from filing property tax appeals with respect to the property of others, the OLS holds that any reduction in the number of property tax appeals filed could lower local and county government operating expenditures.

The OLS also estimates the bill could potentially increase annual State expenses due to the operation of the Nonprofit Hospital Community Service Contribution Study Commission, established to be "in but not of" the DOH.

Local Government Revenue Impact

By restoring the property tax exemption of certain nonprofit hospital facilities and requiring those facilities to pay annual community service contributions to their host municipalities and counties, the bill is expected to have an indeterminate net impact on county and municipal revenue collections. Specifically, the bill would cause certain local government units to realize increased revenues due to the collection of community service contributions.

Although the Tax Court of New Jersey ruled in 2015 that a specific nonprofit hospital was not entitled to a property tax exemption, the OLS cannot presume that the court's holding will be applied to other nonprofit hospitals or that the valuation method used as part of the settlement of that case will be adopted as the standard method for assessing nonprofit hospital property. However, in the wake of this decision, many municipalities entered into settlement agreements with nonprofit hospital facilities, through which a portion of those facilities could be assessed for property taxes.

The OLS notes that if a hospital and municipality have entered into a voluntary agreement prior to the bill's enactment, the hospital would be required to pay the greater of the community service contribution required under the bill or the voluntary agreement. Similarly, following the enactment of the bill, an annual community service contribution would be reduced by the amount of any payments made by a nonprofit hospital pursuant to a voluntary agreement.

Additionally, for tax years 2014 through 2020, property that would have been exempt from taxation pursuant to this bill, had the bill been effective in those tax years, would not be assessed as an omitted assessment or as a regular assessment. The bill does not require a municipality to refund any taxes paid on such property.

The Collection of Community Service Contributions

The bill requires nonprofit hospitals facilities to pay annual community service contributions, from which 95 percent would be remitted to the facility's host municipality and five percent to the facility's host county. Nonprofit acute care hospitals would be liable for an annual community service contribution equal to $2.50 per day for each licensed bed in the facility during the prior tax year. Nonprofit satellite emergency care facilities would instead be required to make annual contributions equal to $250 per day of operation in the prior tax year.

Information published by the DOH disclosed that there are 19,990 licensed hospital beds located within acute care hospitals owned by nonprofit organizations, not including those owned by public entities. The information also indicated that no facilities were currently licensed as satellite emergency care facilities (i.e., satellite emergency departments). The information also does not include any nonprofit hospital beds that may have been assembled, temporarily or permanently, in response to COVID-19. Under the bill, the number of licensed hospital beds, for the purpose of calculating the annual community service contribution, would not be fewer than the number of such beds in existence on January 1, 2020.

By multiplying the total number of licensed hospital beds by the daily rate of $2.50, the OLS estimates that community service contributions could generate $18.2 million, assuming that each licensed hospital bed constitutes an acute care bed. Given the distribution of these contributions amongst municipalities and counties, municipal revenues are expected to increase by approximately $17.3 million, whereas county revenues are expected to increase by $912,000.

Alternative to the Community Service Contributions

A hospital would not have to pay community service contributions for a tax year if the hospital certifies to the DOH that it did not balance bill or collect payment from an individual for inpatient services rendered by its employed physicians during the current calendar year and the hospital provided community benefits over the preceding three years averaging at least 12 percent of the hospital's total expenses.

According to the "2020 Economic Impact Report" prepared by the New Jersey Hospital Association, total expenditures by 71 acute care hospitals in 2018 reached $24.7 billion, including $3.2 billion in community benefits. The $3.2 billion includes free or discounted care provided, charity care for those without insurance, unpaid costs for Medicare and Medicaid beneficiaries, unpaid and uncollectable patient care costs, and community health improvement services.

At the State level, the $3.2 billion in community benefits equate to nearly 13 percent of total expenditures. The OLS notes that this is the Statewide contribution rate and each individual hospital's rate will vary. However, if a hospital maintains a three-year average of at least 12 percent for community service contributions, along with certifying that it did not balance bill or collect payment from an individual for inpatient services rendered by its employed physicians during the current calendar year, then a hospital would not have to provide a community service contribution and the $18.2 million in local revenues projected above would not be fully realized.

The OLS also notes that the bill's provisions concerning a hospital not balance billing or collecting payment from an individual for inpatient services would only apply to a small subset of hospitals. Also, nearly all hospitals that accept insurance are contractually obligated to charge individuals for inpatient services. Only the small number of hospitals in the State operating solely on donations and contracts, which do not balance bill or charge individuals for inpatient services, would be eligible to satisfy this criterion.

State Fiscal Impact

The enactment of the bill could potentially increase State expenditures associated with the operation of the Nonprofit Hospital Community Service Contribution Study Commission, established to be "in but not of" the DOH. All commission members would serve without compensation, but would be eligible for reimbursement of necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).