

SENATE, No. 480

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

Maintains property tax exemption for certain nonprofit hospitals and their nursing homes; 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 and their nursing homes, supplementing chapter 48 of
3 Title 40 and chapter 4 of Title 54 of the Revised Statutes, and
4 amending R.S.54:4-3.6.

5

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

8

9 1. (New section) a. The owner of property used as an acute
10 care hospital, which property is exempt from taxation pursuant to
11 R.S.54:4-3.6 and section 3 of P.L. , c. (C.) (pending
12 before the Legislature as this bill), shall, except as otherwise
13 provided under this section, annually be assessed a community
14 service contribution to the municipality in which the licensed beds
15 of the exempt acute care hospital are located and, in the case of a
16 satellite emergency care facility, to the municipality in which such
17 facility is located, which contributions shall be remitted to the
18 municipalities to which the community service contributions are
19 assessed.

20 b. The annual community service contribution required
21 pursuant to subsection a. of this section shall be equal to \$2.50 a
22 day for each licensed bed at the exempt acute care hospital property
23 in the prior tax year, except that in the case of a satellite emergency
24 care facility the contribution shall be equal to \$250 a day in the
25 prior tax year for each such facility; provided, however, that the
26 amount shall be reduced by the amount of any payments remitted to
27 the municipality in which the licensed beds of the exempt acute care
28 hospital or in which the satellite emergency care facility, as the case
29 may be, are located pursuant to a voluntary agreement operative in
30 the prior tax year between the owner and the municipality to
31 compensate for public safety services provided that benefit the
32 occupants and premises of the exempt acute care hospital property.
33 For tax year 2017 and each tax year thereafter, the per day amount
34 used to calculate an annual community service contribution for an
35 acute care hospital and a satellite emergency care facility shall
36 increase by two percent over the prior tax year. The Commissioner
37 of Health shall promulgate annually the per day amount to apply for
38 each tax year. The annual community service contribution shall be
39 payable in equal quarterly installments. The first installment shall
40 be payable on February 1, the second installment on May 1, the
41 third installment on August 1, and the fourth installment on
42 November 1.

43 c. The obligation to remit a community service contribution
44 pursuant to subsection a. of this subsection is legal, valid and
45 binding. If an annual community service contribution installment is
46 not paid as and when due pursuant to subsection b. of this section,
47 the unpaid balance shall constitute a municipal lien on the acute

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 care hospital property after 30 days, and shall be enforced and
2 collected in the same manner as unpaid property taxes.

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

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

15 f. An owner required to remit a community service
16 contribution pursuant to subsection a. of this section may, by
17 February 1, apply to the New Jersey Health Care Facilities
18 Financing Authority in the Department of Health for the issuance of
19 a certificate exempting the owner from that requirement for the
20 current tax year for exempt property used as an acute care hospital,
21 including a satellite emergency care facility, in a municipality, if
22 that acute care hospital or satellite emergency care facility, as the
23 case may be, is in financial distress or at risk of being in financial
24 distress. At the same time such an application is made, the
25 applicant owner shall provide notice to the chief financial officer of
26 the municipality in which the acute care hospital or satellite
27 emergency care facility that is the subject of the application is
28 located.

29 An application pursuant to this subsection shall include the
30 audited financial results for the acute care hospital or satellite
31 emergency care facility from the prior tax year or other relevant
32 financial records and proof that notice of the application was
33 provided to the chief financial officer of the municipality in which
34 the acute care hospital or satellite emergency care facility that is the
35 subject of the application is located. If audited financial results
36 from the prior tax year are not available by February 1, a
37 certification of the chief financial officer of the acute care hospital
38 or satellite emergency care facility shall be submitted by that date,
39 and audited financial results shall be submitted within 15 days of
40 such results being completed.

41 The authority shall issue a determination on an application
42 submitted pursuant to this subsection by April 1, or within 60 days
43 of receipt of the audited financial results if such results are
44 submitted after February 1. In making such determination, the
45 authority may consider factors including, but not limited to,
46 whether the acute care hospital or satellite emergency care facility
47 had a negative operating margin in the prior tax year based on the
48 audited financial results from that tax year, whether the owner is not

1 in full compliance with the financial terms of any bond covenants
2 related to the acute care hospital or satellite emergency care facility,
3 the overall financial health of the hospital system if the acute care
4 hospital or satellite emergency care facility is part of a hospital
5 system responsible for the debts and liabilities of the acute care
6 hospital or satellite emergency care facility, or whether the acute
7 care hospital or satellite emergency care facility is a safety net
8 hospital or facility.

9 If the authority determines that an acute care hospital or satellite
10 emergency care facility that is the subject of an application
11 submitted pursuant to this subsection is in financial distress or at
12 risk of being in financial distress, the authority shall grant the
13 application and issue a certificate exempting the owner from the
14 community service contribution otherwise required for the acute
15 care hospital or satellite emergency care facility to the municipal
16 tax collector of the municipality otherwise owed the contribution.
17 A certificate issued pursuant to this paragraph shall be valid for the
18 current tax year.

19 If the authority denies an application, any community service
20 contribution owing shall bear interest from the original payment
21 date pursuant to subsection b. of this section.

22 g. The Commissioner of Health, in consultation with the New
23 Jersey Health Care Facilities Financing Authority in the Department
24 of Health and the Director of the Division of Local Government
25 Services in the Department of Community Affairs, shall, by January
26 1, 2017, adopt regulations necessary to effectuate the provisions of
27 this section pursuant to the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.), which shall include specific
29 guidelines for what constitutes being in financial distress or at risk
30 of being in financial distress for purposes of qualifying for an
31 exemption certificate pursuant to subsection f. of this section.

32 h. As used in this section:

33 "Acute care hospital" means a hospital, other than a hospital the
34 property of which is exempt from taxation pursuant to R.S.54:4-3.3,
35 which maintains and operates organized facilities and services as
36 approved and licensed by the Department of Health for the
37 diagnosis, treatment, or care of persons suffering from acute illness,
38 injury, or deformity and in which all diagnosis, treatment, and care
39 are administered by or performed under the direction of persons
40 licensed to practice medicine or osteopathy in the State of New
41 Jersey; and includes all land and buildings that are used in the
42 delivery of health care services by such hospital and its medical
43 providers; for the management, maintenance, administration, and
44 security of such hospital and its medical providers; as a satellite
45 emergency care facility of such hospital; or as a nonprofit nursing
46 home owned by such hospital or its subsidiary.

1 “Licensed bed” means one of the total number of acute care beds
2 and nursing home beds, if any, for which an acute care hospital is
3 approved for patient care by the Commissioner of Health.

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

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

17 “Satellite emergency care facility” means a facility, which is
18 owned and operated by an acute care hospital, and which provides
19 emergency care and treatment for patients.

20

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

45 b. The members shall be appointed within 60 days following
46 the effective date of P.L. , c. (C.) (pending before the
47 Legislature as this bill). The commission shall organize as soon as

1 practicable after the appointment of its members and shall select a
2 chair and a treasurer from among its members, and a secretary who
3 need not be a member of the commission. The presence of five
4 members of the commission shall constitute a quorum. The
5 commission may conduct business without a quorum, but may only
6 vote on the issuance of the report required to be submitted to the
7 Governor and the Legislature pursuant to subsection e. of this
8 section, and on any recommendations, when a quorum is present.

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

14 d. The commission may meet and hold public hearings at the
15 place or places it designates during the sessions or recesses of the
16 Legislature.

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

37
38 3. (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; for the
18 management, maintenance, administration, and security of such
19 hospital and its medical providers; as a satellite emergency care
20 facility of such hospital; or as a nonprofit nursing home owned by
21 such hospital or its subsidiary.

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

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

35 4. (New section) For tax years 2014 and 2015, property that
36 would have been exempt from taxation pursuant to R.S.54:4-3.6 and
37 section 3 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), had P.L. , c. (C.) (pending before the
39 Legislature as this bill) been effective in those tax years, shall not
40 be assessed as omitted property pursuant to P.L.1947, c.413
41 (C.54:4-63.12 et seq.). This section shall apply to the omitted
42 assessment of such property that is the subject of litigation that is
43 pending or that may be subject to appeal before the county board of
44 taxation, the tax court, or any other court on or after the effective
45 date of P.L. , c. (C.) (pending before the Legislature as
46 this bill).

1 5. R.S.54:4-3.6 is amended to read as follows:
2 54:4-3.6. The following property shall be exempt from taxation
3 under this chapter: all buildings actually used for colleges, schools,
4 academies or seminaries, provided that if any portion of such
5 buildings are leased to profit-making organizations or otherwise
6 used for purposes which are not themselves exempt from taxation,
7 said portion shall be subject to taxation and the remaining portion
8 only shall be exempt; all buildings actually used for historical
9 societies, associations or exhibitions, when owned by the State,
10 county or any political subdivision thereof or when located on land
11 owned by an educational institution which derives its primary
12 support from State revenue; all buildings actually and exclusively
13 used for public libraries, asylum or schools for adults and children
14 with intellectual disabilities; all buildings used exclusively by any
15 association or corporation formed for the purpose and actually
16 engaged in the work of preventing cruelty to animals; all buildings
17 actually and exclusively used and owned by volunteer first-aid
18 squads, which squads are or shall be incorporated as associations
19 not for pecuniary profit; all buildings actually used in the work of
20 associations and corporations organized exclusively for the moral
21 and mental improvement of men, women and children, provided
22 that if any portion of a building used for that purpose is leased to
23 profit-making organizations or is otherwise used for purposes which
24 are not themselves exempt from taxation, that portion shall be
25 subject to taxation and the remaining portion only shall be exempt;
26 all buildings actually used in the work of associations and
27 corporations organized exclusively for religious purposes, including
28 religious worship, or charitable purposes, provided that if any
29 portion of a building used for that purpose is leased to a profit-
30 making organization or is otherwise used for purposes which are not
31 themselves exempt from taxation, that portion shall be subject to
32 taxation and the remaining portion shall be exempt from taxation,
33 and provided further that if any portion of a building is used for a
34 different exempt use by an exempt entity, that portion shall also be
35 exempt from taxation; all buildings actually used in the work of
36 associations and corporations organized exclusively for hospital
37 purposes, provided that , except in the case of an acute care hospital
38 as provided in section 3 of P.L. , c. (C.) (pending before
39 the Legislature as this bill), if any portion of a building used for
40 hospital purposes is leased to profit-making organizations or
41 otherwise used for purposes which are not themselves exempt from
42 taxation, that portion shall be subject to taxation and the remaining
43 portion only shall be exempt; all buildings owned or held by an
44 association or corporation created for the purpose of holding the
45 title to such buildings as are actually and exclusively used in the
46 work of two or more associations or corporations organized
47 exclusively for the moral and mental improvement of men, women

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

1 organized for such purposes and created under or otherwise subject
2 to the provisions of Title 15 of the Revised Statutes or Title 15A of
3 the New Jersey Statutes.

4 As used in this section ["hospital]:

5 "Acute care hospital" means the same as that term is defined in
6 section 3 of P.L. , c. (C.) (pending before the Legislature
7 as this bill).

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

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

18
19 6. This act shall take effect on January 1, 2016, except that
20 section 4 of the bill shall apply to tax years 2014 and 2015 only.

21 22 23 STATEMENT

24
25 This bill maintains the property tax exempt status of a nonprofit
26 hospital with for-profit medical providers on site as long as the
27 hospital remains organized as a nonprofit institution under State
28 law, and requires these nonprofit hospitals to pay an annual
29 community service contribution to their host municipalities. The
30 clarified property tax exemption under the bill extends to the
31 portions of hospital property used for medical purposes, and the
32 community service contributions are required to be used to offset
33 the costs of public safety services, such as police and fire safety
34 services, or to reduce the property tax levy. Any voluntary
35 payments made by a nonprofit hospital for the same purpose of
36 offsetting public safety costs will count towards the obligation to
37 provide a community service contribution.

38 Nonprofit nursing homes owned by a nonprofit hospital would be
39 subject to the same property tax exempt status as the hospital under
40 the bill, and the number of nursing home beds of such a nursing
41 home would be factored into the amount of a community service
42 contribution owed by the hospital.

43 The bill requires municipalities to provide five percent of a
44 nonprofit hospital community service contribution, or voluntary
45 payment that counts against such contribution, to the county in
46 which the municipality is located to offset public safety services
47 expenses borne by the county which benefit the hospital.

1 The bill also permits a nonprofit hospital to apply to the New
2 Jersey Health Care Facilities Financing Authority for an exemption
3 from a community service contribution if the hospital or its satellite
4 emergency care facility is in financial distress or at risk of being in
5 financial distress. Notice of such an application is required to be
6 provided to the municipality in which the hospital or satellite
7 emergency care facility that is the subject of the application is
8 located.

9 Hospitals owned by the State or any political subdivision thereof
10 are not subject to the community service contribution required by
11 the bill.

12 The bill also establishes a permanent commission, known as the
13 Nonprofit Hospital Community Service Contribution Study
14 Commission, to study and issue a report, every three years, on the
15 community service contribution system created by the bill. The
16 initial report is due within one year of the effective date. The report
17 may include any recommendations on how to improve the
18 administration, fairness, or any other aspect of this system, but is
19 required to include an assessment of the adequacy of the amount of
20 the community service contributions.

21 Lastly, the bill prohibits the assessment of a nonprofit hospital as
22 an omitted property for tax years 2014 and 2015.