

SENATE, No. 624

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Restores property tax exemption for nonprofit hospitals with for-profit medical providers on-site; 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.



(Sponsorship Updated As Of: 10/22/2020)

1 AN ACT concerning the property tax exempt status of 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 or satellite emergency care facility, which is exempt
10 from taxation pursuant to section 3 of P.L. , c. (C.)
11 (pending before the Legislature as this bill), shall, except as may
12 otherwise be provided under subsection e. of this section, annually
13 remit to the Department of Health a community service contribution
14 to be distributed to the municipality in which the licensed beds of
15 the exempt acute care hospital are located or, in the case of a
16 satellite emergency care facility, to the municipality in which such
17 facility is located.

18 b. (1) 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 (2) 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 annually promulgate the per day
29 amount to apply for each tax year.

30 (3) An annual community service contribution shall be payable
31 to the Department of Health in equal quarterly installments. The
32 first installment shall be payable on February 1, the second
33 installment on May 1, the third installment on August 1, and the
34 fourth installment on November 1.

35 (4) Upon receipt of a community service contribution
36 installment, the Department of Health shall forthwith distribute the
37 installment to the applicable recipient municipality.

38 (5) Upon receipt of a community service contribution
39 installment, the municipality shall forthwith remit five percent of
40 the installment to the county in which the municipality is located.

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

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

3 d. (1) A municipality shall use the proceeds of a community
4 service contribution installment, and any interest accrued on any
5 unpaid balance thereof, solely and exclusively to fund police or fire
6 protection; first aid, emergency, rescue, or ambulance services; or
7 any other public safety service; or to reduce the property tax levy.

8 (2) A county shall use the proceeds of a portion of a community
9 service contribution installment solely and exclusively to fund any
10 public safety service provided by the county.

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

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

36 (3) The authority shall issue a determination on an application
37 submitted pursuant to this subsection by April 1, or within 60 days
38 of receipt of the audited financial results if such results are
39 submitted after February 1. In making such determination, the
40 authority may consider factors including, but not limited to,
41 whether the acute care hospital or satellite emergency care facility
42 had a negative operating margin in the prior tax year based on the
43 audited financial results from that tax year, whether the owner is not
44 in full compliance with the financial terms of any bond covenants
45 related to the acute care hospital or satellite emergency care facility,
46 the overall financial health of the hospital system if the acute care
47 hospital or satellite emergency care facility is part of a hospital
48 system responsible for the debts and liabilities of the acute care

1 hospital or satellite emergency care facility, or whether the acute
2 care hospital or satellite emergency care facility is a safety net
3 hospital or facility.

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

14 (5) If the authority denies an application, any community
15 service contribution installment owing shall bear interest from the
16 original payment date pursuant to subsection c. of this section.

17 f. The Commissioner of Health, in consultation with the New
18 Jersey Health Care Facilities Financing Authority in the Department
19 of Health and the Director of the Division of Local Government
20 Services in the Department of Community Affairs, shall, by January
21 1, 2019, adopt regulations necessary to effectuate the provisions of
22 this section pursuant to the "Administrative Procedure Act,"
23 P.L.1968, c.410 (C.52:14B-1 et seq.), which shall include specific
24 guidelines for what constitutes financial distress or at risk of being
25 in financial distress for purposes of qualifying for an exemption
26 certificate pursuant to subsection e. of this section.

27 g. As used in this section:

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

41 "Licensed bed" means one of the total number of acute care beds
42 for which an acute care hospital is approved for patient care by the
43 Commissioner of Health.

44 "Medical provider" means an individual or entity which, acting
45 within the scope of a licensure or certification, provides health care
46 services, and includes, but is not limited to, a physician, physician
47 assistant, psychologist, pharmacist, dentist, nurse, paramedic,
48 respiratory care practitioner, medical or laboratory technician,

1 ambulance or emergency medical worker, orthotist or prosthetist,
2 radiological or other diagnostic service facility, bioanalytical
3 laboratory, health care facility, and further includes administrative
4 support staff of the individual or entity.

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

9 “Satellite emergency care facility” means a facility, which is
10 owned and operated by an acute care hospital or its nonprofit parent
11 corporation, and which provides emergency care and treatment for
12 patients.

13

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

37 b. The members shall be appointed within 60 days following
38 the effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill). The commission shall organize as soon as
40 practicable after the appointment of a majority of its members and
41 shall select a chair and a treasurer from among its members, and a
42 secretary who need not be a member of the commission. The
43 presence of five members of the commission shall constitute a
44 quorum. The commission may conduct business without a quorum,
45 but may only vote on the issuance of the report required to be
46 submitted to the Governor and the Legislature pursuant to
47 subsection e. of this section, and on any recommendations, when a
48 quorum is present.

1 c. All commission members shall serve without compensation,
2 but shall be eligible for reimbursement of necessary and reasonable
3 expenses incurred in the performance of their official duties within
4 the limits of funds appropriated or otherwise made available to the
5 commission for its purposes.

6 d. The commission may meet and hold public hearings at the
7 place or places it designates during the sessions or recesses of the
8 Legislature.

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

29

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

41 b. If any portion of an acute care hospital or satellite
42 emergency care facility is leased to or otherwise used by a profit-
43 making medical provider for medical purposes related to the
44 delivery of health care services of the acute care hospital, that
45 portion shall be exempt from taxation.

46 c. As used in this section:

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

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

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

19 “Satellite emergency care facility” means a facility, which is
20 owned and operated by an acute care hospital or its nonprofit parent
21 corporation, and which provides emergency care and treatment for
22 patients.

23

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

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

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

1 except that the exemption of the buildings and lands used for
2 charitable, benevolent or religious purposes shall extend to cases
3 where the charitable, benevolent or religious work therein carried
4 on is supported partly by fees and charges received from or on
5 behalf of beneficiaries using or occupying the buildings; provided
6 the building is wholly controlled by and the entire income
7 therefrom is used for said charitable, benevolent or religious
8 purposes; and any tract of land purchased pursuant to subsection (n)
9 of section 21 of P.L.1971, c.199 (C.40A:12-21), and located within
10 a municipality, actually used for the cultivation and sale of fresh
11 fruits and vegetables and owned by a duly incorporated nonprofit
12 organization or association which includes among its principal
13 purposes the cultivation and sale of fresh fruits and vegetables,
14 other than a political, partisan, sectarian, denominational or
15 religious organization or association. The foregoing exemption
16 shall apply only where the association, corporation or institution
17 claiming the exemption owns the property in question and is
18 incorporated or organized under the laws of this State and
19 authorized to carry out the purposes on account of which the
20 exemption is claimed or where an educational institution, as
21 provided herein, has leased said property to a historical society or
22 association or to a corporation organized for such purposes and
23 created under or otherwise subject to the provisions of Title 15 of
24 the Revised Statutes or Title 15A of the New Jersey Statutes.

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

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

29 “Hospital purposes” includes, health care facilities for the
30 elderly, such as nursing homes; residential health care facilities;
31 assisted living residences; facilities with a Class C license pursuant
32 to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding
33 House Act of 1979"; similar facilities that provide medical, nursing
34 or personal care services to their residents; and that portion of the
35 central administrative or service facility of a continuing care
36 retirement community that is reasonably allocable as a health care
37 facility for the elderly.

38 “Satellite emergency care facility” means the same as that term
39 is defined in section 3 of P.L. , c. (C.) (pending before the
40 Legislature as this bill).

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

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43 5. This act shall take effect on January 1, 2018, except that the
44 Commissioner of Health may take any anticipatory administrative
45 action in advance as shall be necessary for the implementation of
46 this act.

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STATEMENT

This bill would restore the property tax exempt status of a nonprofit hospital with on-site for-profit medical providers as long as the hospital remains organized as a nonprofit institution under State law, and would require these nonprofit hospitals to pay an annual community service contribution to their host municipalities. The bill would clarify that modern, complex nonprofit hospitals that provide nonprofit and for-profit medical services remain entitled to a property tax exemption for the portions of hospital property used for the delivery of health care services of the hospital. The bill would also make these hospitals responsible for providing some financial support to their host communities to offset the costs of public safety services, such as police and fire safety services, which directly benefit these hospitals and their employees. This bill would establish a clear and predictable system in which nonprofit hospitals make a reasonable contribution to their host communities, while providing these hospitals a measure of tax relief to help them continue to fulfill their nonprofit mission.

In a 2015 decision, the Tax Court held that a nonprofit hospital was not entitled to a property tax exemption because nonprofit and for-profit medical services were provided throughout the hospital in a commingled manner that did not allow taxing authorities to distinguish taxable for-profit uses of the hospital property from tax-exempt nonprofit uses of the property. Since for-profit medical services are commonly provided at nonprofit hospitals, municipalities began challenging the property tax exempt status held by other nonprofit hospitals, creating uncertainty and questions of fairness over the tax obligations of these non-profit hospitals. This bill would eliminate any uncertainty over the property tax status of nonprofit hospitals that use for-profit medical providers to help deliver their services, but still qualify as nonprofit institutions, while ensuring that a readily calculable fair share contribution is made to compensate host communities for the significant sums they expend providing essential services that benefit these hospitals.

The bill requires municipalities to provide five percent of a nonprofit hospital community service contribution to the county in which the municipality is located to offset public safety services expenses borne by the county that benefit the hospital.

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

S624 SARLO, SINGLETON

1 Hospitals owned by the State or any political subdivision thereof
2 are not subject to the community service contribution required by
3 the bill.

4 Portions of a nonprofit hospital that are leased to or used by a
5 for-profit medical provider to deliver services independent of those
6 provided by the hospital would be subject to property taxation in
7 the same manner as for-profit gift and food shops.

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