

# SENATE, No. 1102

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

### **SYNOPSIS**

Preserves property tax exempt status of certain nonprofit acute care hospitals; requires these hospitals to enter into payment in lieu of taxation agreement in certain circumstances.

### **CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning the property taxation of nonprofit acute care  
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. If the average of the community benefit  
9 expense percentages of total expense reported by a qualified  
10 nonprofit acute care hospital exempt from taxation pursuant to  
11 R.S.54:4-3.6 and section 2 of P.L. , c. (C. ) (pending before  
12 the Legislature as this bill) on its Internal Revenue Service Form  
13 990, Schedule H, filed with the Internal Revenue Service for the  
14 three tax years prior to the pretax year is five percent or greater, but  
15 not greater than eight percent, and the average of the combined  
16 community benefit expense and community building activities  
17 percentages of total expense reported on those filings is less than 10  
18 percent, the owner of the hospital shall enter into a payment in lieu  
19 of taxation agreement with the municipality in which the hospital is  
20 located for the current tax year.

21 b. If the average of the community benefit expense percentages  
22 of total expense reported by a qualified nonprofit acute care hospital  
23 exempt from taxation pursuant to R.S.54:4-3.6 and section 2 of  
24 P.L. , c. (C. ) (pending before the Legislature as this bill) on  
25 its Internal Revenue Service Form 990, Schedule H, filed with the  
26 Internal Revenue Service for the three tax years prior to the pretax  
27 year is greater than eight percent or the average of the combined  
28 community benefit expense and community building activities  
29 percentages of total expense reported on those filings is 10 percent  
30 or greater, the owner of the hospital may enter into a voluntary  
31 payment in lieu of taxation agreement with the municipality in  
32 which the hospital is located for the current tax year.

33 c. If a nonprofit acute care hospital does not meet the  
34 requirements of a qualified nonprofit acute care hospital and is not  
35 exempt from taxation pursuant to R.S.54:4-3.6 and section 2 of  
36 P.L. , c. (C. ) (pending before the Legislature as this bill),  
37 the municipality in which the hospital is located may enter into a  
38 payment in lieu of taxation agreement with the owner of the  
39 hospital, and forego the collection of property taxes with respect to  
40 that hospital.

41 d. A nonprofit acute care hospital shall annually file with the  
42 tax assessor of the municipality in which the hospital is located  
43 copies of its Internal Revenue Service Form 990, including  
44 Schedule H, filed with the Internal Revenue Service for the three  
45 tax years prior to the pretax year by September 1 of each pretax  
46 year.

**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.

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1 e. The tax assessor of a municipality in which a nonprofit acute  
2 care hospital is located shall annually determine whether the  
3 hospital is a qualified nonprofit acute care hospital exempt from  
4 taxation and whether the hospital is required to enter into a payment  
5 in lieu of taxation agreement with the municipality pursuant to  
6 R.S.54:4-3.6 and P.L. , c. (C. ) (pending before the  
7 Legislature as this bill) by October 1 of each pretax year.

8 f. The owner of an acute care hospital may appeal the  
9 determination of a tax assessor pursuant to subsection e. of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill) in  
11 the manner set forth in R.S.54:3-21.

12 g. The Commissioner of Health, in consultation with the  
13 Director of the Division of Taxation in the Department of the  
14 Treasury and the Director of the Division of Local Government  
15 Services in the Department of Community Affairs, shall adopt  
16 regulations necessary to effectuate the provisions of this section  
17 pursuant to the "Administrative Procedure Act,"  
18 P.L.1968, c.410 (C.52:14B-1 et seq.).

19 h. As used in this section:

20 "Acute care hospital" means a hospital which maintains and  
21 operates organized facilities and services as approved by the  
22 Department of Health for the diagnosis, treatment, or care of  
23 persons suffering from acute illness, injury, or deformity and in  
24 which all diagnosis, treatment, and care are administered by or  
25 performed under the direction of persons licensed to practice  
26 medicine or osteopathy in the State of New Jersey.

27 "Nonprofit acute care hospital" means an acute care hospital that  
28 is owned by an association or corporation organized as a nonprofit  
29 pursuant to Title 15 of the Revised Statutes or Title 15A of the New  
30 Jersey Statutes exclusively for hospital purposes.

31 "Qualified nonprofit acute care hospital" means a nonprofit acute  
32 care hospital for which either an average of the community benefit  
33 expense percentages of total expense reported on its Internal  
34 Revenue Service Form 990, Schedule H, filed with the Internal  
35 Revenue Service for the three tax years prior to the pretax year is  
36 five percent or greater, or the average of the combined community  
37 benefit expense and community building activities percentages of  
38 total expense reported on those filings is 10 percent or greater.

39

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

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1 medical provider for medical purposes, that portion shall be exempt  
2 from taxation.

3 b. The owner of property used as a qualified nonprofit acute  
4 care hospital exempt from taxation pursuant to subsection a. of this  
5 section may be subject to a payment in lieu of taxation agreement as  
6 provided in section 1 of P.L. , c. (C. ) (pending before the  
7 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 by the  
11 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.

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

25 "Nonprofit acute care hospital" means an acute care hospital that  
26 is owned by an association or corporation organized as a nonprofit  
27 pursuant to Title 15 of the Revised Statutes or Title 15A of the New  
28 Jersey Statutes exclusively for hospital purposes.

29 "Qualified nonprofit acute care hospital" means a nonprofit acute  
30 care hospital for which either an average of the community benefit  
31 expense percentages of total expense reported on its Internal  
32 Revenue Service Form 990, Schedule H, filed with the Internal  
33 Revenue Service for the three tax years prior to the pretax year is  
34 five percent or greater, or the average of the combined community  
35 benefit expense and community building activities percentages of  
36 total expense reported on those filings is 10 percent or greater.

37

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

39 54:4-3.6. The following property shall be exempt from taxation  
40 under this chapter: all buildings actually used for colleges, schools,  
41 academies or seminaries, provided that if any portion of such  
42 buildings are leased to profit-making organizations or otherwise  
43 used for purposes which are not themselves exempt from taxation,  
44 said portion shall be subject to taxation and the remaining portion  
45 only shall be exempt; all buildings actually used for historical  
46 societies, associations or exhibitions, when owned by the State,  
47 county or any political subdivision thereof or when located on land  
48 owned by an educational institution which derives its primary

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

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

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

40 "Acute care hospital" means the same as that term is defined in  
41 section 2 of P.L. , c. (C. ) (pending before the Legislature  
42 as this bill).

43 "Hospital purposes" includes qualified nonprofit acute care  
44 hospitals, health care facilities for the elderly, such as nursing  
45 homes; residential health care facilities; assisted living residences;  
46 facilities with a Class C license pursuant to  
47 P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding  
48 House Act of 1979"; similar facilities that provide medical, nursing

1 or personal care services to their residents; and that portion of the  
2 central administrative or service facility of a continuing care  
3 retirement community that is reasonably allocable as a health care  
4 facility for the elderly , but does not include acute care hospitals  
5 that do not meet the requirements of a qualified nonprofit acute care  
6 hospital, as that term is defined in section 2 of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill),  
8 which acute care hospitals shall be subject to taxation except as  
9 may be otherwise provided pursuant to subsection c. of section 1 of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill).

11 “Qualified nonprofit acute care hospital” means the same as that  
12 term is defined in section 2 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill).

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

15

16 4. This act shall take effect on the first day of the tax year next  
17 following the date of enactment, except that subsection d. of section  
18 1 of this act shall take effect immediately and except the  
19 Commissioner of Health may take any anticipatory administrative  
20 action in advance as shall be necessary for the implementation of  
21 this act.

22

23

24 STATEMENT

25

26 This bill would tie the property taxation of a non-profit acute  
27 care hospital to the percentages of community benefit expenses and  
28 community building activities out of total hospital expenses that the  
29 hospital reports to the Internal Revenue Service. The bill would  
30 clarify that complex modern nonprofit hospitals, which provide  
31 nonprofit medical services while also hosting for-profit medical  
32 activities, may remain exempt from property taxation if certain  
33 minimum percentages of community benefit expenses or  
34 community building activities are reported, but may be responsible  
35 for either providing some financial support to their host  
36 municipalities or may be subject to full property taxation if such  
37 hospitals’ community benefit expenses or community building  
38 activities percentages are lower.

39 The Tax Court has held that a nonprofit hospital was not entitled  
40 to a property tax exemption because profit-making medical services  
41 were provided throughout the hospital, and there was no separate  
42 accounting of nonprofit and for-profit medical activities to delineate  
43 exempt property from non-exempt property. Since for-profit  
44 medical services are commonly provided at nonprofit hospitals, this  
45 ruling could potentially be applied to many other nonprofit  
46 hospitals throughout the State. This bill would eliminate any  
47 uncertainty over the property tax exempt status of nonprofit  
48 hospitals that lease space to or share space with for-profit medical

1 providers, but still qualify as nonprofit institutions, by establishing  
2 clear and specific guidelines for when such hospital properties are  
3 exempt from property taxation, subject to a payment in lieu of  
4 taxation requirement, or subject to full property taxation.

5 Specifically, a nonprofit hospital would be exempt from property  
6 taxation if the average of its reported community benefit expense  
7 percentages of total expense on its Internal Revenue Service Form  
8 990, Schedule H, filed with the Internal Revenue Service for a three  
9 year period is five percent or greater or the average of its combined  
10 community benefit expense and community building activities  
11 percentages of total expense reported on those filings is 10 percent  
12 or greater. Such hospital would be subject to a mandatory payment  
13 in lieu of taxation agreement with its host municipality if the  
14 average of its community benefit expense percentages of total  
15 expense is five percent or greater, but not greater than eight percent,  
16 and the average of its combined community benefit expense and  
17 community building activities percentages of total expense is less  
18 than 10 percent. If the average of such hospital's community  
19 benefit expense percentages of total expense is greater than eight  
20 percent or the average of its combined community benefit expense  
21 and community building activities percentages of total expense is  
22 10 percent or greater, the hospital may, but is not required to, enter  
23 into a payment in lieu of taxation agreement with its host  
24 municipality.

25 A nonprofit hospital would be subject to full property taxation if  
26 the average of its community benefit expense percentages of total  
27 expense is less than five percent and the average of its combined  
28 community benefit expense and community building activities  
29 percentages of total expense is less than 10 percent. The  
30 municipality in which such hospital is located may forego property  
31 tax collection against such hospital and implement a payment in  
32 lieu of taxation agreement instead.