

[Second Reprint]

SENATE, No. 3299

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED DECEMBER 7, 2015

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Assemblyman O'Scanlon

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

As amended by the Senate on January 7, 2016.

(Sponsorship Updated As Of: 1/12/2016)

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 care
 9 hospital, which property is exempt from taxation pursuant to R.S.54:4-
 10 3.6 and section 2 of P.L. , c. (C.) (pending before the
 11 Legislature as this bill), shall, except as otherwise provided under this
 12 section, annually be assessed a community service contribution to the
 13 municipality in which the licensed beds of the exempt acute care
 14 hospital are located and, in the case of a satellite emergency care
 15 facility, to the municipality in which such facility is located, which
 16 contributions shall be remitted to the municipalities to which the
 17 community service contributions are assessed.

18 b. The annual community service contribution required pursuant
 19 to subsection a. of this section shall be equal to \$2.50 a day for each
 20 licensed bed at the exempt acute care hospital property in the prior tax
 21 year, except that in the case of a ¹**licensed**¹ satellite emergency care
 22 facility the contribution shall be equal to ¹**[\$750]** \$250¹ a day in the
 23 prior tax year for each such facility; provided, however, that the
 24 amount shall be reduced by the amount of any payments remitted to
 25 the municipality in which the licensed beds of the exempt acute care
 26 hospital or ¹**licensed**¹ in which the¹ satellite emergency care facility,
 27 as the case may be, are located pursuant to a voluntary agreement
 28 operative in the prior tax year between the owner and the municipality
 29 to compensate for public safety services provided that benefit the
 30 occupants and premises of the exempt acute care hospital property.

31 ²For tax year 2017 and each tax year thereafter, the per day amount
 32 used to calculate an annual community service contribution for an
 33 acute care hospital and a satellite emergency care facility shall increase
 34 by two percent over the prior tax year. The Commissioner of Health
 35 shall promulgate annually the per day amount to apply for each tax
 36 year.² The annual community service contribution shall be payable in
 37 equal quarterly installments. The first installment shall be payable on
 38 February 1, the second installment on May 1, the third installment on
 39 August 1, and the fourth installment on November 1.

40 c. The obligation to remit a community service contribution
 41 pursuant to subsection a. of this subsection is legal, valid, and binding.
 42 If an annual community service contribution installment is not paid as
 43 and when due pursuant to subsection b. of this section, ²**interest** shall
 44 accrue and be due to the municipality on the unpaid balance at the rate

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 21, 2015.

²Senate floor amendments adopted January 7, 2016.

1 of one and one-half percent per month until the unpaid balance and all
2 interest accrued thereon is fully paid to the municipality; and² the
3 ¹ [municipality may, in a civil action, recover the unpaid balance and
4 all interest accrued thereon, together with attorney's fees and costs, in
5 a court of competent jurisdiction] unpaid balance shall constitute a
6 municipal lien on the acute care hospital property after 30 days, and
7 shall be enforced and collected ² [, with interest as provided in this
8 subsection.]² in the same manner as unpaid property taxes¹.

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

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

20 f. An owner required to remit a community service contribution
21 pursuant to subsection a. of this section may, by February 1, apply to
22 the New Jersey Health Care Facilities Financing Authority in the
23 Department of Health for the issuance of a certificate exempting the
24 owner from that requirement for the current tax year for exempt
25 property used as an acute care hospital ¹, including a satellite
26 emergency care facility,¹ in a municipality, if that acute care hospital
27 ¹ [had a negative operating margin in the prior tax year or the owner is
28 not in full compliance with the financial terms of any bond covenants
29 related to that acute care hospital] or satellite emergency care facility,
30 as the case may be, is in financial distress or at risk of being in
31 financial distress. At the same time such an application is made, the
32 applicant owner shall provide notice to the chief financial officer of
33 the municipality in which the acute care hospital or satellite emergency
34 care facility that is the subject of the application is located¹.

35 An application pursuant to this ¹ [paragraph] subsection¹ shall
36 include the audited financial results for the acute care hospital ¹ or
37 satellite emergency care facility¹ from the prior tax year or other
38 ¹ relevant¹ financial records ¹ [showing that the owner is not in full
39 compliance with its bond covenants related to that acute care hospital]
40 and proof that notice of the application was provided to the chief
41 financial officer of the municipality in which the acute care hospital or
42 satellite emergency care facility that is the subject of the application is
43 located¹. If audited financial results from the prior tax year are not
44 available by February 1, a certification of the chief financial officer of
45 the acute care hospital ¹ or satellite emergency care facility¹ shall be
46 submitted by that date, and audited financial results shall be submitted
47 within 15 days of such results being completed.

1 The authority shall issue a determination on an application
2 submitted pursuant to this subsection by April 1, or within 60 days of
3 receipt of the audited financial results if such results are submitted
4 after February 1. ¹In making such determination, the authority may
5 consider factors including, but not limited to, whether the acute care
6 hospital or satellite emergency care facility had a negative operating
7 margin in the prior tax year based on the audited financial results from
8 that tax year, ²whether² the owner is not in full compliance with the
9 financial terms of any bond covenants related to the acute care hospital
10 or satellite emergency care facility, ²the overall financial health of the
11 hospital system if the acute care hospital or satellite emergency care
12 facility is part of a hospital system responsible for the debts and
13 liabilities of the acute care hospital or satellite emergency care
14 facility, ² or ²whether² the acute care hospital or satellite emergency
15 care facility is a safety net hospital or facility.¹

16 If the authority determines that an acute care hospital ¹or satellite
17 emergency care facility¹ that is the subject of an application submitted
18 pursuant to this subsection ¹had a negative operating margin in the
19 prior tax year based on the audited financial results for that acute care
20 hospital from that tax year or that the owner is not in full compliance
21 with the financial terms of any bond covenants related to that acute
22 care hospital] is in financial distress or at risk of being in financial
23 distress¹, the authority shall grant the application and issue a certificate
24 exempting the owner from the community service contribution
25 otherwise required for the acute care hospital ¹or satellite emergency
26 care facility¹ to the municipal tax collector of the municipality
27 otherwise owed the contribution. A certificate issued pursuant to this
28 paragraph shall be valid for the current tax year.

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

32 g. The Commissioner of Health, in consultation with the New
33 Jersey Health Care Facilities Financing Authority in the Department of
34 Health and the Director of the Division of Local Government Services
35 in the Department of Community Affairs, shall ¹, by January 1, 2017,¹
36 adopt regulations necessary to effectuate the provisions of this section
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.) ¹, which shall include specific guidelines for what
39 constitutes being in financial distress or at risk of being in financial
40 distress for purposes of qualifying for an exemption certificate
41 pursuant to subsection f. of this section¹.

42 h. As used in this section:

43 "Acute care hospital" means a hospital, other than a hospital the
44 property of which is exempt from taxation pursuant to R.S.54:4-3.3,
45 which maintains and operates organized facilities and services as
46 approved and licensed by the Department of Health for the diagnosis,
47 treatment, or care of persons suffering from acute illness, injury, or

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

9 “Licensed bed” means one of the total number of ¹acute care¹ beds
10 for which an acute care hospital is approved for patient care by the
11 Commissioner of Health.

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

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

25 “Satellite emergency care facility” means a facility, which is
26 owned and operated by an acute care hospital, and which provides
27 emergency care and treatment for patients.¹
28

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

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

47 c. As used in this section:

1 “Acute care hospital” means a hospital which maintains and
2 operates organized facilities and services as approved and licensed
3 by the Department of Health for the diagnosis, treatment, or care of
4 persons suffering from acute illness, injury, or deformity and in
5 which all diagnosis, treatment, and care are administered by or
6 performed under the direction of persons licensed to practice
7 medicine or osteopathy in the State of New Jersey, and includes all
8 land and buildings that are used in the delivery of health care
9 services by such hospital and its medical providers or that are used
10 for the management, maintenance, administration, and security of
11 such hospital and its medical providers, and any ¹【licensed】¹
12 satellite emergency care facility of such hospital.

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

22 ¹Satellite emergency care facility” means a facility, which is
23 owned and operated by an acute care hospital, and which provides
24 emergency care and treatment for patients.¹

25
26 3. (New section) a. There is established ¹, in but not of the
27 Department of Health,¹ a commission to be known as the Nonprofit
28 Hospital Community Service Contribution Study Commission. The
29 commission shall consist of nine members as follows: the
30 Commissioner of Health, ex officio; two members of the Senate to
31 be appointed by the President of the Senate, who shall not both be
32 of the same political party; two members of the Assembly to be
33 appointed by the Speaker of the Assembly, who shall not both be of
34 the same political party; two members, appointed by the Governor,
35 who are mayors of municipalities receiving community service
36 contributions pursuant to section 1 of P.L. , c. (C.)
37 (pending before the Legislature as this bill); and two members,
38 appointed by the Governor, who are chief executive officers of
39 nonprofit hospitals assessed community service contributions
40 pursuant to section 1 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill). Each
42 member may designate a representative to attend meetings of the
43 commission, and each designee may lawfully vote and otherwise act
44 on behalf of the member who designated that individual to serve as
45 a designee. The members shall serve ¹【until the commission
46 submits its report to the Governor and the Legislature pursuant to
47 subsection e. of this section】 for terms of three years, commencing
48 on the date of appointment, and may be reappointed¹. Vacancies in

1 the membership of the commission shall be filled in the same
2 manner as the original appointments.

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

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

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

22 e. The commission shall study the implementation of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) and shall
24 issue a report to the Governor and the Legislature, pursuant to
25 section 2 of P.L.1991, c.164 (C.52:14-19.1), ¹【within one year
26 following】 every three years from¹ the effective date of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) ¹;
28 provided, however, that the initial report shall be issued within one
29 year following the effective date¹. 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, ¹the adequacy of the
34 amount of the community service contributions.¹ and an analysis of
35 the administration and equity of these contributions. The report
36 shall include any recommendations that the commission determines
37 would improve the administration, equity, or any other aspect of the
38 nonprofit hospital community service contribution system
39 established by P.L. , c. (C.) (pending before the Legislature
40 as this bill) ¹, and shall include an assessment of the adequacy of
41 the amount of the community service contributions¹.

42 ¹【f. The commission shall expire 90 days after the issuance of
43 the report pursuant to subsection e. of this section.】¹

44

45 ¹4. (New section) For tax years 2014 and 2015, property that
46 would have been exempt from taxation pursuant to R.S.54:4-3.6 and
47 section 2 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), had P.L. , c. (C.) (pending before the
 2 Legislature as this bill) been effective in those tax years, shall not
 3 be assessed as omitted property pursuant to P.L.1947, c.413
 4 (C.54:4-63.12 et seq.). This section shall apply to the omitted
 5 assessment of such property that is the subject of litigation that is
 6 pending or that may be subject to appeal before the county board of
 7 taxation, the tax court, or any other court on or after the effective
 8 date of P.L. , c. (C.) (pending before the Legislature as this
 9 bill).¹

10

11 ¹**[4.] 5.** R.S.54:4-3.6 is amended to read as follows:

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

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

1 sectarian, denominational or religious organization or association.
2 The foregoing exemption shall apply only where the association,
3 corporation or institution claiming the exemption owns the property
4 in question and is incorporated or organized under the laws of this
5 State and authorized to carry out the purposes on account of which
6 the exemption is claimed or where an educational institution, as
7 provided herein, has leased said property to a historical society or
8 association or to a corporation organized for such purposes and
9 created under or otherwise subject to the provisions of Title 15 of
10 the Revised Statutes or Title 15A of the New Jersey Statutes.

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

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

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

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

25

26 ¹**[5.] 6.**¹ This act shall take effect on January 1, 2016, except
27 ¹**[the Commissioner of Health may take any anticipatory**
28 **administrative action in advance as shall be necessary for the**
29 **implementation of this act]** that section 4 of the bill shall apply to
30 tax years 2014 and 2015 only¹.