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

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning property tax exemptions, supplementing chapter 48 of Title 40 and chapter 4 of Title 54 of the Revised Statutes, and amending R.S.54:4-3.6 and R.S.54:3-21.

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

1. (New section) a. The owner of property used as a hospital or a satellite emergency care facility, which is exempt from taxation pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall annually be assessed a community service contribution to the municipality in which the licensed beds of the hospital are located and, in the case of a satellite emergency care facility, to the municipality in which such facility is located. These contributions shall be remitted directly to the municipalities in which the contributions are assessed.

b. (1) For tax year 2018, the annual community service contribution required pursuant to this section shall, for a hospital, be equal to $2.50 a day for each licensed bed at the hospital in the prior tax year, and shall, for a satellite emergency care facility, be equal to $250 for each day in the prior tax year. For tax year 2019 and each tax year thereafter, the per day amount used to calculate an annual community service contribution for a hospital and a satellite emergency care facility shall increase by two percent over the prior tax year. The Commissioner of Health shall annually promulgate the per day amount to apply for each tax year.

(2) An annual community service contribution shall be reduced by an amount equal to the sum of any payments remitted to the municipality in which the licensed beds of the hospital or satellite emergency care facility, as the case may be, is located, pursuant to a voluntary agreement operative in the prior tax year between the owner and the municipality to compensate for any municipal public safety services benefitting the occupants and premises of the hospital or satellite emergency care facility.

(3) An annual community service contribution shall be payable in equal quarterly installments. The installments shall be payable on February 1, May 1, August 1, and November 1.

c. The obligation to remit an annual community service contribution pursuant to this section is legal, valid, and binding. If a quarterly installment of an annual community service contribution installment is not paid as and when due pursuant to subsection b. of this section, the unpaid balance shall constitute a municipal lien on the hospital or satellite emergency care facility property after 30 days, and shall be enforced and collected in the same manner as unpaid property taxes.

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.
d. A municipality that receives an annual community service contribution installment pursuant to this section, or a payment under a voluntary agreement that reduces the amount of such contribution pursuant to paragraph (2) of subsection b. of this section, shall forthwith, upon receipt, remit five percent of the installment or voluntary payment, as the case may be, to the county in which the municipality is located.

e. The Commissioner of Health, in consultation with the New Jersey Health Care Facilities Financing Authority in the Department of Health and the Director of the Division of Local Government Services in the Department of Community Affairs, shall, by January 1, 2019, adopt regulations necessary to effectuate the provisions of this section pursuant to the "Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section:

“Hospital” means a general acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), which maintains and operates organized facilities and services as approved and licensed by the Department of Health for the diagnosis, treatment, or care of persons suffering from acute illness, injury, or deformity and in which all diagnosis, treatment, and care are administered by or performed under the direction of persons licensed to practice medicine or osteopathy in the State, and includes all land and buildings that are used in the delivery of health care services by such hospital and its medical providers or that are used for the management, maintenance, administration, support, and security of such hospital and its medical providers.

“Licensed bed” means one of the total number of acute care beds for which an acute care hospital is approved for patient care by the Commissioner of Health, excluding skilled nursing, psychiatric, sub-acute, and newborn beds, and further excluding any acute care beds not commissioned for use.

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

“Owner” means an association or corporation organized as a nonprofit entity pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes exclusively for hospital purposes that owns a hospital.
“Satellite emergency care facility” means a facility, which is owned and operated by a hospital, and which provides emergency care and treatment for patients.

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

b. The members shall be appointed within 60 days following the effective date of this section. The commission shall organize as soon as practicable after the appointment of a majority of its members and shall select a chair and a treasurer from among its members, and a secretary who need not be a member of the commission. The presence of five members of the commission shall constitute a quorum. The commission may conduct business without a quorum, but may only vote on the issuance of the report required to be submitted to the Governor and the Legislature pursuant to subsection e. of this section, and on any recommendations, when a quorum is present.

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

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

e. The commission shall study the implementation of P.L. , c. (C. ) (pending before the Legislature as this bill)
and shall issue a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), every three years from the effective date of this section; provided, however, that the initial report shall be issued within one year following that effective date. The reports shall include: (1) an analysis of the financial impact of P.L. , c. (C. ) (pending before the Legislature as this bill) on both hospitals and satellite emergency care facilities assessed annual community service contributions thereunder and the municipalities receiving such contributions; (2) an assessment of the adequacy of the amount of the annual community service contributions; (3) an analysis of the administration and equity of these contributions; and (4) any recommendations that the commission determines would improve the administration, equity, or any other aspect of the annual community service contribution system established by P.L. , c. (C. ) (pending before the Legislature as this bill).

3. (New section) a. Property, including land and buildings, used as a hospital or a satellite emergency care facility, which is owned by an association or corporation organized as a nonprofit entity pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes exclusively for hospital purposes, shall be exempt from taxation, and the exemption shall extend to any portion of the hospital property that is leased to or otherwise used by a profit-making medical provider for medical purposes; provided, however, that any portion of the property that is leased to any other profit-making organization or otherwise used for any other purposes which are not themselves exempt from taxation shall be subject to taxation and the remaining portion only shall be exempt from taxation.

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

c. As used in this section:

"Hospital" means a general acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), which maintains and operates organized facilities and services as approved and licensed by the Department of Health for the diagnosis, treatment, or care of persons suffering from acute illness, injury, or deformity and in which all diagnosis, treatment, and care are administered by or performed under the direction of persons licensed to practice medicine or osteopathy in the State, and includes all land and buildings that are used in the delivery of health care services by such hospital and its medical providers or that are used for the management, maintenance, administration, support, and security of such hospital and its medical providers.
“Medical provider” means an individual or entity which, acting within the scope of a licensure or certification, provides health care services, and includes, but is not limited to, a physician, physician assistant, psychologist, pharmacist, dentist, nurse, nurse practitioner, social worker, paramedic, respiratory care practitioner, medical or laboratory technician, ambulance or emergency medical worker, orthotist or prosthetist, radiological or other diagnostic service facility, bioanalytical laboratory, health care facility, or other limited licensed health care professional, and further includes administrative support staff of the individual or entity.

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

4. (New section) For tax years 2014, 2015, 2016, and 2017, property that would have been exempt from taxation pursuant to section 3 of P.L. 1947, c. 413 (C.54:4-63.12 et seq.). This section shall apply to all property owned by an association or corporation organized as a nonprofit entity pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes exclusively for hospital purposes, whether or not assessed as omitted property, as well as the omitted assessments of such property that is the subject of litigation that is pending or that may be subject to appeal before the county board of taxation, the tax court, or any other court on or after the date of enactment of P.L. 1947, c. 413 (pending before the Legislature as this bill). Any taxes paid on such property for tax years 2014, 2015, 2016, or 2017 shall be refunded.

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

54:4-3.6. The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, asylum or schools for adults and children with intellectual disabilities; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid
squads, which squads are or shall be incorporated as associations
not for pecuniary profit; all buildings actually used in the work of
associations and corporations organized exclusively for the moral
and mental improvement of men, women and children, provided
that if any portion of a building used for that purpose is leased to
profit-making organizations or is otherwise used for purposes which
are not themselves exempt from taxation, that portion shall be
subject to taxation and the remaining portion only shall be exempt;
all buildings actually used in the work of associations and
corporations organized exclusively for religious purposes, including
religious worship, or charitable purposes, provided that if any
portion of a building used for that purpose is leased to a profit-
making organization or is otherwise used for purposes which are not
themselves exempt from taxation, that portion shall be subject to
taxation and the remaining portion shall be exempt from taxation,
and provided further that if any portion of a building is used for a
different exempt use by an exempt entity, that portion shall also be
exempt from taxation; all buildings other than those exempt from
taxation pursuant to section 3 of P.L.  , c. (C. ) (pending
before the Legislature as this bill), actually used in the work of
associations and corporations organized exclusively for hospital
purposes, provided that if any portion of a building used for hospital
purposes is leased to profit-making organizations or otherwise used
for purposes which are not themselves exempt from taxation, that
portion shall be subject to taxation and the remaining portion only
shall be exempt; all buildings owned or held by an association or
corporation created for the purpose of holding the title to such
buildings as are actually and exclusively used in the work of two or
more associations or corporations organized exclusively for the
moral and mental improvement of men, women and children; all
buildings owned by a corporation created under or otherwise
subject to the provisions of Title 15 of the Revised Statutes or Title
15A of the New Jersey Statutes and actually and exclusively used in
the work of one or more associations or corporations organized
exclusively for charitable or religious purposes, which associations
or corporations may or may not pay rent for the use of the premises
or the portions of the premises used by them; the buildings, not
exceeding two, actually occupied as a parsonage by the officiating
clergymen of any religious corporation of this State, together with
the accessory buildings located on the same premises; the land
whereon any of the buildings hereinafter mentioned are erected,
and which may be necessary for the fair enjoyment thereof, and
which is devoted to the purposes above mentioned and to no other
purpose and does not exceed five acres in extent; the furniture and
personal property in said buildings if used in and devoted to the
purposes above mentioned; all property owned and used by any
nonprofit corporation in connection with its curriculum, work, care,
treatment and study of men, women, or children with intellectual
disabilities shall also be exempt from taxation, provided that such
corporation conducts and maintains research or professional
training facilities for the care and training of men, women, or
children with intellectual disabilities; provided, in case of all the
foregoing, the buildings, or the lands on which they stand, or the
associations, corporations or institutions using and occupying them
as aforesaid, are not conducted for profit, except that the exemption
of the buildings and lands used for charitable, benevolent or
religious purposes shall extend to cases where the charitable,
benevolent or religious work therein carried on is supported partly
by fees and charges received from or on behalf of beneficiaries
using or occupying the buildings; provided the building is wholly
controlled by and the entire income therefrom is used for said
charitable, benevolent or religious purposes; and any tract of land
purchased pursuant to subsection (n) of section 21 of P.L.1971,
c.199 (C.40A:12-21), and located within a municipality, actually
used for the cultivation and sale of fresh fruits and vegetables and
owned by a duly incorporated nonprofit organization or association
which includes among its principal purposes the cultivation and sale
of fresh fruits and vegetables, other than a political, partisan,
sectarian, denominational or religious organization or association.
The foregoing exemption shall apply only where the association,
corporation or institution claiming the exemption owns the property
in question and is incorporated or organized under the laws of this
State and authorized to carry out the purposes on account of which
the exemption is claimed or where an educational institution, as
provided herein, has leased said property to a historical society or
association or to a corporation organized for such purposes and
created under or otherwise subject to the provisions of Title 15 of
the Revised Statutes or Title 15A of the New Jersey Statutes.

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

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

6. R.S.54:3-21 is amended to read as follows:

54:3-21. a. (1) Except as provided in subsection b. of this
section a taxpayer feeling aggrieved by the assessed valuation or
exempt status of the taxpayer's property [ , or feeling discriminated
against by the assessed valuation of other property in the county, ]
or a taxing district which may feel discriminated against by the
assessed valuation or exempt status of property in the taxing
district, or by the assessed valuation or exempt status of property in
another taxing district in the county, may on or before April 1, or 45
days from the date the bulk mailing of notification of assessment is
completed in the taxing district, whichever is later, appeal to the
county board of taxation by filing with it a petition of appeal;
provided, however, that any such taxpayer or taxing district may on
or before April 1, or 45 days from the date the bulk mailing of
notification of assessment is completed in the taxing district,
whichever is later, file a complaint directly with the Tax Court, if
the assessed valuation of the property subject to the appeal exceeds
$1,000,000. In a taxing district where a municipal-wide revaluation
or municipal-wide reassessment has been implemented, a taxpayer
or a taxing district may appeal before or on May 1 to the county
board of taxation by filing with it a petition of appeal or, if the
assessed valuation of the property subject to the appeal exceeds
$1,000,000, by filing a complaint directly with the State Tax Court.
Within ten days of the completion of the bulk mailing of
notification of assessment, the assessor of the taxing district shall
file with the county board of taxation a certification setting forth the
date on which the bulk mailing was completed. If a county board of
taxation completes the bulk mailing of notification of assessment,
the tax administrator of the county board of taxation shall within ten
days of the completion of the bulk mailing prepare and keep on file
a certification setting forth the date on which the bulk mailing was
completed. A taxpayer shall have 45 days to file an appeal upon the
issuance of a notification of a change in assessment. An appeal to
the Tax Court by one party in a case in which the Tax Court has
jurisdiction shall establish jurisdiction over the entire matter in the
Tax Court. All appeals to the Tax Court hereunder shall be in
accordance with the provisions of the State Uniform Tax Procedure
Law, R.S.54:48-1 et seq.

If a petition of appeal or a complaint is filed on April 1 or during
the 19 days next preceding April 1, a taxpayer or a taxing district
shall have 20 days from the date of service of the petition or
complaint to file a cross-petition of appeal with a county board of
taxation or a counterclaim with the Tax Court, as appropriate.

(2) With respect to property located in a county participating in
the demonstration program established in section 4 of P.L.2013,
c.15 (C.54:1-104) or a property located in a county operating under
the "Property Tax Assessment Reform Act," P.L.2009, c.118
(C.54:1-86 et seq.), and except as provided in subsection b. of this
section, a taxpayer feeling aggrieved by the assessed valuation or
exempt status of the taxpayer's property [ , or feeling discriminated
against by the assessed valuation of other property in the county,] or
a taxing district which may feel discriminated against by the
assessed valuation or exempt status of property in the taxing
district, or by the assessed valuation or exempt status of property in
another taxing district in the county, may on or before January 15,
or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever date is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer, or taxing district, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever date is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds $1,000,000.

If a petition of appeal is filed on January 15 or during the 19 days next preceding January 15, or a complaint is filed with the Tax Court on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

Within 10 days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county board of taxation shall within 10 days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

b. No taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a. of this section.

(cf: P.L.2017, c.306, s.4)

7. This act shall take effect immediately and shall be retroactive to January 1, 2018, except that section 4 of the bill shall apply to tax years 2014, 2015, 2016, and 2017 only.

STATEMENT

This bill would reinstate the property tax exempt status of nonprofit hospitals, including satellite emergency care facilities, with for-profit medical providers on site. Under the bill, these
hospitals would instead be required to pay annual community service contributions to their host municipalities to offset the costs of public safety services, such as police and fire protection, which directly benefit these hospitals and their employees. The bill would also establish a commission to study this new system and would also eliminate certain third-party property tax appeals.

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. The court deemed this commingling a violation of R.S.54:4-3.6 because it did not allow the local 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 throughout the State, creating uncertainty and raising questions over what level of support these nonprofit hospitals should provide to their host communities. This bill would resolve these issues by establishing a clear and predictable system in which complex, modern 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.

Under the bill, for tax year 2018, the annual community service contribution for a hospital would be equal to $2.50 a day for each licensed bed at the hospital in the prior tax year, and the contribution for a satellite emergency care facility would be equal to $250 for each day in the prior tax year. For tax year 2019 and each tax year thereafter, the per day amount used to calculate the community service contribution for a hospital and a satellite emergency care facility would increase by two percent over the prior tax year. An annual community service contribution would be reduced by the amount of any payments made by a nonprofit hospital for the same purposes to a host municipality, pursuant to a voluntary agreement between the hospital and municipality that was operative in the prior tax year.

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

The bill also establishes a permanent commission, known as the Nonprofit Hospital Community Service Contribution Study Commission, to study and issue a report to the Governor and the Legislature on the annual community service contribution system created by the bill. The initial report is due within one year of the effective date of that provision of the bill, and subsequent reports are due every three years from that effective date. The reports must...
include: (1) an analysis of the financial impact of the bill on the affected hospitals and municipalities; (2) an assessment of the adequacy of the amount of the annual community service contributions; (3) an analysis of the administration and equity of these contributions; and (4) any recommendations that the commission determines would improve the administration, equity, or any other aspect of the annual community service contribution system created by the bill.

The bill also prohibits the assessment of a nonprofit hospital as an omitted property for tax years 2014, 2015, 2016, and 2017.

The bill also prohibits property taxpayers from filing property tax appeals with respect to the property of others. Under current law, property taxpayers may challenge the assessment or exempt status of their own property as well as that of any other property in their county. Eliminating this option would reduce property tax appeals, which are costly and create uncertainty in local government finances. The bill would not disturb the ability of local governments to appeal the assessment or exempt status of any property in the applicable county.

Lastly, the bill clarifies that the process for challenging the exempt status of property is the same process for challenging the assessed valuation of property, consistent with existing practice.