

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1135

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 1135.

As amended by the committee, 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 amended bill, these hospitals would instead be required to pay annual community service contributions to their host municipalities to offset the costs of municipal services which directly benefit these hospitals and their employees. The bill also would establish a commission to study this new system, and also would eliminate certain third-party property tax appeals.

Under the bill, for tax year 2021, 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 2022 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. For the purpose of calculating the annual service contribution required to be paid by each hospital under the bill, the bill sets a minimum number of licensed hospital beds in each hospital. This minimum number cannot be less than the number of beds in each hospital on January 1, 2020.

If a hospital and a municipality entered into a voluntary agreement for a payment in lieu of taxes or other financial contribution to the municipality prior to the enactment of the bill, the hospital would pay the greater of the community service contribution or the amount agreed upon in that voluntary agreement for the duration of the agreement between the municipality and the hospital. However, a hospital would be exempt from the requirement to remit a community service contribution for a tax year if, prior to December 1 of the pre-tax year, the owner certifies to the Department of Health that the hospital did not balance bill or collect payment from an individual for inpatient services rendered at the hospital by its employed physicians during the current calendar year, and that the hospital's forbearance of payment was lawful and consistent with an advisory opinion issued to

the hospital by the federal government; and the hospital has provided community benefit over the preceding three years for which the hospital has filed such forms averaging at least 12 percent of the hospital's total expenses, as documented on IRS Form 990, Schedule H.

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 the cost of county services 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 assessment or a regular assessment for tax years 2014 through 2020. This retroactive provision of the bill is intended to render tax appeals concerning the assessment of a nonprofit hospital as an omitted assessment or a regular assessment for tax years 2014 through 2020 moot.

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. The bill would eliminate this option, but not disturb the ability of local governments to appeal the assessment or exempt status of any property in the applicable county.

The bill also clarifies that the process for challenging the exempt status of a parcel of real property is the same process for challenging the assessed valuation of a parcel of real property, consistent with existing practice.

#### COMMITTEE AMENDMENTS:

The committee made several amendments to the bill, including the following:

in section 1, to define the term “voluntary agreement” as used in that section;

to require that if a hospital and municipality entered into a voluntary agreement prior to the effective date of the bill, the hospital would be required to pay to the municipality the greater of the amount in the voluntary agreement or the community service contribution as calculated pursuant to the bill for the duration of the agreement, and to permit a municipality and a hospital to enter into a voluntary agreement requiring additional payments by the hospital to the municipality;

to clarify that the purpose of the community service contribution is to reimburse counties and municipalities for the cost of public services provided by these levels of government to hospitals, not just public safety services;

to set a minimum number of licensed hospital beds, for the purpose of calculating the annual community service contribution, at the number of beds in each hospital on January 1, 2020;

to require that a hospital would not have to pay a community service contribution to a municipality under the bill for a tax year if, prior to December 1 of the pre-tax year, the hospital certifies to the Department of Health that it did not balance bill or collect payment from an individual for inpatient services rendered by its employed physicians during the current calendar year and the hospital provided community benefit over the preceding three years averaging at least 12 percent of the hospital’s total expenses, as reflected in IRS Form 990, Schedule H;

to require that regulations to effectuate the provisions of the section are to be promulgated no later than the first day of the fourth month next following enactment of the bill;

in section 4, to require that property that would have been property tax exempt in tax years 2014 through 2020 under section 3 of the bill if that section had been in effect for those tax years, cannot be assessed as an omitted assessment or regular assessment for those tax years; and to clarify that the provisions of section 4 cannot be construed to require a municipality to refund any property taxes paid on property as a result of an omitted assessment or regular assessment pursuant to any previous settlement of litigation or other agreement for those tax years;

in section 6, a technical amendment to reflect the current language of R.S.54:3-21 following the enactment of P.L.2018, c.94; and

in the effective clause, to require that the provisions of section 4 of the bill shall be retroactive and apply to tax years 2014 through 2020 only.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill would have an indeterminate impact on local finances associated with the annual payment of community service contributions by property tax-exempt nonprofit hospitals and the prohibition of certain third-party property tax appeals. The OLS also estimates the bill could potentially increase State expenses due to the operation of the Nonprofit Hospital Community Service Contribution Study Commission.

By exempting certain nonprofit hospital facilities from property taxation, and requiring those facilities to make annual community service contributions to the host counties and municipalities, the bill is expected to increase the miscellaneous revenues of certain local government units throughout the State by roughly \$18.2 million. This figure would be reduced based on existing settlement agreements between hospitals and their host municipalities.

A hospital would be exempt from its community service contribution if it can certify that it did not balance bill or collect payment from an individual for inpatient services rendered by its employed physicians during the current calendar year and the hospital has provided community benefit over the preceding three years averaging at least 12 percent of the hospital's total expenses. Hospitals qualifying for this exemption would reduce the \$18.2 million figure above.

Additionally, the OLS cannot predict whether the collection of community service contributions by counties and municipalities will impact the total revenues of those local government units, given that such impact would depend on the spending decisions of each local government unit and the resulting impact on its property tax levy.