SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1135

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 2020

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1135 (1R), with committee amendments.

This bill, as amended, reinstates the property tax exempt status of nonprofit hospitals, including satellite emergency care facilities, with for-profit medical providers on site. As provided in the 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 establishes a commission to study this new system, and also eliminates 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 may not 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.

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 are required to 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. A municipality would not be required to refund any taxes paid on such property as a result of such omitted assessments or regular assessments pursuant to any previous settlement of litigation or other agreement for those tax years. This retroactive provision of the bill is intended to render moot tax appeals concerning the assessment of a nonprofit hospital as an omitted assessment or a regular assessment for tax years 2014 through 2020.

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 eliminates this option but does 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.

As amended and reported by the committee, Assembly Bill No. 1135 (2R) is identical to the Senate Committee Substitute for Senate Bill No. 357 and Senate Bill No. 624, which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to add language clarifying that any portion of a hospital or a satellite emergency care facility that is leased to or otherwise used by a profit-making medical provider would only be exempt from property taxation if the lease or use is for medical purposes related to the delivery of health care services directly to the hospital.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would have an indeterminate annual impact on local finances. Although the community service contributions by nonprofit hospitals could raise as much as $18.2 million in annual municipal and county revenue, any revenue increase would be reduced by the indeterminate loss in property tax revenue as a result of the bill exempting these hospitals from property taxation. This analysis assumes that all other revenue and spending decisions by local governments would not change because of the enactment of this bill.

In addition, as the bill prohibits property taxpayers from filing property tax appeals with respect to the property of others, the OLS estimates that any reduction in the number of property tax appeals filed would lower local government operating expenditures.

The OLS also estimates the bill could potentially increase annual State expenses due to the operation of the Nonprofit Hospital Community Service Contribution Study Commission.