Bond Case Briefs

Municipal Finance Law Since 1971

New Jersey Enacts Legislation Imposing Annual Community Service Contributions on Nonprofit Hospitals.

On February 22, 2021, New Jersey Governor Phil Murphy signed into law new legislation (A1135/S357) that clarifies and preserves the statutory property tax-exemption historically afforded to nonprofit hospitals under N.J.S.A. 54:4–3.6 while also securing from nonprofit hospitals a yearly contribution to their host municipality to help defray the costs of the municipal services they utilize. The new law takes immediate effect.

Background

The new law is New Jersey lawmakers' legislative remedy to the New Jersey Tax Court's 2015 landmark decision in *AHS Hospital Corp. v. Town of Morristown*. In that case, the Tax Court held that a nonprofit hospital in Morristown was not entitled to property tax exemption because it operated too similarly to a for-profit business. The Tax Court determined that there were insufficient proofs to draw a distinction between the for-profit and nonprofit activities conducted on the hospital property. The Tax Court also found that if other nonprofit hospitals operated in the same manner, their nonprofit status was a legal fiction because of the level of for-profit activity shown to exist at the Morristown hospital. With this decision, the Tax Court kicked the ball squarely to the New Jersey Legislature to address the modern nonprofit hospital and its entitlement, if any, to a real property tax exemption going forward.

The 2015 Tax Court decision led to a flurry of lawsuits by host municipalities against local hospitals to revoke their municipal property tax exemptions and assess real estate taxes based on the value of the hospital's real estate. In response, Bill S3299 was introduced in late 2015, seeking to require certain nonprofit hospitals that were otherwise exempt from payment of real estate taxes to pay a community service contribution to cover the costs of providing public safety and other municipal services. The bill was left unsigned by then-Governor Chris Christie and failed to become law.

Annual Community Service Contribution

Likewise, under the recently enacted legislation certain nonprofit hospitals (as defined by the law) that are exempt from real property taxation are now required to make an annual community service contribution to the host municipality. The community service contribution for tax year 2021 equals $3 a day for each licensed bed at the nonprofit hospital as of January 1, 2020. For example, a hospital with 500 licensed beds will be assessed a community service contribution in the amount of $547,500 for tax year 2021.

The law also provides for a community service contribution for satellite emergency care facilities, which equals $300 for each day in the prior tax year. For each tax year thereafter, the per day contributions for both nonprofit hospitals and satellite emergency care facilities will increase by 2%. The community service contributions will be due and payable in equal quarterly installments, and 5% of the contribution will be shared with the county government. If any quarterly installment is not paid when due, the unpaid amount constitutes a lien after 30 days and may be enforced in the same

manner as unpaid real estate taxes.

Exemption

The new law provides for an exemption from remitting the community service contribution if the owner certifies to the New Jersey Department of Health that, in the prior year, the hospital did not bill any patient for inpatient or outpatient professional or technical services rendered at the hospital, and that the hospital has provided community benefit over the preceding three years for which the hospital has filed such forms averaging at least 12% of the hospital's total expenses as documented on IRS Form 990, Schedule H, part 1, column F. The hospital must file a copy of the documentation with the municipal tax assessor on or before December 1 of the pre-tax year. Upon receipt of the documentation, the tax assessor is required to notify the hospital, on or before December 31, that it is exempt from payment of the community service contribution for the new tax year.

Nonprofit Hospital Community Service Contribution Study Commission

Lastly, the new law establishes a permanent commission known as the Nonprofit Hospital Community Service Contribution Study Commission to study the system created under the legislation. The Commission will issue reports every three years to the Governor and Legislature.

Greenbaum, Rowe, Smith & Davis LLP – Thomas J. Denitzio, Jr., James A. Robertson and Hunain Sarwar

March 1 2021

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com