

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 6093 Hospitals' Community Benefit Reporting

**SPONSOR(S):** Harding and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 58, HB 6087

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Ways & Means Committee		Curry	Aldridge
2) Health & Human Services Committee			

**SUMMARY ANALYSIS**

Current law permits an ad valorem tax exemption for certain property used predominately for non-profit educational, literary, scientific, religious or charitable purposes, subject to criteria established by statute. Generally, applicants for a religious, literary, scientific, or charitable exemption must be nonprofit entities. Hospitals seeking an ad valorem exemption for charitable use must also qualify as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code.

Florida law requires hospitals seeking a charitable use property tax exemption and property appraisers to submit certain information to the Department of Revenue. The property appraiser of each county must submit the value of a hospital's tax exemption that was granted for the prior year and the hospital must submit the amount of net community benefit expense the hospital reported to the Internal Revenue Service. The property appraiser is required to limit the hospital's property tax exemption to the value of the hospital's community benefit expense if the hospital's net community benefit expense did not equal or exceed the value of its tax exemption for two consecutive years.

The bill repeals section 193.019, F.S., relating to community benefit reporting requirements by charitable hospitals for property tax exemption purposes.

The Revenue Estimating Conference estimated that the bill will have a recurring indeterminate negative impact on local government revenues.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Ad Valorem Exemption for Hospitals

##### *Florida Charitable Property Tax Exemption*

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>1</sup> and it provides for specified assessment limitations, property classifications and exemptions.<sup>2</sup> After the local property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>3</sup> Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious, or charitable purposes.<sup>4</sup>

The Legislature implemented these constitutional exemptions and set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or literary purpose.<sup>5</sup> Specific provisions exist for property for hospitals, nursing homes, and homes for special services;<sup>6</sup> property used for religious purposes;<sup>7</sup> educational institutions<sup>8</sup> and charter schools;<sup>9</sup> labor organization property;<sup>10</sup> nonprofit community centers;<sup>11</sup> biblical history displays;<sup>12</sup> and affordable housing.<sup>13</sup>

In determining whether the use of a property qualifies the property for an ad valorem tax exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.<sup>14</sup> Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt organization is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

##### *Charitable Organizations*

Under federal law, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes.<sup>15</sup> None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities.<sup>16</sup> Charitable purposes include relief of the poor, the

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<sup>1</sup> Fla. Const., art. VII, s. 4.

<sup>2</sup> Fla. Const., art. VII, ss. 3, 4, and 6.

<sup>3</sup> Section 196.031, F.S.

<sup>4</sup> Fla. Const., art. VII, s. 3.

<sup>5</sup> Sections 196.195 and 196.196, F.S.

<sup>6</sup> Section 196.197, F.S.

<sup>7</sup> Sections 196.1975(3) and 196.196(3), F.S.

<sup>8</sup> Section 196.198, F.S.

<sup>9</sup> Section 196.1983, F.S.

<sup>10</sup> Section 196.1985, F.S.

<sup>11</sup> Section 196.1986, F.S.

<sup>12</sup> Section 196.1987, F.S.

<sup>13</sup> Section 196.196(5), F.S.

<sup>14</sup> Section 196.196(1)(a)-(b), F.S.

<sup>15</sup> 26 U.S.C. § 501(c)(3).

<sup>16</sup> *Id.*

distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Florida law defines a charitable purpose as a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or the service.<sup>17</sup> Hospitals seeking an ad valorem exemption for charitable use must be qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code.<sup>18</sup>

#### *Determining Profit vs. Non-Profit Status of an Entity*

Current law outlines the criteria a local property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture for the purposes of receiving an exemption.<sup>19</sup> An applicant must provide the property appraiser with “such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year.”<sup>20</sup>

The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”<sup>21</sup>

Based on the information provided by the applicant, the property appraiser must determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.<sup>22</sup> In doing so, the property appraiser must consider the reasonableness of various payments, loan guarantees, contractual arrangements, management functions, capital expenditures, procurements, charges for services rendered, and other financial dealings.

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit.<sup>23</sup>

#### *Additional Criteria for Hospitals, Nursing Homes, and Homes for Special Services*

In addition to the above criteria, hospitals,<sup>24</sup> nursing homes<sup>25</sup> and homes for special services<sup>26</sup> must be a Florida non-profit corporations that are exempt organizations under the provisions of s. 501(c)(3) of the Internal Revenue Code.<sup>27</sup>

In determining the extent of the exemption to be granted to hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise are not exempt from taxation.<sup>28</sup> Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualify under s. 196.196, F.S., are exempt from taxation.<sup>29</sup>

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<sup>17</sup> Section 196.012(7), F.S.

<sup>18</sup> Section 196.197, F.S.

<sup>19</sup> Section 196.195, F.S.

<sup>20</sup> Section 196.195(1), F.S.

<sup>21</sup> Section 196.195(3), F.S.

<sup>22</sup> Section 196.195(2)(a)-(e), F.S.

<sup>23</sup> Section 196.195(4), F.S.

<sup>24</sup> Section 196.012(8), F.S., “Hospital” means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested

<sup>25</sup> Section 196.012(8), F.S., “Nursing home” or “home for special services” means an institution that possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

<sup>26</sup> *Id.*; s. 400.801, F.S. “Home for special services” means a site licensed by AHCA prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

<sup>27</sup> Section 196.197, F.S.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

## *Federal Charity Care Reporting Requirements*

To qualify for federal tax exemption, hospitals must report their community benefit activities to the Internal Revenue Service by filing IRS Form 990 and a supplemental Schedule H form. Community benefit activities include the net, unreimbursed costs of charity care (providing free or discounted services to patients who qualify under the hospital's financial assistance policy); participation in means-tested government programs, such as Medicaid; health professions education; health services research; subsidized health services; community health improvement activities; and cash or in-kind contributions to other community groups.<sup>30</sup> Net community benefit activities do not include revenue from uncompensated care pools or programs, such as Low Income Pool or Disproportionate Share Hospital funds.<sup>31</sup>

### *Florida Community Benefit Reporting Requirement*<sup>32</sup>

Current law requires that the value of charity care provided by a hospital in each county be compared to the tax value of the hospital's property exemption in each county. If the value of the charity care is less than the tax value of the all of the hospital's exempt property, then the hospital's exemption on each parcel in a county will be reduced to reflect the ratio of the hospital's charity care in the county to the tax value of all of the hospital's exempt property in the county. Hospitals may attribute their charity care expenses to any county as long as the total charity care value statewide equals the total value of charity care attributed on a county by county basis.

Hospitals when applying for the exemption each year must provide to DOR their IRS form 990, schedule H, and a schedule displaying; 1) the value of charitable services attributed to each Florida county in which a hospital's properties are located; and 2) the portion of charitable services reported by the hospital on its most recently filed IRS Form 990, schedule H, attributable to the services and activities provided or performed by the hospital outside of Florida. The sum of the amounts provided in the schedule must equal the total net community benefit expense reported by the hospital on its most recently filed IRS Form 990, schedule H.

County property appraisers must calculate and submit to DOR the amount of the tax reduction for each property owned by a hospital resulting from the exemptions allowed under ss. 196.196 and 196.197, F.S. DOR must determine whether the county net community benefit expense attributed to an applicant's property located in a county equals or exceeds the tax reductions resulting from the property tax exemptions under ss. 196.196 and 196.197, F.S., for that county. In any second consecutive year DOR determines that an applicant's county net community benefit expense does not equal or exceed the tax reductions resulting from the exemptions under ss. 196.196 and 196.197, F.S., DOR shall notify the respective property appraiser by March 15 to limit the exemption for the current year in the property appraiser's county by multiplying the exemption by the ratio of the net community benefit expense to the tax reductions resulting from the exemptions under ss. 196.196 and 196.197, F.S.

Under current law, hospitals must provide a statement signed by the hospital's CEO and an independent certified public accountant that certain information submitted is true and correct.

### **Effect of Proposed Changes**

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<sup>30</sup> James, Julia. Health Affairs, *Nonprofit Hospitals' Community Benefit Requirements* (2016), available at: <https://www.healthaffairs.org/doi/10.1377/hpb20160225.954803/full/> (last viewed April 5, 2021); Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

<sup>31</sup> Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.<sup>32</sup> Chapter 2020-10, s. 2, Laws of Fla. (creating s. 193.019, F.S., effective Jan. 1, 2022).

<sup>32</sup> Chapter 2020-10, s. 2, Laws of Fla. (creating s. 193.019, F.S., effective Jan. 1, 2022).

The bill repeals section 193.019, F.S., eliminating the hospitals community benefit reporting requirements for property tax exemption purposes.<sup>33</sup>

**B. SECTION DIRECTORY:**

Section 1: Repeals s. 193.019, F.S., relating to reporting of community benefit expenses for property tax exemption purposes.

Section 2: Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference estimated that the bill will have a recurring indeterminate negative impact on local government revenues.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Hospitals that currently do not qualify for a full property tax exemption because the value of their exemption is greater than the amount of net community benefit that the hospital provides, may qualify in the future for a full property tax exemption, if other requirements for such an exemption under current law are met.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

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<sup>33</sup> Chapter 2020-10, s. 2, Laws of Fla. (creating s. 193.019, F.S., effective Jan. 1, 2022).

**B. RULE-MAKING AUTHORITY:**

The bill does not create the need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**