

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 58

INTRODUCER: Senator Rodriguez

SUBJECT: Hospitals' Community Benefit Reporting

DATE: January 25, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 58 repeals s. 193.019, F.S., undoing a future requirement for the Department of Revenue to collect information on all 501(c)(3) hospitals' community benefit and adjust ad valorem property tax exemptions to reflect the value of the charitable contributions in each county. Section 193.019, F.S., was enacted during the 2020 Regular Session, but does not take effect until July 1, 2022.

By repealing s. 193.109, F.S., the Department of Revenue will maintain its current mechanism for administering ad valorem tax exemptions, under which 501(c)(3) hospitals are simply exempt from ad valorem taxation with no additional community benefit reporting requirements.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the assessed or "just value"<sup>2</sup>

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<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Ad Valorem Exemption for Educational, Literary, Scientific, Religious, or Charitable Organizations**

When calculating ad valorem taxes, a property's value is reduced by any exemptions provided by law, including exemptions for educational, literary, scientific, religious, or charitable purposes.<sup>11</sup> The Legislature implements these constitutional exemptions and set forth the criteria to determine whether property is entitled to an exemption.<sup>12</sup>

In determining whether the use of a property qualifies the property for an educational, literary, scientific, religious, or charitable exemption under s. 196.196, F.S., the property appraiser must consider the nature and extent of the qualifying activity compared to other activities.<sup>13</sup> The portions of the property used predominantly for qualified purposes are exempt from ad valorem taxation, and if the property owned by an exempt organization is used exclusively for exempt purposes, it is totally exempt from ad valorem taxation.<sup>14</sup>

Hospitals<sup>15</sup> seeking an ad valorem exemption for charitable use of its property must meet an additional threshold which requires the hospital to be a federally-qualified 501(c)(3) nonprofit

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<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> FLA. CONST. art. VII, s. 3.

<sup>12</sup> Section 196.196, F.S.

<sup>13</sup> Section 196.196(1), F.S.

<sup>14</sup> Section 196.196(2), F.S.

<sup>15</sup> Alongside nursing homes, and homes for special service.

organization.<sup>16</sup> To become a 501(c)(3) organization, 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>17</sup>

### **Community Benefit and Reporting**

In order to achieve and maintain 501(c)(3) nonprofit status, hospitals must show community benefit to the IRS. “Community benefit” includes reduced cost and free health care services given to those unable to pay for it, as well as a hospital’s spending on programs that promote community health. Hospitals must file an additional form, Schedule H, with the IRS annually which includes:

- The net, unreimbursed costs of charity care;
- 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, such as donating to a health screening event, or hosting a blood drive.<sup>18</sup>

Additionally, 501(c)(3) hospitals must conduct a community health needs assessment every 3 years, maintain a financial assistance policy, and abide by certain limitations on charges and billing and collection requirements.<sup>19</sup>

The Florida Hospital Association states that Florida’s 154 501(c)(3) hospitals generate more than four billion dollars of community benefit, representing more than 12 percent of their entire hospital operating expenses.<sup>20</sup> The Department of Revenue estimates that these hospitals’ community benefit greatly exceeds the value of their ad valorem tax exemptions.<sup>21</sup>

Currently, 501(c)(3) hospitals are not required to calculate and report to the state their community benefit on a county by county level. If a hospital meets the requirements for the state’s charitable ad valorem tax exemption, including maintaining status as a 501(c)(3) corporation, property held by the hospital is exempt. This mechanism is set to change on July 1, 2022, pursuant to s. 193.019, F.S.

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<sup>16</sup> Section 196.197, F.S.

<sup>17</sup> 26 U.S.C. 501(c)(3).

<sup>18</sup> IRS Form 990 Schedule H worksheet.

<sup>19</sup> 26 U.S.C. 501(9).

<sup>20</sup> *FHA Takeaways: Hospital Community Benefit Standards and Financial Reporting*, Florida Hospital Association, available at <http://fha.org/advocacy/state-advocacy/legislative-issues/taxexempt-hospitals-and-community-benefit.aspx>.

<sup>21</sup> February 7, 2020 Revenue Estimating Impact Conference. For example, in 2020 St. Joseph’s Hospital in Hillsborough County saved \$1,652,415 with the charitable ad valorem tax exemption, while producing \$187,880,312 in net community benefit value. <https://projects.propublica.org/nonprofits/organizations/590774199/201903179349309755/IRS990ScheduleH> (Form 990) <https://gis.hcpafl.org/propertysearch/#/parcel/basic/182903ZZZ000005442500A> (taxable property value).

### **Section 193.019, F.S.**

The Legislature enacted s. 193.019, F.S., during the 2020 Regular Session; however, it does not take effect until July 1, 2022.<sup>22</sup> Under this law, by January 20<sup>th</sup> each year, the property appraiser of each county must provide the Department of Revenue with the previous year's tax reduction resulting from the property exemption for each property owned by a 501(c)(3) hospital.<sup>23</sup> Additionally, each 501(c)(3) hospital will separately provide to the Department of Revenue the following documentation:

- A copy of its most recent IRS Form 990, Schedule H, described above;
- A form showing its community benefit by location produced and county affected; and
- A document signed by the hospital CEO and an independent accountant stating that the community benefit calculations are true and correct.<sup>24</sup>

The Department of Revenue will then determine if the county net community benefit attributed to a hospital's property located in the county equals or exceeds the tax deductions received. In any second consecutive year the tax reductions are greater than the community benefit provided, the tax reduction will be reduced proportionally.<sup>25</sup> This data will be published publicly.

### **III. Effect of Proposed Changes:**

The bill repeals s. 193.019, F.S., undoing a future requirement that the department of revenue collect county-level data regarding a 501(c)(3) hospital's community benefit and ad valorem tax exemptions, and reduce the exemptions granted if they exceed the community benefit provided by the hospital, beginning January 1, 2022.

By repealing s. 193.019, F.S., the Department of Revenue will continue its current mechanism for administering ad valorem tax exemptions, under which hospitals are not required to calculate and report to the state their community benefit on a county by county level. If a hospital meets the requirements for the state's charitable ad valorem tax exemption, including maintaining status as a 501(c)(3) corporation, all property held by the hospital is simply held exempt from ad valorem taxation.

The bill takes effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>22</sup> Chapter 2020-10, s. 2, L.O.F.

<sup>23</sup> Section 193.019(2), F.S.

<sup>24</sup> Section 193.019(3), F.S.

<sup>25</sup> Section 193.019(4) and (5), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill repeals section 193.019, Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.