

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.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SB 58

INTRODUCER: Senator Rodriguez

SUBJECT: Hospitals' Community Benefit Reporting

DATE: February 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 58 repeals s. 193.019, F.S., which requires a charitable hospital to submit to the Department of Revenue the amount of net community benefit expense the hospital reported to the Internal Revenue Service. Effective January 1, 2022, if the hospital's net community benefit expense does not equal or exceed the value of its tax exemption for two consecutive years, the Department of Revenue will notify the property appraiser to limit the hospital's property tax exemption to the value of the hospital's community benefit expense.

The Revenue Estimating Conference determined that the bill will reduce local government revenue by an indeterminate amount beginning in Fiscal Year 2022-2023.

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.¹ The property appraiser annually determines the "just value"² of property

¹ 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.

² 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).

within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."³ 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 on real estate or tangible personal property,⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ 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 may 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;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

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

Florida's constitution grants a number exemptions that exempt all or part of a property's assessed value from taxation, including exemptions for educational, literary, scientific, religious, or charitable purposes.¹¹ The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.¹²

To determine whether a property's use qualifies for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity and how it compares to the organization's other activities or other uses of the property.¹³ The portions of the property used predominantly for qualified purposes are exempt from ad valorem taxation.¹⁴

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.¹⁵ To become a 501(c)(3) organization, none of the organization's earnings may benefit any private shareholder

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 3(a); s. 196.196, F.S.

¹² Section 196.196, F.S.

¹³ Section 196.196(1), F.S.

¹⁴ Section 196.196(2), F.S.

¹⁵ Section 196.197, F.S.

or individual, and the organization may not attempt to influence legislation as a substantial part of its activities.¹⁶

Federal Requirement to Report Community Benefit

In order to achieve and maintain 501(c)(3) nonprofit status, hospitals report their 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 file Form 990 and supplemental 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.¹⁷

Additionally, 501(c)(3) hospitals must conduct a community health needs assessment every three years, maintain a financial assistance policy, and abide by certain limitations on charges and billing and collection requirements.¹⁸

The Florida Hospital Association states that Florida’s 154 501(c)(3) hospitals generate more than four billion dollars of community benefit, which represents more than 12 percent of their entire hospital operating expenses.¹⁹

Florida’s Reporting Requirement

During the 2020 Regular Session, the Legislature enacted s. 193.019, F.S., to require hospitals and property appraisers to submit certain information to the Department of Revenue (DOR) by January 15, 2022, and each year thereafter.

The property appraiser of each county must submit to the DOR the value of a hospital’s tax exemption that was granted for the prior year.²⁰

A hospital seeking a charitable use property tax exemption must submit the following:

- A copy of its most recent IRS Form 990, Schedule H;
- A schedule that reports the net community benefit attributable to each county where services were provided, the net community benefit attributed to a county from another county, and the

¹⁶ 26 U.S.C. 501(c)(3).

¹⁷ See IRS Form 990 Schedule H.

¹⁸ 26 U.S.C. 501(r).

¹⁹ Florida Hospital Association, *FHA Takeaways: Hospital Community Benefit Standards and Financial Reporting*, FHA.org, available at <http://fha.org/advocacy/state-advocacy/legislative-issues/taxexempt-hospitals-and-community-benefit.aspx> (last visited Feb. 2, 2021).

²⁰ Section 193.019(2), F.S.

net community benefit attributable to services and activities provided outside of this state;
and

- A document signed by the hospital CEO and an independent accountant stating that the community benefit calculations are true and correct.²¹

The DOR will determine if the county net community benefit attributed to a hospital's property located in the county equals or exceeds the value of the tax exemption. In any second consecutive year the value of the tax exemption is greater than the net community benefit provided, the DOR will notify the property appraiser to reduce the current year's tax exemption by the ratio of the hospital's net community benefit expense to the prior year's value of the exemption. In effect, limiting the value of the exemption to the amount of net community benefit provided.²² This data will be published by the DOR.

III. Effect of Proposed Changes:

The bill repeals s. 193.019, F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the State Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact,^{23, 24} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²⁵

The Revenue Estimating Conference determined that the bill will reduce local revenues by an indeterminate amount. If the actual reductions exceed \$2.2 million, the mandates provisions may apply.

²¹ Section 193.019(3), F.S.

²² Section 193.019(4) and (5), F.S.

²³ FLA. CONST. art. VII, s. 18(d).

²⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 03, 2021).

²⁵ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the bill will reduce local government revenue by an indeterminate amount beginning in Fiscal Year 2022-2023.²⁶

B. Private Sector Impact:

Hospitals will avoid the cost of complying with s. 193.019, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 193.019, Florida Statutes.

²⁶ Revenue Estimating Impact Conference, *Hospital Community Benefit Repeal, SB 58*, (Jan. 29, 2021), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page1-2.pdf> (last visited Feb. 2, 2021).

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
