

SB1819



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1819

Introduced 2/9/2023, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-86
210 ILCS 76/10
210 ILCS 76/20

Amends the Property Tax Code. Provides that the assessor shall publish the assessed value of all property that qualifies for a hospital exemption under the Code in the taxable year as well as the estimated property tax liability for that property. Amends the Community Benefits Act. Makes changes to the definition of "charity care." Provides that the Attorney General shall post certain reports on the Attorney General's website.

LRB103 29266 HLH 57052 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by changing
5 Section 15-86 as follows:

6 (35 ILCS 200/15-86)

7 Sec. 15-86. Exemptions related to access to hospital and
8 health care services by low-income and underserved
9 individuals.

10 (a) The General Assembly finds:

11 (1) Despite the Supreme Court's decision in *Provena*
12 *Covenant Medical Center v. Dept. of Revenue*, 236 Ill.2d
13 368, there is considerable uncertainty surrounding the
14 test for charitable property tax exemption, especially
15 regarding the application of a quantitative or monetary
16 threshold. In *Provena*, the Department stated that the
17 primary basis for its decision was the hospital's
18 inadequate amount of charitable activity, but the
19 Department has not articulated what constitutes an
20 adequate amount of charitable activity. After *Provena*, the
21 Department denied property tax exemption applications of 3
22 more hospitals, and, on the effective date of this
23 amendatory Act of the 97th General Assembly, at least 20

1 other hospitals are awaiting rulings on applications for
2 property tax exemption.

3 (2) In *Provena*, two Illinois Supreme Court justices
4 opined that "setting a monetary or quantum standard is a
5 complex decision which should be left to our legislature,
6 should it so choose". The Appellate Court in *Provena*
7 stated: "The language we use in the State of Illinois to
8 determine whether real property is used for a charitable
9 purpose has its genesis in our 1870 Constitution. It is
10 obvious that such language may be difficult to apply to
11 the modern face of our nation's health care delivery
12 systems". The court noted the many significant changes in
13 the health care system since that time, but concluded that
14 taking these changes into account is a matter of public
15 policy, and "it is the legislature's job, not ours, to
16 make public policy".

17 (3) It is essential to ensure that tax exemption law
18 relating to hospitals accounts for the complexities of the
19 modern health care delivery system. Health care is moving
20 beyond the walls of the hospital. In addition to treating
21 individual patients, hospitals are assuming responsibility
22 for improving the health status of communities and
23 populations. Low-income and underserved communities
24 benefit disproportionately by these activities.

25 (4) The Supreme Court has explained that: "the
26 fundamental ground upon which all exemptions in favor of

1 charitable institutions are based is the benefit conferred
2 upon the public by them, and a consequent relief, to some
3 extent, of the burden upon the state to care for and
4 advance the interests of its citizens". Hospitals relieve
5 the burden of government in many ways, but most
6 significantly through their participation in and
7 substantial financial subsidization of the Illinois
8 Medicaid program, which could not operate without the
9 participation and partnership of Illinois hospitals.

10 (5) Working with the Illinois hospital community and
11 other interested parties, the General Assembly has
12 developed a comprehensive combination of related
13 legislation that addresses hospital property tax
14 exemption, significantly increases access to free health
15 care for indigent persons, and strengthens the Medical
16 Assistance program. It is the intent of the General
17 Assembly to establish a new category of ownership for
18 charitable property tax exemption to be applied to
19 not-for-profit hospitals and hospital affiliates in lieu
20 of the existing ownership category of "institutions of
21 public charity". It is also the intent of the General
22 Assembly to establish quantifiable standards for the
23 issuance of charitable exemptions for such property. It is
24 not the intent of the General Assembly to declare any
25 property exempt ipso facto, but rather to establish
26 criteria to be applied to the facts on a case-by-case

1 basis.

2 (b) For the purpose of this Section and Section 15-10, the
3 following terms shall have the meanings set forth below:

4 (1) "Hospital" means any institution, place, building,
5 buildings on a campus, or other health care facility
6 located in Illinois that is licensed under the Hospital
7 Licensing Act and has a hospital owner.

8 (2) "Hospital owner" means a not-for-profit
9 corporation that is the titleholder of a hospital, or the
10 owner of the beneficial interest in an Illinois land trust
11 that is the titleholder of a hospital.

12 (3) "Hospital affiliate" means any corporation,
13 partnership, limited partnership, joint venture, limited
14 liability company, association or other organization,
15 other than a hospital owner, that directly or indirectly
16 controls, is controlled by, or is under common control
17 with one or more hospital owners and that supports, is
18 supported by, or acts in furtherance of the exempt health
19 care purposes of at least one of those hospital owners'
20 hospitals.

21 (4) "Hospital system" means a hospital and one or more
22 other hospitals or hospital affiliates related by common
23 control or ownership.

24 (5) "Control" relating to hospital owners, hospital
25 affiliates, or hospital systems means possession, direct
26 or indirect, of the power to direct or cause the direction

1 of the management and policies of the entity, whether
2 through ownership of assets, membership interest, other
3 voting or governance rights, by contract or otherwise.

4 (6) "Hospital applicant" means a hospital owner or
5 hospital affiliate that files an application for a
6 property tax exemption pursuant to Section 15-5 and this
7 Section.

8 (7) "Relevant hospital entity" means (A) the hospital
9 owner, in the case of a hospital applicant that is a
10 hospital owner, and (B) at the election of a hospital
11 applicant that is a hospital affiliate, either (i) the
12 hospital affiliate or (ii) the hospital system to which
13 the hospital applicant belongs, including any hospitals or
14 hospital affiliates that are related by common control or
15 ownership.

16 (8) "Subject property" means property for which a
17 hospital applicant files an application for an exemption
18 pursuant to Section 15-5 and this Section.

19 (9) "Hospital year" means the fiscal year of the
20 relevant hospital entity, or the fiscal year of one of the
21 hospital owners in the hospital system if the relevant
22 hospital entity is a hospital system with members with
23 different fiscal years, that ends in the year for which
24 the exemption is sought.

25 (c) A hospital applicant satisfies the conditions for an
26 exemption under this Section with respect to the subject

1 property, and shall be issued a charitable exemption for that
2 property, if the value of services or activities listed in
3 subsection (e) for the hospital year equals or exceeds the
4 relevant hospital entity's estimated property tax liability,
5 as determined under subsection (g), for the year for which
6 exemption is sought. For purposes of making the calculations
7 required by this subsection (c), if the relevant hospital
8 entity is a hospital owner that owns more than one hospital,
9 the value of the services or activities listed in subsection
10 (e) shall be calculated on the basis of only those services and
11 activities relating to the hospital that includes the subject
12 property, and the relevant hospital entity's estimated
13 property tax liability shall be calculated only with respect
14 to the properties comprising that hospital. In the case of a
15 multi-state hospital system or hospital affiliate, the value
16 of the services or activities listed in subsection (e) shall
17 be calculated on the basis of only those services and
18 activities that occur in Illinois and the relevant hospital
19 entity's estimated property tax liability shall be calculated
20 only with respect to its property located in Illinois.

21 Notwithstanding any other provisions of this Act, any
22 parcel or portion thereof, that is owned by a for-profit
23 entity whether part of the hospital system or not, or that is
24 leased, licensed or operated by a for-profit entity regardless
25 of whether healthcare services are provided on that parcel
26 shall not qualify for exemption. If a parcel has both exempt

1 and non-exempt uses, an exemption may be granted for the
2 qualifying portion of that parcel. In the case of parking lots
3 and common areas serving both exempt and non-exempt uses those
4 parcels or portions thereof may qualify for an exemption in
5 proportion to the amount of qualifying use.

6 (d) The hospital applicant shall include information in
7 its exemption application establishing that it satisfies the
8 requirements of subsection (c). For purposes of making the
9 calculations required by subsection (c), the hospital
10 applicant may for each year elect to use either (1) the value
11 of the services or activities listed in subsection (e) for the
12 hospital year or (2) the average value of those services or
13 activities for the 3 fiscal years ending with the hospital
14 year. If the relevant hospital entity has been in operation
15 for less than 3 completed fiscal years, then the latter
16 calculation, if elected, shall be performed on a pro rata
17 basis.

18 (e) Services that address the health care needs of
19 low-income or underserved individuals or relieve the burden of
20 government with regard to health care services. The following
21 services and activities shall be considered for purposes of
22 making the calculations required by subsection (c):

23 (1) Charity care. Free or discounted services provided
24 pursuant to the relevant hospital entity's financial
25 assistance policy, measured at cost, including discounts
26 provided under the Hospital Uninsured Patient Discount

1 Act.

2 (2) Health services to low-income and underserved
3 individuals. Other unreimbursed costs of the relevant
4 hospital entity for providing without charge, paying for,
5 or subsidizing goods, activities, or services for the
6 purpose of addressing the health of low-income or
7 underserved individuals. Those activities or services may
8 include, but are not limited to: financial or in-kind
9 support to affiliated or unaffiliated hospitals, hospital
10 affiliates, community clinics, or programs that treat
11 low-income or underserved individuals; paying for or
12 subsidizing health care professionals who care for
13 low-income or underserved individuals; providing or
14 subsidizing outreach ~~or educational~~ services to low-income
15 or underserved individuals for disease management and
16 prevention; free or subsidized goods, supplies, or
17 services needed by low-income or underserved individuals
18 because of their medical condition; and prenatal or
19 childbirth outreach services to low-income or underserved
20 persons.

21 (3) Subsidy of State or local governments. Direct or
22 indirect financial or in-kind subsidies of State or local
23 governments by the relevant hospital entity that pay for
24 or subsidize activities or programs related to health care
25 for low-income or underserved individuals.

26 (4) Support for State health care programs for

1 low-income individuals. At the election of the hospital
2 applicant for each applicable year, either (A) 10% of
3 payments to the relevant hospital entity and any hospital
4 affiliate designated by the relevant hospital entity
5 (provided that such hospital affiliate's operations
6 provide financial or operational support for or receive
7 financial or operational support from the relevant
8 hospital entity) under Medicaid or other means-tested
9 programs, including, but not limited to, General
10 Assistance, the Covering ALL KIDS Health Insurance Act,
11 and the State Children's Health Insurance Program or (B)
12 the amount of subsidy provided by the relevant hospital
13 entity and any hospital affiliate designated by the
14 relevant hospital entity (provided that such hospital
15 affiliate's operations provide financial or operational
16 support for or receive financial or operational support
17 from the relevant hospital entity) to State or local
18 government in treating Medicaid recipients and recipients
19 of means-tested programs, including but not limited to
20 General Assistance, the Covering ALL KIDS Health Insurance
21 Act, and the State Children's Health Insurance Program.
22 The amount of subsidy for purposes of this item (4) is
23 calculated in the same manner as unreimbursed costs are
24 calculated for Medicaid and other means-tested government
25 programs in the Schedule H of IRS Form 990 in effect on the
26 effective date of this amendatory Act of the 97th General

1 Assembly; provided, however, that in any event
2 unreimbursed costs shall be net of fee-for-services
3 payments, payments pursuant to an assessment, quarterly
4 payments, and all other payments included on the schedule
5 H of the IRS form 990.

6 (5) Dual-eligible subsidy. The amount of subsidy
7 provided to government by treating dual-eligible
8 Medicare/Medicaid patients. The amount of subsidy for
9 purposes of this item (5) is calculated by multiplying the
10 relevant hospital entity's unreimbursed costs for
11 Medicare, calculated in the same manner as determined in
12 the Schedule H of IRS Form 990 in effect on the effective
13 date of this amendatory Act of the 97th General Assembly,
14 by the relevant hospital entity's ratio of dual-eligible
15 patients to total Medicare patients.

16 (6) Relief of the burden of government related to
17 health care of low-income individuals. Except to the
18 extent otherwise taken into account in this subsection,
19 the portion of unreimbursed costs of the relevant hospital
20 entity attributable to providing, paying for, or
21 subsidizing goods, activities, or services that relieve
22 the burden of government related to health care for
23 low-income individuals. Such activities or services shall
24 include, but are not limited to, providing emergency,
25 trauma, burn, neonatal, psychiatric, rehabilitation, or
26 other special services; ~~providing medical education; and~~

1 ~~conducting medical research or training of health care~~
2 ~~professionals~~. The portion of those unreimbursed costs
3 attributable to benefiting low-income individuals shall be
4 determined using the ratio calculated by adding the
5 relevant hospital entity's costs attributable to charity
6 care, Medicaid, other means-tested government programs,
7 Medicare patients with disabilities under age 65, and
8 dual-eligible Medicare/Medicaid patients and dividing that
9 total by the relevant hospital entity's total costs. Such
10 costs for the numerator and denominator shall be
11 determined by multiplying gross charges by the cost to
12 charge ratio taken from the hospitals' most recently filed
13 Medicare cost report (CMS 2252-10 Worksheet C, Part I). In
14 the case of emergency services, the ratio shall be
15 calculated using costs (gross charges multiplied by the
16 cost to charge ratio taken from the hospitals' most
17 recently filed Medicare cost report (CMS 2252-10 Worksheet
18 C, Part I)) of patients treated in the relevant hospital
19 entity's emergency department.

20 (7) Any other activity by the relevant hospital entity
21 that the Department determines relieves the burden of
22 government or addresses the health of low-income or
23 underserved individuals.

24 (f) For purposes of making the calculations required by
25 subsections (c) and (e):

26 (1) particular services or activities eligible for

1 consideration under any of the paragraphs (1) through (7)
2 of subsection (e) may not be counted under more than one of
3 those paragraphs; and

4 (2) the amount of unreimbursed costs and the amount of
5 subsidy shall not be reduced by restricted or unrestricted
6 payments received by the relevant hospital entity as
7 contributions deductible under Section 170(a) of the
8 Internal Revenue Code.

9 (g) Estimation of Exempt Property Tax Liability. The
10 estimated property tax liability used for the determination in
11 subsection (c) shall be calculated as follows:

12 (1) "Estimated property tax liability" means the
13 estimated dollar amount of property tax that would be
14 owed, with respect to the exempt portion of each of the
15 relevant hospital entity's properties that are already
16 fully or partially exempt, or for which an exemption in
17 whole or in part is currently being sought, and then
18 aggregated as applicable, as if the exempt portion of
19 those properties were subject to tax, calculated with
20 respect to each such property by multiplying:

21 (A) the lesser of (i) the actual assessed value,
22 if any, of the portion of the property for which an
23 exemption is sought or (ii) an estimated assessed
24 value of the exempt portion of such property as
25 determined in item (2) of this subsection (g), by:

26 (B) the applicable State equalization rate

1 (yielding the equalized assessed value), by

2 (C) the applicable tax rate.

3 (2) The estimated assessed value of the exempt portion
4 of the property equals the sum of (i) the estimated fair
5 market value of buildings on the property, as determined
6 in accordance with subparagraphs (A) and (B) of this item
7 (2), multiplied by the applicable assessment factor, and
8 (ii) the estimated assessed value of the land portion of
9 the property, as determined in accordance with
10 subparagraph (C).

11 (A) The "estimated fair market value of buildings
12 on the property" means the replacement value of any
13 exempt portion of buildings on the property, minus
14 depreciation, determined utilizing the cost
15 replacement method whereby the exempt square footage
16 of all such buildings is multiplied by the replacement
17 cost per square foot for Class A Average building
18 found in the most recent edition of the Marshall &
19 Swift Valuation Services Manual, adjusted by any
20 appropriate current cost and local multipliers.

21 (B) Depreciation, for purposes of calculating the
22 estimated fair market value of buildings on the
23 property, is applied by utilizing a weighted mean life
24 for the buildings based on original construction and
25 assuming a 40-year life for hospital buildings and the
26 applicable life for other types of buildings as

1 specified in the American Hospital Association
2 publication "Estimated Useful Lives of Depreciable
3 Hospital Assets". In the case of hospital buildings,
4 the remaining life is divided by 40 and this ratio is
5 multiplied by the replacement cost of the buildings to
6 obtain an estimated fair market value of buildings. If
7 a hospital building is older than 35 years, a
8 remaining life of 5 years for residual value is
9 assumed; and if a building is less than 8 years old, a
10 remaining life of 32 years is assumed.

11 (C) The estimated assessed value of the land
12 portion of the property shall be determined by
13 multiplying (i) the per square foot average of the
14 assessed values of three parcels of land (not
15 including farm land, and excluding the assessed value
16 of the improvements thereon) reasonably comparable to
17 the property, by (ii) the number of square feet
18 comprising the exempt portion of the property's land
19 square footage.

20 (3) The assessment factor, State equalization rate,
21 and tax rate (including any special factors such as
22 Enterprise Zones) used in calculating the estimated
23 property tax liability shall be for the most recent year
24 that is publicly available from the applicable chief
25 county assessment officer or officers at least 90 days
26 before the end of the hospital year.

1 (4) The method utilized to calculate estimated
2 property tax liability for purposes of this Section 15-86
3 shall not be utilized for the actual valuation,
4 assessment, or taxation of property pursuant to the
5 Property Tax Code.

6 (h) Application. Each hospital applicant applying for a
7 property tax exemption pursuant to Section 15-5 and this
8 Section shall use an application form provided by the
9 Department. The application form shall specify the records
10 required in support of the application and those records shall
11 be submitted to the Department with the application form. Each
12 application or affidavit shall contain a verification by the
13 Chief Executive Officer of the hospital applicant under oath
14 or affirmation stating that each statement in the application
15 or affidavit and each document submitted with the application
16 or affidavit are true and correct. The records submitted with
17 the application pursuant to this Section shall include an
18 exhibit prepared by the relevant hospital entity showing (A)
19 the value of the relevant hospital entity's services and
20 activities, if any, under paragraphs (1) through (7) of
21 subsection (e) of this Section stated separately for each
22 paragraph, and (B) the value relating to the relevant hospital
23 entity's estimated property tax liability under subsections
24 (g) (1) (A), (B), and (C), subsections (g) (2) (A), (B), and (C),
25 and subsection (g) (3) of this Section stated separately for
26 each item. Such exhibit will be made available to the public by

1 the chief county assessment officer. Nothing in this Section
2 shall be construed as limiting the Attorney General's
3 authority under the Illinois False Claims Act.

4 (i) Nothing in this Section shall be construed to limit
5 the ability of otherwise eligible hospitals, hospital owners,
6 hospital affiliates, or hospital systems to obtain or maintain
7 property tax exemptions pursuant to a provision of the
8 Property Tax Code other than this Section.

9 (j) Notwithstanding any other provision of law, at least
10 once per year, the assessor shall publish, on the assessor's
11 website and in a newspaper of general circulation in the
12 county where the property is located, the assessed value of
13 all property that qualifies for an exemption under this
14 Section in the taxable year, as well as the estimated property
15 tax liability for that property.

16 (Source: P.A. 99-143, eff. 7-27-15.)

17 Section 10. The Community Benefits Act is amended by
18 changing Sections 10 and 20 as follows:

19 (210 ILCS 76/10)

20 Sec. 10. Definitions. As used in this Act:

21 "Bad debt" means the current period charge for actual or
22 expected doubtful accounting resulting from the extension of
23 credit.

24 "Charity care" means the delivery of health care services

1 for free or at a reduced cost to poor and low-income
2 individuals who could not otherwise afford the health care
3 they are receiving. ~~care provided by a health care provider~~
4 ~~for which the provider does not expect to receive payment from~~
5 ~~the patient or a third party payer.~~ "Charity care" includes
6 the actual cost of services provided based upon the total cost
7 to charge ratio derived from a nonprofit hospital's most
8 recently filed Medicare cost report Worksheet C and not based
9 upon the charges for the services. "Charity care" does not
10 include bad debt.

11 "Community benefits" means the unreimbursed cost to a
12 hospital or health system of providing charity care, language
13 assistant services, government-sponsored health care,
14 donations, volunteer services, education,
15 government-sponsored program services, research, and
16 subsidized health services and collecting bad debts.
17 "Community benefits" does not include the cost of paying any
18 taxes or other governmental assessments.

19 "Financial assistance" means a discount provided to a
20 patient under the terms and conditions the hospital offers to
21 qualified patients or as required by law.

22 "Government-sponsored health care" means the unreimbursed
23 cost to a hospital or health system of Medicare, providing
24 health care services to recipients of Medicaid, and other
25 federal, State, or local health care programs, eligibility for
26 which is based on financial need.

1 "Health system" means an entity that owns or operates at
2 least one hospital.

3 "Net patient revenue" means gross service revenue less
4 provisions for contractual adjustments with third-party
5 payors, courtesy and policy discounts, or other adjustments
6 and deductions, excluding charity care.

7 "Nonprofit hospital" means a hospital that is organized as
8 a nonprofit corporation, including religious organizations, or
9 a charitable trust under Illinois law or the laws of any other
10 state or country.

11 "Subsidized health services" means those services provided
12 by a hospital in response to community needs for which the
13 reimbursement is less than the hospital's cost of providing
14 the services that must be subsidized by other hospital or
15 nonprofit supporting entity revenue sources. "Subsidized
16 health services" includes, but is not limited to, emergency
17 and trauma care, neonatal intensive care, community health
18 clinics, and collaborative efforts with local government or
19 private agencies to prevent illness and improve wellness, such
20 as immunization programs.

21 (Source: P.A. 102-581, eff. 1-1-22.)

22 (210 ILCS 76/20)

23 Sec. 20. Annual report for community benefits plan.

24 (a) Each nonprofit hospital shall prepare an annual report
25 of the community benefits plan. The report must include, in

1 addition to the community benefits plan itself, all of the
2 following background information:

3 (1) The hospital's mission statement.

4 (2) A disclosure of the health care needs of the
5 community that were considered in developing the
6 hospital's community benefits plan.

7 (3) A disclosure of the amount and types of community
8 benefits actually provided, including charity care, and
9 details about financial assistance applications received
10 and processed by the hospital as specified in paragraph
11 (5) of subsection (a) of Section 22. Charity care must be
12 reported separate from other community benefits. In
13 reporting charity care, the hospital must report the
14 actual cost of services provided, based on the total cost
15 to charge ratio derived from the hospital's Medicare cost
16 report (CMS 2552-96 Worksheet C, Part 1, PPS Inpatient
17 Ratios), not the charges for the services. For a health
18 system that includes more than one hospital, charity care
19 spending and financial assistance application data must be
20 reported separately for each individual hospital within
21 the health system.

22 (4) Audited annual financial reports for its most
23 recently completed fiscal year.

24 (b) Each nonprofit hospital shall annually file a report
25 of the community benefits plan with the Attorney General. The
26 report must be filed not later than the last day of the sixth

1 month after the close of the hospital's fiscal year, beginning
2 with the hospital fiscal year that ends in 2004. Reports that
3 are filed under this Section on or after the effective date of
4 this amendatory Act of the 103rd General Assembly shall be
5 posted on the Attorney General's website.

6 (c) Each nonprofit hospital shall prepare a statement that
7 notifies the public that the annual report of the community
8 benefits plan is:

9 (1) public information;

10 (2) filed with the Attorney General; and

11 (3) available to the public on request from the
12 Attorney General.

13 This statement shall be made available to the public.

14 (d) The obligations of a hospital under this Act, except
15 for the filing of its audited financial report, shall take
16 effect beginning with the hospital's fiscal year that begins
17 after the effective date of this Act. Within 60 days of the
18 effective date of this Act, a hospital shall file the audited
19 annual financial report that has been completed for its most
20 recently completed fiscal year. Thereafter, a hospital shall
21 include its audited annual financial report for its most
22 recently completed fiscal year in its annual report of its
23 community benefits plan.

24 (Source: P.A. 102-581, eff. 1-1-22.)