

# HOUSE BILL REPORT

## HB 2341

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### As Reported by House Committee On:

Health Care & Wellness  
Health & Human Services Appropriations & Oversight

**Title:** An act relating to community benefits provided by hospitals.

**Brief Description:** Concerning community benefits provided by hospitals.

**Sponsors:** Representatives Jinkins, Cody, Ladenburg, Van De Wege, Green, Reykdal, Moeller, Tharinger, McCoy, Darneille and Hunt.

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/16/12, 1/26/12 [DPS];

Health & Human Services Appropriations & Oversight: 2/2/12, 2/3/12 [DPS(HCW)].

#### Brief Summary of Substitute Bill

- Requires nonprofit and public hospital district hospitals to complete a community health needs assessment every three years and a community benefit implementation strategy within a year of the community health needs assessment.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Cody, Chair; Jinkins, Vice Chair; Clibborn, Green, Moeller and Van De Wege.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Harris and Kelley.

**Staff:** Chris Blake (786-7392).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Health (DOH) licenses 97 hospitals in Washington. Of these, 87 are either nonprofit hospitals or public hospital district hospitals.

In Washington, until 1973 all hospitals had been exempt from property taxes. Beginning in 1973, the property tax exemption only applied to nonprofit hospitals. A 2007 report by the Joint Legislative Audit and Review Committee found that in property tax year 2006-07 nonprofit hospitals had an annual property tax savings of approximately \$47 million.

Among the requirements for obtaining nonprofit status, a hospital must provide the Washington State Department of Revenue with documentation from the federal Internal Revenue Service (IRS) that the hospital is exempt from federal income taxes. Federal law requires that hospitals claiming nonprofit status must provide community benefits. The community benefit standard does not quantify a specific level of benefit to the community that a hospital must provide, but requires that nonprofit hospitals demonstrate they are providing sufficient benefits to the community. There are several types of community benefits that hospitals may report to satisfy this requirement, including financial assistance in the form of free or discounted health services, other than bad debt; health professions education; community health improvement services; and research. A 2009 report by the IRS found that over half of the community benefits reported by nonprofit hospitals were in the form of free or discounted health care services, those commonly referred to as "charity care."

All hospitals in Washington must develop and maintain charity care policies. The DOH has established standards requiring that individuals at or below 100 percent of the federal poverty guidelines qualify for sponsorship of the full amount of their hospital charges. Those between 101 and 200 percent of the federal poverty guidelines are eligible for discounts from charges according to a sliding fee schedule. Hospitals must report their charity care policies and the amount of charity care provided by the hospital to the DOH.

The federal Patient Protection and Affordable Care Act amends the requirements for hospitals to qualify as nonprofit organizations. Among the new requirements, hospitals must complete a community health needs assessment every three years and adopt an implementation strategy to meet the identified community health needs. In addition, the community health needs assessment must consider input from people who represent broad interests in the community served by the hospital, including those with special knowledge or expertise in public health.

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### **Summary of Substitute Bill:**

#### Community Health Needs Assessments.

Beginning January 1, 2014, nonprofit and public hospital district hospitals must submit a community health needs assessment (community assessment) to the Department of Health (DOH). The community assessment must be submitted to the DOH every three years.

In addition to meeting any federal Internal Revenue Service (IRS) requirements, community assessments must include:

- a description of the community served by the hospital, including both a geographic description and a description of the general population;
- a description of the prioritized health needs of the community and the method for determining those priorities, including the five most common causes of illness, injury, or premature death, identified public health needs, ambulatory sensitive conditions, and social determinants of health;
- a description of the sources of information used for the assessment. Information must come from recognized authorities and sources of data and comments from members of the community served by the hospital, including community members, nonprofit community-based organizations, persons with special knowledge of public health, tribal governments, and representatives or members of populations that are medically underserved, low-income, minority, or chronically ill; and
- an assessment of the impact of prior implementation strategies on the health status and outcomes of populations targeted by community benefit activities.

#### Community Benefit Implementation Strategies.

Beginning January 1, 2014, hospitals that submit a community assessment must submit a community benefit implementation strategy (implementation strategy). The implementation strategy must be submitted within a year of a community assessment.

In addition to meeting any federal IRS requirements, implementation strategies must include:

- a description of the means for consulting individuals, organizations, and government entities in developing the implementation strategy, including a summary of discussions with and comments from community members, nonprofit community-based organizations, persons with special knowledge of public health, tribal governments, and representatives or members of populations that are medically underserved, low-income, minority, or chronically ill;
- the economic value of the community benefits that the hospital allocated during the prior three years to address the prioritized health needs of the community as identified in the community assessment;
- a plan of programs and activities that will be implemented to address the prioritized health needs of the community for the subsequent three years. The hospital should focus on population health responses to the prioritized health needs, links between clinical services and community health improvement, and evidence-based programs; and
- a description of the mechanisms to be used to assess the effectiveness of the activities at addressing the prioritized health needs of the community.

#### Department of Health Responsibilities.

The DOH must adopt standards to be followed during the development of a community assessment and while developing an implementation strategy. The rules must encourage multiple hospitals serving a similar community to collaborate when developing community assessments and implementation strategies. When adopting standards, the DOH must consider federal requirements related to developing a community assessment and minimize any conflicting administrative requirements. The DOH must also make the community assessments and implementation strategies available to the public. In addition, beginning July 1, 2015, the DOH must report on the implementation strategy reports at least annually.

The DOH activities must be funded through the Hospital Data Collection Account.

#### Definitions.

Definitions are provided for "community benefits," "community benefit implementation strategy," "community building activities," and "community health needs assessment." Each of the definitions refers to the federal nonprofit corporation laws and regulations adopted by the federal IRS. The definition of "community benefits" includes the costs of preparing a community assessment and an implementation strategy.

#### Legislative Findings.

Legislative findings are made regarding the provision of community benefits by nonprofit hospitals and public hospital district hospitals and the expectation that community benefit activities of hospitals will shift away from providing uncompensated care to uninsured individuals toward population-based community needs. Legislative intent is declared to build upon federal Patient Protection and Affordable Care Act requirements regarding the provision of community benefits by nonprofit hospitals.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill removes the requirement that nonprofit hospitals meet a specific level of community benefit in order to maintain nonprofit status.

The substitute bill expands the definition of "community benefits" to include the costs of preparing a community health needs assessment or community benefits implementation strategy as well as any support provided to local health jurisdictions for public health accreditation activities.

The substitute bill expands the requirement to consider the five most common causes of death in the community, for purposes of determining the community's health needs, to the five most common causes of illness, injury, or premature death in the community. The need to include a description of existing health facilities in the community as part of the community health needs assessment is eliminated.

A hospital that submits a community health needs assessment and community benefits implementation strategy to the federal Internal Revenue Service may comply with state reporting requirements by submitting to the DOH: (1) the forms delivered to the federal government; and (2) a supplemental attachment showing how the hospital has complied with any additional state requirements.

The substitute bill requires the DOH to encourage multiple hospitals that serve the same community to collaborate in developing a community health needs assessment and community benefit implementation strategy.

The DOH shall fund the community health needs assessment and community benefits implementation strategies through the Hospital Data Collection Account.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after the adjournment of the session, except for sections 4 and 5, relating to reports regarding charity care and community benefit implementation strategies, which take effect on January 1, 2015.

**Staff Summary of Public Testimony:**

(In support) With the expansion in health coverage in 2014, it is expected that there will be much less need for charity care, but still a need for community benefits. The Affordable Care Act (ACA) requires that hospitals conduct a community health needs assessment and then decide which community benefits they will pursue. This bill assures that hospitals have a meaningful engagement with the community when developing community health needs assessments. This bill aligns community benefits activities with public health challenges.

Assessment is a core function of the governmental health system and is used to identify overall causes of disease as well as causes of illness, injury, or premature death. Public health departments have lost much of their ability to do assessments and this bill could help restore those activities. Hospitals are often the beneficiaries of good planning and assessments through reduced emergency department use and appropriate use of health services.

While the focus on the five leading causes of death is good, it should also include causes of preventable illness and injury. The process in the bill will help direct resources toward the greatest needs. There should be a stronger link to the work of the governmental public health system and other hospitals serving the same community.

This is a chance to start moving forward early with health reform. It makes sense to guarantee that hospitals are gathering good information on the health needs of their communities and that they focus on community benefits and that they prioritize health needs. This is an opportunity to involve underrepresented and underserved communities in planning. This bill sets up the mechanism to better meet the health needs of the uninsured population. Better health will lead to less incarceration, greater public safety, and better education. This bill will make sure that representatives of different populations are at the table for implementing the strategies. This bill gives greater accountability for the tax exemptions in this state.

The bill's options regarding the amount of community benefit to be provided will assure greater consistency across the state. The bill could be modified so that hospitals can meet both their federal and state reporting requirements simultaneously. Some public health departments are having trouble engaging their hospitals in developing community health needs assessments. Producing a community health needs assessment could be countable as a community benefit expenditure. Community building activities are not typically countable under federal guidelines, but the bill could make them countable as community benefit expenditures.

(Opposed) Nonprofit hospitals must report a Schedule H to the federal government including financial assistance, shortfalls, community health improvement services and community benefit operations, subsidizations of health services, funds for research, and community building activities. The ACA will require more hospitals to conduct community health needs assessments in 2013. This bill will require many reporting requirements for hospitals in addition to the new ACA requirements. Hospitals are already reporting a lot of information and will have many new reporting requirements and should not have to comply with this additional requirement until the federal guidelines for community health needs assessments are in place. The bill's nonprofit status provisions raises concerns about enforcing this at the state level before it is known what the federal government will require. There is a lot going on around community health needs assessments and the bill should be held until there is more certainty about the federal requirements.

**Persons Testifying:** (In support) Representative Jinkins, prime sponsor; Jennifer Tebaldi, Department of Health; Lonnie Johns-Brown, League of Women Voters and National Organization for Women; Nathan Weed, Washington State Public Health Association; Peter Browning, Washington State Association of Local Public Health Officials; and Paul Benz, Faith Action Network.

(Opposed) Lisa Thatcher, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS & OVERSIGHT

**Majority Report:** The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Dickerson, Chair; Appleton, Vice Chair; Cody, Green, Kagi and Pettigrew.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Johnson, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Harris, Overstreet and Walsh.

**Staff:** Amy Skei (786-7109).

### Summary of Recommendation of Committee On Health & Human Services Appropriations & Oversight Compared to Recommendation of Committee On Health Care & Wellness:

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4 and 5, relating to reports regarding

charity care and community benefit implementation strategies, which take effect on January 1, 2015.

**Staff Summary of Public Testimony:**

(In support) In 2014 the federal Affordable Care Act (ACA) will reduce the need for charity care, yet nonprofit hospitals will still need a way to provide community benefits in order to meet their nonprofit requirements. This bill will be funded out of the Hospital Data Collection Account. This bill allows hospitals to count their community health needs assessment activities as community benefits. Community health assessment is a core function of public health. This bill helps public health focus its scarce resources on the biggest problems.

(Opposed) The federal ACA has a new requirement that nonprofit hospitals conduct community health needs assessments and this bill will create additional requirements and add costs for hospitals. Federal reporting guidelines have not yet been adopted, so it is premature to add these state reporting requirements.

**Persons Testifying:** (In support) Representative Jinkins, prime sponsor; and Jennifer Tebaldi, Department of Health.

(Opposed) Lisa Thatcher, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.