

# SENATE BILL REPORT

## SB 5666

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As of March 1, 2011

**Title:** An act relating to accountability for tax exempt hospitals.

**Brief Description:** Concerning accountability for tax exempt hospitals.

**Sponsors:** Senators Pflug and Keiser.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/09/11 [DPF].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Mich'l Needham (786-7442)

**Background:** Nonprofit and public hospitals are exempt from paying state and local property taxes for owned or leased property that is used for qualified hospital purposes. The property qualifying for the exemption is used for 24-hour inpatient care, ambulatory surgery centers, emergency rooms, and property used for the administration of inpatient care. Hospital facilities used for outpatient clinic care or private physician practices do not qualify. Hospital pharmacies serving clinic patients and the general public do not qualify, however pharmacies limited to inpatient service do qualify for the exemption.

The federal Internal Revenue Code, section 501(c)(3), provides nonprofit hospitals an exemption from federal income tax with documentation of a community benefit standard. Hospitals and other organizations described in 501(c)(3) may pay no more than reasonable compensation to their officers, directors, trustees, and other disqualified persons. The organizations may rely on a rebuttable presumption process to establish that compensation is reasonable, so the burden of proving excessive compensation is placed on the Internal Revenue Service (IRS), through the use of a disinterested party reviewing comparability data.

**Summary of Bill (Proposed Substitute):** A nonprofit hospital that claims an exemption from property tax must file an unofficial copy of the IRS schedule H form 990 with the Department of Revenue (DOR) within five days of filing the form with the IRS. DOR must make a copy of the form available on the department's website.

For property tax purposes, freestanding emergency rooms that are not physically connected or adjacent to a licensed hospital are not included in the definition of hospital.

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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.*

To retain the property tax exemption, a nonprofit hospital or public hospital district must ensure that all management contracts and third-party vendor are obtained at no greater than fair market value, and post the full salary detail of all wage and nonwage compensation for the five highest paid officers on a Washington State Hospital Association web page.

**EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Proposed Substitute):** The requirement that a nonprofit hospital demonstrate compensation levels of its top five paid officers that are comparable to like positions within the public service of the state is removed. The salaries must still be published.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Hospitals have grown from a charitable industry to big business. In this state at least 19 hospital employees make more than \$1 million a year, at nonprofit or public hospitals. We need transparency and accountability for hospitals. The IRS is also concerned with the community benefits and salaries provided by nonprofit hospitals and has recently required a new form be filed. This bill just asks for the IRS form to be released to the state as well.

CON: This bill forces an unfortunate choice for hospitals of losing their property tax exemption or their ability to attract and retain top leaders. The hospital board sets a competitive salary to allow us to recruit across the country. These executive positions face unique challenges with complex needs, providing services 24 hours a day, 7 days a week. We prefer the ability to set wages comparable with the labor market. The community benefits provided by hospitals far outweigh the tax benefits. Any loss of the property tax exemption will just result in higher costs of care, and the scaling back of community benefits.

**Persons Testifying:** PRO: Senator Pflug, prime sponsor.

CON: Sister Andrea Nenzel, PeaceHealth; Carolyn Corvi, Virginia Mason Medical Center.