PROBLEM
In exchange for providing various community benefits, such as charity care and improving community health, California’s private nonprofit hospitals are eligible for certain tax exemptions due to their nonprofit status. However, charity care and community benefits are not uniformly defined or measured. This ambiguity prevents California communities from determining if these hospitals sufficiently benefit the community, a duty nonprofit hospitals are required to fulfill under state and federal law. Studies show nonprofit hospitals often fail to adequately perform this role. For example, the Government Accountability Office (GAO) found little or no meaningful difference in the level of uncompensated care provided by nonprofit and for-profit hospitals, especially when compared to the far greater role played by public hospitals in the provision of uncompensated care.\(^1\)

EXISTING LAW
In California, several entities provide oversight of nonprofit hospitals and their tax-exempt status including the State Board of Equalization (BOE), Franchise Tax Board (FTB), Office of Statewide Health Planning and Development (OSHPD), and Office of the Attorney General. According to the California Legislative Analyst’s Office (LAO), there is currently no uniform definition of charity care in state or federal statute.\(^2\) Furthermore, no requirement exists in state or federal law for nonprofit hospitals to provide specific types of community benefit in order to maintain their tax-exempt status.\(^3\) State law requires nonprofit and for-profit hospitals to offer reduced rates to certain financially qualified individuals. Since the mid-1990s, state law has also required that private nonprofit hospitals in California conduct a community needs assessment every three years and, in consultation with the community, develop a community benefit plan to be updated annually.\(^4\) The law also requires these hospitals annually submit a copy of their plan to OSHPD.\(^5\) While the plan must assign economic values to the community benefits where possible, no standard methodology exists from which hospitals must base their calculations.\(^6\) In addition, state law prohibits the consideration of the economic or dollar value of a non-profit hospital’s community benefit plan when evaluating its tax-exempt status.\(^7\) OSHPD generally serves as a public keeper of these plans and does not audit them for consistency in reporting, nor does OSHPD have any authority to apply sanctions if hospitals do not submit their plans.\(^8\)

FACTS
According to a report by The Greenlining Institute (GLI), titled *Non-Profit Hospitals and Community Benefit: What We Don’t Know Can Hurt Us*: 

- Since 2009, the IRS has allowed hospitals with large research facilities to claim multi-billion dollar grants from the National Institutes of Health as their own community benefit spending.
- “Profitable” community benefit programs are possible under existing laws due to high reimbursements from public programs and low community benefit spending, regardless of community health needs.
- Bad debt and Medicare shortfall are no longer reportable as community benefits federally, but they are still allowed in state law.
- According to the GLI analysis and a 2013 study in the *New England Journal of Medicine*, public program shortfall is the top community benefit expenditure reported by hospitals. Therefore, hospitals are charging reimbursements to the state and federal governments for the provision of care while simultaneously writing it off as a community benefit.

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\(^4\) Chapter 812, Statutes of 1994 (SB 697, Torres).

\(^5\) Office of Statewide Health Planning and Development, “The Hospital Community Benefit Program,” www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/


\(^7\) Ibid., p. 6.

\(^8\) Ibid., p. 4.
According to a report by the Institute for Health and Socio-Economic Policy, a research arm of the California Nurses Association, titled \textit{Benefiting from Charity Care: California Not-for-Profit Hospitals}:

- California private, non-profit hospitals reaped more than $1.8 billion in government subsidies and benefits from their tax exempt status beyond what they provided in charity care in 2010.
- Kaiser Permanente and Sutter Health dwarfed the other large hospital chains in tax benefits compared to provision of charity care, together comprising over 45% of the total tax benefits for all California nonprofits. Both were also near the bottom in percentage of charity care they provide relative to their profits in comparison to other large health systems in California.
- Economically struggling California counties and cities lose more than $1 billion annually, a combined result of the property and sales tax exemptions for non-profit hospitals, and the payments counties make to hospitals in their geographic area to provide hospital care for the poor.
- Half of California non-profit hospitals spend 2.46% or less of their operating expenses on charity care, a figure well below what was once a federal standard of 5% of gross revenues spent on charity care.
- Three-fourths of California non-profit hospitals garner tax benefits in excess of what they return to communities in charity care.

\textbf{THIS BILL}

SB 346 will create a standard definition of charity care, and updates community benefits requirements for nonprofit hospitals and nonprofit multi-specialty clinics. The bill will clearly define what constitutes charity care, which must be a direct provision of care, not promotional activities, marketing, or cost containment as currently provided within the guidelines of “community benefit.” The bill will also require these hospitals to allocate a minimum of 25% of their community benefit budget to community building activities geographically located within underserved and vulnerable communities.

Additionally, the bill will provide opportunities for meaningful community representation and input with respect to how nonprofit hospitals meet their social obligations, and create greater transparency and accountability in the development of community benefit spending priorities. Under the bill, nonprofit hospitals and nonprofit multi-specialty clinics will designate a community benefits planning committee that must include at a minimum a public health official and an individual from an underserved or vulnerable population. These requirements and a requirement that community benefit plans be updated every two years will ensure that community benefit planning is connected to community needs and plays a more central role in organizational culture, preventing neglect of, and apathy towards, community benefit obligations within these organizations. The bill also includes financial penalties for hospitals that fail to meet reporting requirements.

While the updated definition of charity care applies broadly, SB 346’s community benefit allocation requirements, community representation, planning, reporting, and filing requirements apply only to private nonprofit hospitals and non-profit multispecialty clinics, exempting children’s hospitals, public hospitals, private for-profit hospitals, small rural hospitals, district hospitals, and University of California hospitals.

\textbf{STATUS}

Introduced 2/24/2015