

ORDINANCE 2022-18

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 110 OF THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA; ADDING ARTICLE X, SECTIONS 110-771 THROUGH 110-790; AUTHORIZING CREATION OF THE COUNTY OF VOLUSIA LOCAL PROVIDER PARTICIPATION FUND UNDER THE AUTHORITY OF ARTICLE VIII, SECTION 1(G) OF THE CONSTITUTION OF THE STATE OF FLORIDA AND THE VOLUSIA COUNTY HOME RULE CHARTER; SPECIFYING THE METHOD OF SETTING AND COMPUTING ANNUAL NON-AD VALOREM SPECIAL ASSESSMENTS TO SPECIFIED ASSESSED PROPERTIES OF HEALTHCARE PROVIDERS TO BE DEPOSITED INTO THE FUND; SPECIFYING AUTHORIZED USES FOR THE FUND PROCEEDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AUTHORIZING INCLUSION IN CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the hospitals in Volusia County's jurisdiction (the "Hospitals") annually provide millions of dollars of uncompensated care to uninsured persons and those who qualify for Medicaid because Medicaid, on average, covers only 60% of the costs of the health care services actually provided by Hospitals to Medicaid-eligible persons, leaving hospitals with significant uncompensated costs; and

WHEREAS, the State of Florida (the "State") received federal authority to establish the Statewide Medicaid Managed Care hospital directed payment program (the "DPP") to offset hospitals' uncompensated Medicaid costs and improve quality of care provided to Florida's Medicaid population; and

1 **WHEREAS**, impacted Hospitals have asked Volusia County (the “County”) to impose an
2 assessment upon certain real property owned by the Hospitals to help finance the non-federal
3 share of the State’s Medicaid program; and

4 **WHEREAS**, the only properties to be assessed are the real property sites of such
5 Hospitals; and

6 **WHEREAS**, the County recognizes that one or more Hospitals within the County’s
7 boundaries may be located upon real property leased from governmental entities and that such
8 Hospitals may be assessed because courts do not make distinctions on the application of
9 special assessments based on “property interests” but rather on the distinction of the
10 classifications of real property being assessed; and

11 **WHEREAS**, the funding raised by the County assessment will, through
12 intergovernmental transfers (“IGTs”) provided consistent with federal guidelines, support
13 additional funding for Medicaid payments to Hospitals; and

14 **WHEREAS**, the County acknowledges that the Hospital properties assessed will
15 increase in value directly and especially from the assessment as a result of the above-
16 described additional funding provided to said Hospitals; and

17 **WHEREAS**, the County has determined that a logical relationship exists between the
18 services provided by the Hospitals, which will be supported by the assessment, and the special
19 and particular benefit to the real property of the Hospitals; and

20 **WHEREAS**, the County has an interest in promoting access to health care for its low-
21 income and uninsured residents; and

1 **WHEREAS**, leveraging additional federal support through the above-described IGTs to
2 fund Medicaid payments to the Hospitals for health care services directly and specifically adds
3 value to the Hospitals' properties and supports their continued ability to provide those services;
4 and

5 **WHEREAS**, imposing an assessment limited to Hospital properties to help fund the
6 provision of these services and the achievement of certain quality standards by the Hospitals
7 to residents of the County is a valid public purpose that benefits the health, safety, and welfare
8 of the citizens of the County; and

9 **WHEREAS**, the assessment ensures the financial stability and viability of the Hospitals
10 providing such services; and

11 **WHEREAS**, the Hospitals are important contributors to the overall County's economy,
12 and the financial benefit to these Hospitals directly and specifically supports their mission, as
13 well as their ability to grow, expand, and maintain their facilities in concert with the population
14 growth in the jurisdiction of the County; and

15 **WHEREAS**, the County finds the assessment will enhance the Hospitals' ability to grow,
16 expand, maintain, improve, and increase the value of their properties and facilities under all
17 present circumstances and those of the foreseeable future; and

18 **WHEREAS**, the County is proposing a properly apportioned assessment by which all
19 Hospitals will be assessed a uniform amount that is compliant with 42 C.F.R. § 433.68(d); and

20 **WHEREAS**, the County adopts this Ordinance enabling the County to levy a uniform
21 non-ad valorem special assessment, which is fairly and reasonably apportioned among the

Hospitals' properties within the County's jurisdictional limits, to establish and maintain a system of funding for IGTs to support the non-federal share of Medicaid payments, thus directly and specially benefitting Hospital properties.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike-through~~ type are deletions; words in underscore type are additions.)

SECTION I: Article X of chapter 110 of the Code of Ordinances of the County of Volusia is hereby amended by the addition of the following sections:

Sec. 110-771. - Title.

This Article X shall be known and may be cited as the "Volusia County Local Provider Participation Fund Ordinance."

Sec. 110-772. - Authority.

Pursuant to Article VIII, Section 1(g) of the Constitution of the State of Florida, Chapter 125 of the Florida Statutes, and Article II of the Volusia County Home Rule Charter, the Council is hereby authorized to impose a special assessments, including the special assessment described herein against private for-profit and not-for-profit hospitals located within the County to fund the non-federal share of Medicaid payments associated with Local Services.

Sec. 110-773. - Purpose.

The non-ad valorem special assessment authorized by this article shall be imposed, levied, collected, and enforced against Assessed Properties located within the County.

1 Proceeds from the Assessment shall be used to benefit Assessed Properties through
2 enhanced Medicaid payments for Local Services. When imposed, the Assessment shall
3 constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all
4 state, county, district, or municipal taxes and other non-ad valorem assessments. Failure to
5 pay may cause foreclosure proceedings, which could result in loss of title, to commence. The
6 Assessment shall be computed and assessed only in the manner provided in this Ordinance.

7 **Sec. 110-774. - Alternative Method.**

8 This Ordinance shall be deemed to provide an additional and alternative method, as
9 specified in § 197.3631, Fla. Stat. ("Alternative Method"), for the assessment and collection of
10 the non-ad valorem special assessment described herein. The Ordinance shall be regarded as
11 supplemental and additional to powers conferred by other laws and shall not be regarded as in
12 derogation of any powers now existing, or which may exist in the future. This Ordinance, being
13 necessary for the health, safety, and welfare of the inhabitants of the County, shall be liberally
14 construed to effect the purposes hereof.

15 **Sec. 110-775. - Definitions.**

16 When used in this Ordinance, the following terms shall have the following meanings,
17 unless the context clearly requires otherwise:

18 "Assessed Property" means the real property in the County to which an Institutional
19 Health Care Provider holds a right of possession and right of use through an ownership or
20 leasehold interest, thus making the property subject to the Assessment. As of the effective
21 date of this Ordinance the following are the Assessed Properties: (i) AdventHealth Daytona

1 Beach; 301 Memorial Medical Pkwy, Daytona Beach, FL 32117; (ii) AdventHealth DeLand; 701
2 W Plymouth Ave, DeLand, FL 32720; (iii) AdventHealth Fish Memorial; 1055 Saxon Blvd 1st
3 Floor, Orange City, FL 32763; (iv) AdventHealth New Smyrna; 401 Palmetto St, New Smyrna
4 Beach, FL 32168; (v) Halifax Health - Medical Center of Deltona; 3300 Halifax Crossing
5 Boulevard, Deltona, FL 32725; and (vi) Select Specialty Hospital - Daytona Beach; 301
6 Memorial Medical Pkwy, Daytona Beach, FL 32117.

7 "Assessment" means a non-ad valorem special assessment imposed by the County on
8 Assessed Property to fund the non-federal share of Medicaid and Medicaid managed care
9 payments that will benefit hospitals providing Local Services.

10 "Assessment Coordinator" means the person appointed by the County to administer the
11 Assessment imposed pursuant to this Article, or such person's designee.

12 "Assessment Resolution" means the resolution described in Section 110-779 hereof.

13 "Council" means the County Council of Volusia County, Florida.

14 "Charter" means the home rule charter of Volusia County, Florida.

15 "County" means the County of Volusia, a body corporate and politic and a subdivision
16 of the State of Florida.

17 "Fiscal Year" means the period commencing on October 1 of each year and continuing
18 through the next succeeding September 30, or such other period as may be prescribed by law
19 as the fiscal year for the County.

20 "Institutional Health Care Provider" means a private for-profit or not-for-profit hospital
21 that provides inpatient hospital services.

1 "Local Services" means the provision of health care services to Medicaid, indigent, and
2 uninsured members of the Volusia County community.

3 "Non-Ad Valorem Assessment Roll" means the special assessment roll prepared by the
4 County.

5 "Ordinance" means the Volusia County Local Provider Participation Fund Ordinance.

6 "Property Appraiser" means the Volusia County Property Appraiser.

7 "Tax Collector" means the Volusia County Tax Collector.

8 **Sec. 110-776. - Interpretation.**

9 Unless the context indicates otherwise, the terms "hereof," "hereby," "herein," "hereto,"
10 "hereunder" and similar terms refer to this Article. The term "hereafter" means after, and the
11 term "heretofore" means before the effective date of the Ordinance.

12 **Sec. 110-777. - Scope of Assessment.**

13 Pursuant to § 125.01, Fla. Stat., the Council is hereby authorized to create a non-ad
14 valorem special assessment that shall be imposed, levied, collected, and enforced against
15 Assessed Property to fund the non-federal share of Medicaid payments benefitting Assessed
16 Properties providing Local Services in the County. Funds generated as a result of the
17 Assessment shall be held in an accounting fund called the local provider participation fund and
18 shall be available to be used only to (1) provide to the Florida Agency for Health Care
19 Administration the non-federal share for Medicaid payments to be made directly or indirectly in
20 support of hospitals serving Medicaid and low income patients and (2) reimburse the County

1 for administrative costs associated with the implementation of the Assessment authorized by
2 this Ordinance, as further specified in the Assessment Resolution, if any.

3 The Assessment must be broad based, and the amount of the Assessment must be
4 uniformly imposed on each Assessed Property. The Assessment may not hold harmless any
5 Institutional Health Care Provider, as required under 42 U.S.C. § 1396b(w). As set forth in
6 Section 110-773, the Assessment shall constitute a lien upon the Assessed Properties equal in
7 rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad
8 valorem assessments. In addition to other remedies available at law or equity, the enforcement
9 of the aforesaid Assessment shall be at the same time and in like manner as ad valorem taxes
10 and subject to all ad valorem tax enforcement procedures afforded to the official annual real
11 property tax notice.

12 Creation and implementation of the Assessment will not result in any additional
13 pecuniary obligation on the County, Council, or County residents. The Assessment shall be
14 imposed, levied, collected, and enforced against only Assessed Properties, and the
15 Assessment Resolution, if any, shall provide that the County's administrative costs shall be
16 reimbursed from the collected amounts. The County's administrative costs shall not exceed
17 \$150,000. Any reasonable expenses the County incurs to collect delinquent assessments,
18 including any attorney's fees incurred as a result of contracting with an attorney to represent
19 the county in seeking and enforcing the collection of delinquent assessments, are not subject
20 to the limitation on administrative costs.

21 **Sec. 110-778. - Computation of Assessment.**

1 The annual Assessment shall be specified for each Assessed Property. The Council
2 shall set the Assessment in amounts that in the aggregate will generate sufficient revenue to
3 fund the non-federal share of Medicaid payments associated with Local Services to be funded
4 by the Assessment.

5 The amount of the Assessment required of each Assessed Property may not exceed an
6 amount that, when added to the amount of other hospital assessments levied by the state or
7 local government, exceeds the maximum percent of the aggregate net patient revenue of all
8 Assessed Hospitals in the County permitted by 42 C.F.R. § 433.68(f)(3)(i)(A).

9 Assessments for each Assessed Property will be derived from data contained in
10 hospital cost reports and/or the Florida Hospital Uniform Reporting System, as available from
11 the Florida Agency for Health Care Administration. It shall be the responsibility and obligation
12 of each Institutional Health Care Provider holding the right of possession and/or right of use to
13 an Assessed Property to provide to the County with the aforementioned data and any other
14 information relevant to computation of the Assessment by any deadline set by the Assessment
15 Coordinator for any given year. If any such Institutional Health Care Provider fails to provide
16 the aforementioned data or other information in a timely manner, the County may choose not
17 to vote to adopt an annual Assessment Resolution.

18 **Sec. 110-779. - Assessment Resolution.**

19 Annually, the Council may adopt an Assessment Resolution authorizing collection of the
20 Assessment. Without adoption of an applicable Assessment Resolution, no Assessment may
21 be imposed, levied, collected, and enforced. The annual Assessment Resolution, if any, shall

1 describe (a) the Medicaid payments proposed for funding from proceeds of the Assessment;
2 (b) the benefits to the Assessment Properties associated with the Assessment; (c) the
3 methodology for computing the assessed amounts; and (d) the method of collection, including
4 how and when the Assessment is to be paid.

5 **Sec. 110-780. - Non-Ad Valorem Assessment Roll.**

6 The Assessment Coordinator shall prepare, or direct the preparation of, the Non-Ad
7 Valorem Assessment Roll, prior to Council's vote on an annual Assessment Resolution, if any.
8 Such Non-Ad Valorem Assessment Roll shall contain the following:

- 9 a) The names and addresses of the Assessed Properties; and
10 b) The Assessment rate and amount of the Assessment to be imposed against
11 each Assessed Property based on the Assessment Resolution.

12 The Non-Ad Valorem Assessment Roll shall be retained by the Assessment Coordinator
13 and shall be open to public inspection and posted to the County's publicly available website.
14 The foregoing shall not be construed to require that the Assessment Roll be in printed form if
15 the amount of the Assessment for each Assessed Property can be determined by use of a
16 computer terminal available to the public.

17 Nothing in this Ordinance, including this section, shall be construed to require the
18 Assessment Coordinator to prepare a Non-Ad Valorem Assessment Roll or the Council to vote
19 to adopt any Assessment Resolution for or in any given Fiscal Year.

20 **Sec. 110-781. - Notice by Publication.**

1 Prior to any Council's vote, if any, to adopt an Assessment Resolution, the Assessment
2 Coordinator shall publish once in a newspaper of general circulation within the County a notice
3 stating that the Council, at a regular, adjourned, or special meeting on a certain day and hour,
4 not earlier than 20 calendar days from such publication, will hear objections of all interested
5 persons to approve the Assessment. Such notice shall include:

- 6 a) The Assessment rate;
7 b) The procedure for objecting to the Assessment rate;
8 c) The method by which the Assessment will be collected; and
9 d) A statement that the Non-Ad Valorem Special Assessment Roll is available for
10 inspection at the Office of the Assessment Coordinator.

11 Nothing in this Ordinance, including this section, shall be construed to require the
12 Assessment Coordinator to prepare a Non-Ad Valorem Assessment Roll or the Council to vote
13 to adopt any Assessment Resolution for or in any given Fiscal Year.

14 **Sec. 110-782. - Notice by Mail.**

15 In addition to the published notice required by Section 110-781, but only for the first
16 fiscal year in which an Assessment is imposed by the Council against an Assessed Property,
17 the Assessment Coordinator shall provide notice of the proposed Assessment by first class
18 mail to the Assessed Properties. Such notice shall include:

- 19 a) The purpose of the Assessment;
20 b) The Assessment rate to be levied against each Assessed Property;
21 c) The unit of measurement used to determine the Assessment;

1 d) The total revenue to be collected by the County from the Assessment;

2 e) A statement that failure to pay the Assessment will cause a tax certificate to be
3 issued against the property or foreclosure proceedings, either of which may result in a loss of
4 title to the property;

5 f) A statement that all affected and/or interested parties have a right to appear at
6 the hearing and to file written objections with the Council within 20 days of the notice; and

7 g) The date, time, and place of the hearing.

8 Notice shall be mailed at least 20 calendar days prior to the hearing to each Assessed
9 Property at such address as is shown on the Assessment Roll. Notice shall be deemed mailed
10 upon delivery thereof to the possession of the United States Postal Service. The Assessment
11 Coordinator may provide proof of such notice by affidavit. Failure of the Assessed Property to
12 receive such notice, because of mistake or inadvertence, shall not affect the validity of the
13 Assessment Roll or release or discharge any obligation for payment of the Assessment
14 imposed by the Council pursuant to this Article.

15 **Sec. 110-783. - Adoption of Assessment Resolution and Non-Ad Valorem Assessment**
16 **Roll.**

17 At the time named in the notice described in Section 110-781, the Council shall receive
18 and consider any written objections of interested persons. All objections to the Assessment
19 Resolution and Non-Ad Valorem Assessment Roll shall be made in writing and filed with the
20 Assessment Coordinator at or before the time or adjourned time of such hearing. At the date

1 and time named in the notice, the Council may adopt the Assessment Resolution and Non-Ad
2 Valorem Assessment Roll which shall:

- 3 a) Set the rate of the Assessment to be imposed;
4 b) Approve the Non-Ad Valorem Assessment Roll, with such amendments as it
5 deems just and right; and
6 c) Affirm the method of collection.

7 **Sec. 11-784. - Revisions to the Assessment Roll.**

8 The Council may revise the Non-Ad Valorem Assessment Roll one or more times during
9 the Fiscal Year to modify the Assessment rate through the adoption of an additional
10 Assessment Resolution, following the procedures described in Sections 110-779 through 110-
11 783.

12 **Sec. 110-785. - Effect of the Assessment Resolution.**

13 The adoption of an Assessment Resolution shall be the final adjudication of the issues
14 presented (including, but not limited to, the method of apportionment and Assessment, the
15 Assessment rate, the initial rate of Assessment, the Non-Ad Valorem Assessment Roll, and
16 the levy and lien of the Assessments), unless proper steps shall be initiated in a court of
17 competent jurisdiction to secure relief within 20 days from the date of Council action on the
18 Assessment Resolution. The Non-Ad Valorem Assessment Roll shall be delivered to the
19 individual or official as the Council by resolution shall designate, which may be the Tax
20 Collector.

21 **Sec. 110-786. - Method of Collection.**

1 The amount of the Assessment is to be collected pursuant to that method specified in
2 the Assessment Resolution, which may be the Alternative Method.

3 **Sec. 110-787. - Refunds.**

4 If, at the end of the Fiscal Year, additional amounts remain in the local provider
5 participation fund, the Council is hereby authorized to make refund to Assessed Properties in
6 proportion to amounts paid in during the Fiscal Year for all or a portion of the unutilized local
7 provider participation fund.

8 **Sec. 110-788. - Responsibility for Enforcement.**

9 The County and its agent, if any, shall maintain the duty to enforce the prompt collection
10 of the Assessment by the means provided herein. The duties related to collection of
11 assessments may be enforced at the suit of any holder of obligations in a court of competent
12 jurisdiction by mandamus or other appropriate proceedings or actions.

13 **Sec. 110-789. - Correction of Errors and Omissions.**

14 No act of error or omission on the part of the Property Appraiser, Tax Collector,
15 Assessment Coordinator, Council, or their deputies or employees shall operate to release or
16 discharge any obligation for payment of the Assessment imposed by the Council under the
17 provision of this Chapter.

18 **Sec. 110-790. - Limitations on Surcharges.**

19 Payments made by Assessed Properties under this article may not be passed along to
20 patients of the Assessed Property as a surcharge or as any other form of additional patient
21 charge.

1 **SECTION II: APPLICABILITY** – It is hereby intended that this Ordinance shall constitute
2 a uniform law applicable in all unincorporated areas of Volusia County, Florida, and to all
3 incorporated areas of Volusia County where there is no existing conflict of law or municipal
4 ordinance.

5 **SECTION III: SEVERABILITY.** Should any word, phrase, sentence, subsection or
6 section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or
7 unconstitutional, then that word, phrase, sentence, subsection or section so held shall be
8 severed from this ordinance and all other words, phrases, sentences, subsections, or sections
9 shall remain in full force and effect.

10 **SECTION IV: CONFLICTING ORDINANCES.** All ordinances, or part thereof, in conflict
11 herewith are, to the extent of such conflict, repealed.

12 **SECTION V: AUTHORIZING INCLUSION IN CODE.** The provisions of this ordinance
13 shall be included and incorporated into the Code of Ordinances of the County of Volusia, as
14 additions or amendments thereto, and shall be appropriately renumbered to conform to the
15 uniform numbering system of the Code.

SECTION VI: EFFECTIVE DATE. This ordinance shall take effect upon electronic filing of a certified copy with the Department of State.

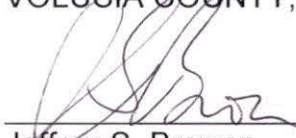
ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 17th DAY OF MAY A.D., 2022.

ATTEST:

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA



George Recktenwald
County Manager



Jeffrey S. Brower
County Chair

