

PRELIMINARY REPORT:
2021 TAX PREFERENCE PERFORMANCE
REVIEWS

Nonprofit Outpatient Dialysis Facilities

LEGISLATIVE AUDITOR'S CONCLUSION:

Preference provides tax relief to nonprofit outpatient dialysis facilities, which outperform for-profit counterparts on two standard measures. Legislature should clarify its intent.

July 2021

Executive Summary

Tax exemption for nonprofit outpatient dialysis facilities

Nonprofit outpatient dialysis facilities are exempt from property tax on real and personal property used exclusively for providing dialysis services.

Dialysis is a medical treatment that performs kidney functions. The majority of dialysis patients have end stage renal disease (ESRD), a condition in which kidney function is so compromised that the patient needs dialysis or a kidney transplant to survive.

The preference was enacted in 1987 and has no expiration date.

Preference intent is unclear

The preference was enacted before performance statements for new tax preferences were required, and the Legislature did not state an intent in statute. Similar preferences, such as the property tax exemption for nonprofit hospitals, have an inferred objective of supporting charity care. Patients with ESRD, regardless of age, are covered by Medicare and the state's Kidney Disease Program. As a result, JLARC staff concluded that supporting charity care is not an inferred objective of the nonprofit outpatient dialysis facilities property tax exemption. The intent of the preference is unclear.

Beneficiaries outperform for-profit counterparts on certain measures

The Legislature did not specify a public policy goal for this preference.

**Estimated Biennial
Beneficiary Savings**
\$4.2 Million

Tax Type
Property Tax
RCW 84.36.040(1)(f)
Applicable Statutes

Four beneficiaries operate 27 dialysis facilities in seven western Washington counties: Clallam, Island, King, Kitsap, Pierce, Skagit, and Snohomish.

Compared to for-profit dialysis centers, beneficiaries have a higher share of patients on the kidney transplant wait list and receive lower revenue per treatment. Nonprofit and for-profit outpatient dialysis facilities perform similarly on other measures.

Recommendations

Legislative Auditor's Recommendation: Clarify intent

The Legislature should clarify the objectives of the preference by including a performance statement. The preference was enacted before the Legislature required a performance statement for new tax preferences. There is no explicit public policy statement for the tax preference in statute.

If the Legislature believes the tax preference is intended to support certain outcomes, the Legislature should clarify its expectations by adding a performance statement that clearly states the public policy objectives and metrics to determine if the objectives have been met.

You can find more information in Recommendations.

Commissioners' Recommendation

Available on [Citizen Commission website](#) October 2021.

REVIEW DETAILS

1. Property tax exemption for dialysis facilities

Preference exempts nonprofit outpatient dialysis facilities from property tax on real and personal property used to provide dialysis services

Dialysis is a life-saving treatment for patients with end stage renal disease

Dialysis is a medical treatment that performs kidney functions, such as removing waste, controlling blood pressure, and maintaining a safe level of certain chemicals in the blood. Dialysis is necessary when a patient's kidneys lose over 85% of their function. The majority of dialysis patients have end stage renal disease (ESRD), a condition in which kidney function is so compromised that the patient needs dialysis or a kidney transplant to survive.

Dialysis is performed in both inpatient and outpatient settings. Inpatient dialysis is performed when a patient is admitted to the hospital, usually for an acute kidney injury or other concurrent

injuries. Patients with ESRD usually receive routine outpatient dialysis services in a medical facility where hospital admission is not required.

Patients typically receive dialysis three to four times a week. Each dialysis treatment lasts several hours.

Preference exempts nonprofit dialysis facilities from property taxes

The Legislature enacted the preference in 1987, allowing nonprofit organizations to claim an exemption from property tax on real and personal property used for outpatient dialysis services.

Nonprofit organizations apply to the Department of Revenue for the property tax exemption. The exempt property must be used exclusively for outpatient dialysis services, and beneficiaries must be nonprofit organizations as defined in RCW 84.36.800. Beneficiaries must file to renew the exemption annually.

Preference is similar to exemption for nonprofit hospitals, but intent is unclear

The preference was enacted before performance statements for new tax preferences were required. The Legislature did not state a public policy objective for this preference. Public testimony at the time noted that nonprofit hospitals, which have inpatient dialysis facilities, also had a property tax exemption. The inferred intent of the preference for nonprofit hospitals is to support charity care¹. JLARC staff reviewed the preference for nonprofit hospitals in 2007 ([JLARC Report 07-14, Nonprofit Hospitals](#)).

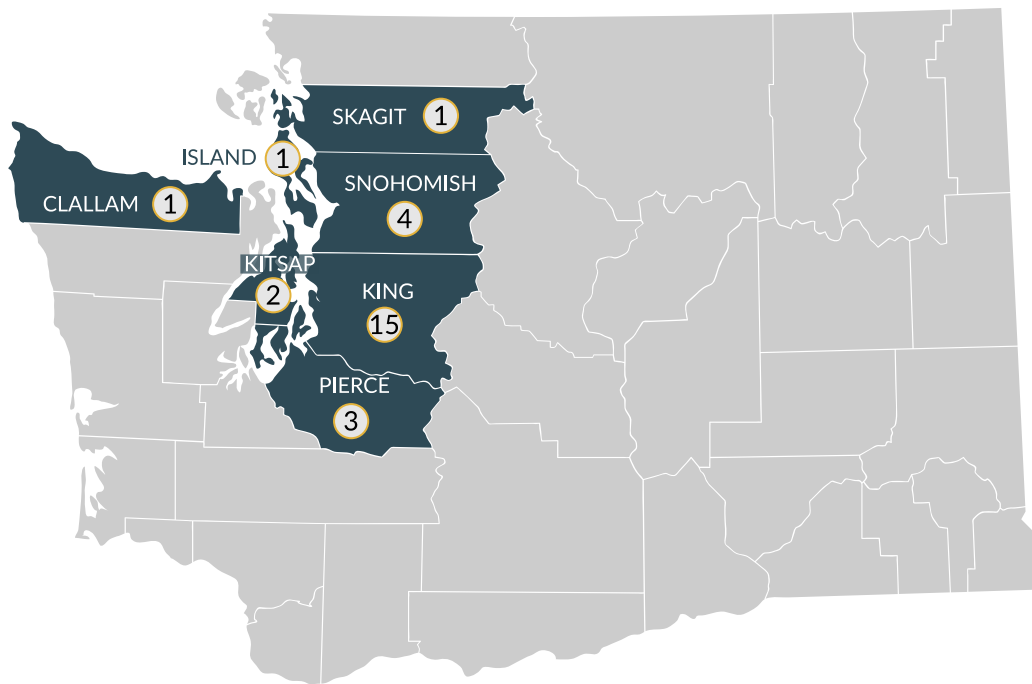
The nonprofit outpatient dialysis facility property tax preference has no expiration date.

Beneficiaries located in Western Washington

Beneficiaries operate dialysis facilities in seven Western Washington counties: Clallam, Island, King, Kitsap, Pierce, Skagit, and Snohomish.

¹Charity care is medical care for which providers do not expect reimbursement.

Exhibit 1.1: Beneficiaries operate 27 nonprofit outpatient dialysis facilities in seven Washington counties



Source: JLARC staff analysis of Department of Revenue data.

Several factors determine where a dialysis facility is located:

- **Provider interest:** Dialysis providers must have an interest in locating facilities in a certain area. This may depend on the availability of suitable parcels, the perceived demand from patients in the area, the availability of qualified employees, and proximity to existing facilities. A provider may also consider the proximity to referring nephrologists² and hospitals, especially if the dialysis provider has an existing relationship with another institution, such as a nonprofit hospital.
- **Department of Health Certificate of Need:** Providers apply to locate dialysis facilities through the Department of Health's Certificate of Need Program. This regulatory process requires certain healthcare providers to obtain state approval before building facilities or offering new or expanded services. The process ensures that proposed facilities and services are needed for quality patient care in a particular area. The department scores applications and issues a certificate if it determines there is a need for the facility or service.

²Kidney specialists.

JLARC staff reviewed Certificate of Need applications for the past five years to determine if nonprofit outpatient dialysis facilities explored establishing facilities in other parts of the state. We found one instance of a nonprofit seeking a certificate in Yakima County. The certificate was not awarded due to a higher-scoring application from a for-profit competitor.

REVIEW DETAILS

2. Beneficiaries save \$4.2 million

Beneficiaries will save an estimated \$4.2 million in the 2021-23 biennium

Beneficiaries are exempt from taxes on real and personal property.

In fiscal year 2020, four beneficiaries saved at least \$1.2 million across 27 facilities in seven counties. This estimate includes 54 parcels and associated personal property, such as medical equipment. The beneficiary savings estimates are based on the most recent assessed property values. Some assessed values have not been updated in several years. Due to these properties' exempt status, many county assessors do not annually update property values.

Exhibit 2.1: Four beneficiaries saved \$1.2 million in fiscal year 2020

Beneficiary	Counties	Estimated FY 2020 Savings	Facilities
Northwest Kidney Centers	Clallam, King, Pierce	\$968,592	17
Olympic Peninsula Kidney Center	Kitsap	\$31,174	2
Puget Sound Kidney Centers	Island, Pierce, Skagit, Snohomish	\$205,538	7
CHI Franciscan	Pierce	\$9,850	1
Totals		\$1,215,153	27

Source: JLARC staff analysis of county assessor data.

During the 2019-21 biennium, beneficiaries saved an estimated \$2.7 million. Beneficiary savings in the 2021-23 biennium are estimated to be \$4.2 million. JLARC staff estimated future beneficiary savings using the compound annual growth rate of beneficiary savings between 2018 and 2020.

REVIEW DETAILS

3. Preference intent unclear

Inferred intent of similar preference for nonprofit hospitals is not relevant to nonprofit dialysis facilities

The Legislature did not state an intent for this preference. Statute provides a property tax exemption to other nonprofit medical facilities, such as hospitals and cancer centers. In a 2007 review of the property tax exemption for nonprofit hospitals, JLARC staff inferred that the goal of the preference was to encourage charity care³. However, encouraging charity care does not appear relevant to property tax exemption for nonprofit outpatient dialysis centers.

Coverage and assistance provided by Medicare and the Kidney Disease Program leaves little need for charity care

Together, Medicare and the state's Kidney Disease Program provide coverage and assistance with treatment costs for people diagnosed with end stage renal disease (ESRD), regardless of age or income.

More than 99% of treatments at outpatient dialysis facilities are provided to patients with ESRD. Because Medicare and the Kidney Disease Program pay for nearly all dialysis treatment, this leaves little need for charity care at nonprofit outpatient dialysis facilities. As a result, unlike the preference for nonprofit hospitals, a public policy objective to support charity care is not relevant for a tax preference for nonprofit dialysis centers.

REVIEW DETAILS

4. Beneficiaries outperform for-profits on two measures

Nonprofit outpatient dialysis facilities outperform for-profits on two measures

Beneficiaries outperform for-profit counterparts on select measures

The intent of the preference is unclear. The preference was enacted before performance statements for new tax preferences were required. Without a clear intent, JLARC staff compared performance information for nonprofit and for-profit facilities to see how these two business models differ in outcomes.

³Medical care for which providers do not expect reimbursement.

The Center for Medicare & Medicaid Services (CMS)⁴ collects performance and quality of care data from outpatient dialysis facilities as part of its oversight activities. JLARC staff compared data for all Washington outpatient dialysis facilities on these measures. Nonprofit outpatient dialysis facilities perform better than for-profit outpatient dialysis facilities on two measures: share of patients waitlisted for kidney transplants and revenue per treatment.

Nonprofits have a greater share of patients on the kidney transplant wait list

Nonprofit outpatient dialysis facilities have a higher share of patients on the kidney transplant wait list. Nonprofit facilities averaged 16.3% of patients on the wait list, compared to 12.2% of patients at for-profit facilities. Transplants are generally considered the best treatment option for ESRD patients. Patients with ESRD who receive a successful kidney transplant may avoid dialysis for several years or never require dialysis again.

JLARC staff also obtained data from the United States Renal Data System, the national data registry for the ESRD population. In 2018, an average of 4.63 patients per nonprofit outpatient dialysis facility in Washington received a transplant. In contrast, an average of 2.75 patients per for-profit facility received a transplant. Data is not available for a facility-level comparison on this measure.

Nonprofits receive less revenue per treatment

As part of its Certificate of Need Program⁵, the Department of Health calculates the revenue per treatment at each outpatient dialysis facility in the state. This measure is part of its scoring criteria for comparing Certificate of Need applications, where applicants with a lower revenue per treatment score more favorably. Despite operating in generally higher-cost areas of the state, nonprofit outpatient dialysis facilities receive less revenue per treatment. Nonprofit facilities averaged \$397 per dialysis treatment, while for-profit facilities averaged \$480 per treatment.

Nonprofits and for-profit dialysis centers have similar outcomes for other CMS quality measures

CMS also collects data for other measures, such as hospitalization rate, mortality rate, readmission rate, standard infection ratio, and total performance score. JLARC staff found no

⁴An agency within the U.S. Department of Health and Human Services that administers Medicare and other programs.

⁵A regulatory process that requires certain healthcare providers to obtain state approval before building facilities or offering new or expanded services.

statistically significant differences between nonprofit and for-profit facilities for these other measures.

Exhibit 4.1: Nonprofit dialysis facilities outperform for-profits on two measures

Measure	Nonprofit Performance Compared to For-Profits
Percentage of patients on the kidney transplant wait list	Significantly higher (16.3% vs. 12.2%)
Revenue per treatment	Significantly lower (\$397 vs. \$480)
Hospitalization rate	No difference
Offers home <u>hemodialysis</u> ⁶ training	No difference
Readmission rate	No difference
Standard infection ratio	No difference
Serves rural county (per RCW 82.14.370)	No difference
Mortality rate	No difference

Source: JLARC staff analysis of data from the Center for Medicare and Medicaid Services, the Department of Health, and the Office of Financial Management.

REVIEW DETAILS

5. Applicable statutes

RCW 84.36.040, RCW 84.36.800, RCW 82.14.370

Nonprofit child day care centers, libraries, orphanages, homes or hospitals for the sick or infirm, outpatient dialysis facilities.

RCW 84.36.040

(1) The real and personal property used by, and for the purposes of, the following nonprofit organizations is exempt from property taxation:

- (a) Child day care centers as defined in subsection (4) of this section;
- (b) Free public libraries;
- (c) Orphanages and orphan asylums;

⁶A type of dialysis that filters blood through a machine.

(d) Homes for the sick or infirm;

(e) Hospitals for the sick; and

(f) Outpatient dialysis facilities.

(2) The real and personal property leased to and used by a hospital for hospital purposes is exempt from property taxation if the hospital is established under chapter 36.62 RCW or is owned and operated by a public hospital district established under chapter 70.44 RCW.

(3) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805, and the benefit of the exemption must inure to the user.

(4) For purposes of subsection (1) of this section, "child day care center" means a nonprofit organization that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours.

Definitions.

RCW 84.36.800

As used in this chapter:

(1) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed;

(2) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior;

(3) "Hospital" means any portion of a hospital building, or other buildings in connection therewith, used as a residence for persons engaged or employed in the operation of a hospital, or operated as a portion of the hospital unit;

(4) "Nonprofit" means an organization, association or corporation no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state;

(5) "Parsonage" means a residence occupied by a member of the clergy who has been designated for a particular congregation and who holds regular services therefor.

Sales and use tax for public facilities in rural counties

RCW 82.14.370

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county.

(b) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section must report, as follows, to the office of the state auditor, within one hundred fifty days after the close of each fiscal year:

(i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and

(ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged may not be deemed to be new projects

under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is twenty-five years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor's Recommendation: Clarify

The Legislature should clarify the objectives of the preference by including a performance statement.

The preference was enacted before the Legislature required a performance statement for new tax preferences. There is no explicit public policy statement for the tax preference in statute.

Testimony suggests the preference was intended to extend the same tax treatment for nonprofit hospitals to nonprofit dialysis centers. The preference for nonprofit hospitals is intended to support charity care, which hospitals are required to provide. However, since federal and state programs pay for nearly all dialysis treatment, support for charity care is not a relevant objective for the tax preference for nonprofit dialysis facilities.

There may be other benefits provided by nonprofit dialysis facilities, such as increased opportunities for transplants and lower treatment costs.

If the Legislature believes the tax preference is intended to support these or other benefits, the Legislature should clarify its expectations by adding a performance statement that clearly states the public policy objectives and metrics to determine if the objectives have been met.

Legislation Required: Yes

Fiscal Impact: None

RECOMMENDATIONS & RESPONSES Letter from Commission Chair

Available on [Citizen Commission website](#) October 2021.

RECOMMENDATIONS & RESPONSES Commissioners' Recommendation

Available on [Citizen Commission website](#) October 2021.

RECOMMENDATIONS & RESPONSES Agency Response

If applicable, available on [Citizen Commission website](#) October 2021.

MORE ABOUT THIS REVIEW

Study questions

Click image to view PDF of proposed study questions.



PROPOSED STUDY QUESTIONS

Nonprofit Outpatient Dialysis Centers

January 2021

State of Washington Joint Legislative Audit and Review Committee

JLARC will review a property tax exemption for nonprofit outpatient dialysis centers

The 2006 Legislature directed JLARC staff to conduct performance audits of tax preferences. These preferences are included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

The 1987 Legislature enacted a property tax exemption for all real or personal property owned or used by a nonprofit outpatient dialysis center. These facilities provide dialysis services to patients with kidney disease. Dialysis may occur onsite on an outpatient basis, or patients may receive training for at-home dialysis.

Inferred intent is to provide nonprofit outpatient dialysis centers with the same property tax treatment as nonprofit hospitals to support charity care

Statute provides a property tax exemption for nonprofit hospitals, with an inferred goal of supporting charity care. JLARC reviewed the nonprofit hospital [preference in 2007](#). Charity care is care for which providers never expected reimbursement. Nonprofit outpatient dialysis centers are not considered hospitals under state law and are not eligible for the same exemption.

This preference extends a property tax exemption to outpatient dialysis centers that is similar to the exemption provided to nonprofit hospitals. Beneficiaries must be recognized 501(c)(3) nonprofit organizations or be formed by a municipal hospital corporation. The exempt property must be used exclusively for outpatient kidney dialysis.

This study will address the following questions:

- To what extent has the preference been used, what are the beneficiary savings, and how does this compare to the anticipated usage?
- What is the value of charity care provided? How does the value of charity care provided compare to the beneficiary savings?
- Are there other outpatient dialysis centers in Washington that are not eligible for the preference? How does the amount of charity care provided by these facilities compare to that provided by the preference's beneficiaries?



Study Timeframe
 Preliminary Report: July 2021 Proposed Final Report: December 2021

Study Team

Team Lead	Scott Hancock	(360) 786-5193	scott.hancock@leg.wa.gov
Research Analyst	Dana Lynn	(360) 786-5177	dana.lynn@leg.wa.gov
Project Coordinator	Eric Thomas	(360) 786-5182	eric.thomas@leg.wa.gov
Legislative Auditor	Keenan Konopaski	(360) 786-5187	keenan.konopaski@leg.wa.gov

JLARC Study Process



JOINT LEGISLATIVE AUDIT & REVIEW COMMITTEE
 106 11th Ave SW, Olympia, WA 98501 | Email: JLARC@leg.wa.gov | Website: www.jlarc.leg.wa.gov
 Twitter: @WALegAuditor | Phone: (360) 786-5171 | Fax: (360) 786-5180

**Washington Joint Legislature
Audit and Review Committee**

106 11th Avenue SW, Suite 2500
PO Box 40910
Olympia, WA 98504-0910

Phone: 360-786-5171

Email: JLARC@leg.wa.gov

