



House of Representatives

File No. 853

General Assembly

January Session, 2001

(Reprint of File Nos. 493, 749 and 803)

Substitute House Bill No. 6610
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
June 1, 2001

AN ACT IMPOSING A MORATORIUM CONCERNING CERTAIN STATE PROPERTY USED FOR RESIDENTIAL PURPOSES BY PERSONS WITH MENTAL RETARDATION OR PSYCHIATRIC DISABILITIES AND CONCERNING THE PLACEMENT OF CERTAIN CLIENTS OF THE DEPARTMENT OF MENTAL RETARDATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) Notwithstanding any provision of the general
2 statutes concerning the sale, lease or transfer of real property by or on
3 behalf of the state, during the period commencing on the effective date
4 of this act and ending on the date that is three years from the effective
5 date of this act or on the date on which the General Assembly
6 approves a plan that shall be developed by the Department of Mental
7 Retardation for the elimination of all emergency and priority one
8 waiting list categories of the department and a plan that shall be
9 developed by the Department of Mental Health and Addiction
10 Services to meet the needs identified in the report of the Governor's
11 Blue Ribbon Commission on Mental Health, whichever date is earlier,
12 no state-owned real property that is being used or has been used
13 within the previous ten years for residential purposes by persons with

14 mental retardation or psychiatric disabilities may be sold, leased or
15 transferred by or on behalf of the state, except that such property may
16 be leased if the property continues to be used for the same purpose.

17 (b) Subsection (a) of this section shall only apply to any state-
18 operated community-based residential facility, boarding house, group
19 home or halfway house meeting the criteria set forth in subsection (a)
20 of this section and occupied by persons with mental retardation,
21 persons with psychiatric disabilities, alcohol-dependent persons or
22 drug-dependent persons.

23 Sec. 2. (NEW) There is established a nonlapsing fund that shall
24 contain (1) any moneys received by the state from the sale, lease or
25 transfer of all or any part of Fairfield Hills Hospital, Norwich Hospital
26 or any regional center that takes place after January 1, 2001, and (2)
27 any other moneys required by law to be deposited in a separate
28 account within the General Fund for purposes of this act. The
29 Treasurer shall credit the fund with its investment earnings. Any
30 balance remaining in said fund at the end of any fiscal year shall be
31 carried forward in the fund for the fiscal year next succeeding. The
32 principal and interest of the fund shall be used solely for the purpose
33 of site acquisition, capital development and infrastructure costs
34 necessary to provide services to persons with mental retardation or
35 psychiatric disabilities, provided amounts in the fund may be
36 expended only pursuant to appropriation by the General Assembly.

37 Sec. 3. (NEW) The Commissioner of Mental Retardation shall adopt
38 regulations, in accordance with chapter 54 of the general statutes, to
39 establish and implement the policy of the Department of Mental
40 Retardation with respect to the placement and care of department
41 clients who are evaluated by the department as posing a serious threat
42 to others without specific measures for their supervision and security.
43 Such regulations shall include, but not be limited to, provisions
44 concerning the criteria or factors to be considered in: (1) Evaluating
45 and placing such clients; (2) siting of residential facilities for such
46 clients; (3) giving notice, if any, to the community in which such client

47 is to be placed; (4) determining appropriate levels of security and
48 supervision; and (5) providing appropriate programs and quality of
49 life for such clients in the least restrictive environment. Such
50 regulations shall not permit the siting of more than one such facility in
51 any one municipality.

52 Sec. 4. The Commissioner of Mental Retardation, in consultation
53 with the Commissioner of Public Works, shall evaluate, within
54 available appropriations, the feasibility and appropriateness of the use
55 of any state-owned property of at least twelve acres for a facility for
56 the placement of not more than fifteen clients of the department who
57 are evaluated by the Commissioner of Mental Retardation as not
58 appropriate for community placement. Not later than February 1, 2002,
59 the Commissioner of Mental Retardation shall submit a report
60 containing the commissioner's findings and recommendations to the
61 joint standing committee of the General Assembly having cognizance
62 of matters relating to public health, in accordance with the provisions
63 of section 11-4a of the general statutes. Such report shall include the
64 criteria and standards used by the commissioner to evaluate such
65 properties.

66 Sec. 5. This act shall take effect from its passage.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Yes

Affected Agencies: Departments of Mental Retardation, Mental Health and Addiction Services, Public Works; Office of the State Treasurer

Municipal Impact: None

Explanation

State Impact:

The bill specifies that that no real property occupied in the last ten years for residential purposes by the Departments of Mental Retardation (DMR) or Mental Health and Addiction Services may be sold, leased or transferred for either three years or until all emergency and priority one waiting list categories of DMR is eliminated or specific Blue Ribbon Commission on Mental Health goals are met.

The bill may result in a delay in the receipt of significant revenue for the General Fund, as it would prohibit the sale or lease of certain state facilities for a period of time. Although this delay may be reduced due to the allowance of certain property to be leased, as long as it continues to be used for the same purpose. A further requirement that revenue from the sale, lease or transfer, when allowed, of specified properties must be deposited in a nonlapsing fund. In addition, the principal and interest of the fund shall be used for the sole purpose of site acquisition, capital development and infrastructure costs necessary to

provide services to person with mental retardation or psychiatric disabilities. Currently, revenue from the sales of property is deposited into the General Fund. However, this amendment specifically earmarks the revenue generated from these properties to the new nonlapsing fund, thereby reducing the revenue available for other General Fund uses. It should be noted that any new infrastructure may result in ongoing operating costs for the impacted departments.

The Office of the State Treasurer will incur a minimal cost (less than \$5,000) for administrative expenses to establish the nonlapsing fund.

Furthermore, the Commissioner of the Department of Mental Retardation is required to adopt regulations to establish and implement its policy concerning the placement and care of clients who are evaluated as posing a serious threat to others without specific measures for their supervision and security. It is anticipated that the department can adopt regulations within the budgetary resources. However, the fiscal impact associated with the implementation of those regulations is unknown as it depends on the program designed by the department, resulting costs and available funding.

Finally, the bill requires the department, in consultation with the Commissioner of Public Works, to evaluate the feasibility and appropriateness of the use of any state-owned property of at least twelve acres for a facility for the placement of the clients evaluated as not appropriate for community placement. It is anticipated that the department, in consultation with DPW, will conduct the feasibility and appropriateness study as their budgetary resources allow.

House "A" eliminates the underlying bill and the associated impact and replaced it with the above-mentioned moratorium and nonlapsing account provisions.

House "B" allows the restricted property identified to be leased if the property continues to be used for the same purpose and therefore resulting in a potential reduction in the delayed revenue.

OLR Amended Bill Analysis

sHB 6610 (as amended by House "A" and "B")*

AN ACT IMPOSING A MORATORIUM CONCERNING CERTAIN STATE PROPERTY USED FOR PROVIDING SERVICES OR RESIDENTIAL PURPOSES BY THE DEPARTMENT OF MENTAL RETARDATION AND THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES.**SUMMARY:**

This bill imposes a moratorium on the conveyance of state-owned property that is or has recently been used to house people with mental retardation or psychiatric disabilities. The moratorium lasts for three years or until the General Assembly approves department of Mental Retardation (DMR) and Mental Health and Addiction Services (DHMAS) plans to address service problems, whichever is earlier. It creates a separate, nonlapsing General Fund account to receive any proceeds from the sale, lease, or transfer of Fairfield Hills and Norwich hospitals and any regional centers. The fund can be used only for site acquisition, capital development, and infrastructure costs needed to provide services to people with mental retardation and psychiatric disabilities.

The bill requires the DMR commissioner to adopt regulations to establish and implement policy for placing and caring for clients it determines pose a serious threat to others. It also requires the commissioner, in consultation with the public works commissioner, to evaluate the feasibility and appropriateness of using state-owned property of 12 or more acres for a facility to place clients DMR determines cannot appropriately be placed in the community. The commissioner must report his findings and recommendations, including the criteria and standards used to evaluate the properties, to the Public Health Committee by February 1, 2002.

*House Amendment "A" rewrites the bill (file 803) to (1) eliminate the moratorium's applicability to state hospitals, training schools, and regional centers, including Norwich Hospital and Southbury and

Mansfield training schools; (2) limit the moratorium to state-owned property; (3) limit the look-back period for properties' use to 10 years; (4) establish the nonlapsing, dedicated fund; (5) require the regulations for placement and care of forensic clients; and (6) require the evaluation of state property for housing forensic clients.

*House Amendment "B" permits the state to lease affected property during the moratorium if its use remains the same and makes a technical change.

EFFECTIVE DATE: Upon passage

MORATORIUM

The bill prohibits the state from selling, leasing, or otherwise transferring (or having any of these transactions performed on its behalf) real property it owns and uses, or has used within the past 10 years, for housing people with mental retardation or psychiatric disabilities. The prohibition lasts for three years or until the General Assembly approves both a DMR plan to eliminate all emergency and priority one waiting list categories and a DMHAS plan to meet needs identified in the July 2000 report of the Governor's Blue Ribbon Commission on Mental Health, whichever occurs first.

The moratorium applies only to state-operated community-based residential facilities, boarding homes, group homes, or halfway houses, occupied by people with mental retardation, psychiatric disabilities, or alcohol or drug dependency. But the bill allows the state to lease these properties during the moratorium if their use remains the same.

SEPARATE GENERAL FUND ACCOUNT

The bill creates a nonlapsing General Fund account to hold (1) the proceeds from the sale, lease, or transfer after January 1, 2001 of all or any part of the Fairfield Hills and Norwich hospitals and any regional center and (2) any other money the law requires deposited for the bill's purposes. The fund can be used only for site acquisition, capital development, and infrastructure costs needed to provide services to people with mental retardation and psychiatric disabilities and only after the General Assembly appropriates money from the fund. Investment earnings on the fund's balance must be credited to the fund.

DMR FORENSIC CLIENTS

The regulations the DMR commissioner must adopt concerning the placement and care of clients that pose a threat must include criteria and factors to be considered in:

1. evaluating and placing these clients;
2. siting residential facilities for them;
3. giving notice, if any, to the community in which they will be placed;
4. determining appropriate levels of security and supervision; and
5. providing appropriate programs and quality of life within the least restrictive environment.

The regulations cannot permit siting more than one facility in a single town.

BACKGROUND

DMR Waiting List Categories

DMR uses four categories to distinguish waiting list priorities. A person with an emergency category designation needs residential supports immediately. A person with a priority one status needs residential service within one year. Priority two clients need residential service within two years, people with priority three status could receive service within three to five years.

The Governor's Blue Ribbon Commission recommendations included addressing gridlock in the care delivery system, adjusting rates the state pays for mental health services, continuing to develop locally based systems of care, and bringing children home from out-of-state placement.

Legislative History

The House referred this bill to the Government Administration and

Elections Committee. That committee reported a substitute bill, which removed a provision prohibiting the state from terminating its lease on any covered property before the full lease term expires. The House then referred the bill to the Finance, Revenue and Bonding Committee, which reported a substitute bill that removed Fairfield Hills Hospital from the list of facilities to which it specifically applies.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Report
Yea 17 Nay 8

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 10 Nay 6

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 27 Nay 15