



## Senate

General Assembly

**File No. 316**

January Session, 2001

Substitute Senate Bill No. 1216

*Senate, April 17, 2001*

The Committee on Planning and Development reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING ZONING REQUIREMENTS FOR RESIDENCES FOR CHILDREN WITH MENTAL OR PHYSICAL DISABILITIES.***

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

1 Section 1. Section 8-3e of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) No zoning regulation shall treat [any] the following in a manner  
4 different from any single family residence: (1) Any community  
5 residence which houses six or fewer mentally retarded persons and  
6 necessary staff persons and which is licensed under the provisions of  
7 section 17a-227, [in a manner different from any single family  
8 residence] or (2) any child-care residential facility which houses six or  
9 fewer children with mental or physical disabilities and necessary staff  
10 persons and which is licensed under sections 17a-145 to 17a-151,  
11 inclusive.

12 (b) Any resident of a municipality in which such a community

13 residence or child-care residential facility is located may, with the  
14 approval of the legislative body of such municipality, petition (1) the  
15 Commissioner of Mental Retardation to revoke the license of such  
16 community residence on the grounds that such community residence  
17 is not in compliance with the provisions of any statute or regulation  
18 concerning the operation of such residences, or (2) the Commissioner  
19 of Children and Families to revoke the license of such child-care  
20 residential facility on the grounds that such child-care residential  
21 facility is not in compliance with the provision of any general statute  
22 or regulation concerning the operation of such child-care residential  
23 facility.

24 Sec. 2. Section 8-3f of the general statutes is repealed and the  
25 following is substituted in lieu thereof:

26 No community residence or child-care residential facility  
27 established pursuant to section 8-3e, as amended by this act, shall be  
28 established within one thousand feet of any other such community  
29 residence or child-care residential facility without the approval of the  
30 body exercising zoning powers within the municipality in which such  
31 residence is proposed to be established.

32 Sec. 3. (NEW) The party responsible under the provisions of  
33 subdivision (2) of subsection (e) of section 10-76d of the general  
34 statutes for the costs of education and other services for a child shall  
35 not be relieved from such responsibility by (1) establishment in a  
36 municipality of (A) any community residence which houses six or  
37 fewer mentally retarded persons and necessary staff persons and  
38 which is licensed under the provisions of section 17a-227 of the general  
39 statutes, or (B) any child-care residential facility which houses six or  
40 fewer children with mental or physical disabilities and necessary staff  
41 persons and which is licensed under sections 17a-145 to 17a-151,  
42 inclusive, of the general statutes, or (2) the placement of a child in any  
43 such community residence or child-care facility.

44       Sec. 4. (NEW) (a) On or before January first, annually, the Secretary  
45 of the Office of Policy and Management shall determine the amount  
46 due, as a state grant in lieu of taxes, to each municipality in this state in  
47 which is located (1) any community residence which houses six or  
48 fewer mentally retarded persons and necessary staff persons and  
49 which is licensed under the provisions of section 17a-227 of the general  
50 statutes, or (2) any child-care residential facility which houses six or  
51 fewer children with mental or physical disabilities and necessary staff  
52 persons and which is licensed under sections 17a-145 to 17a-151,  
53 inclusive, of the general statutes.

54       (b) The grant payable to any town under the provisions of this  
55 section in the state fiscal year commencing July 1, 2001, and each fiscal  
56 year thereafter, shall be equal to one hundred per cent of the property  
57 taxes which would have been paid with respect to such real property  
58 during the preceding fiscal year.

59       Sec. 5. Subdivision (2) of subsection (e) of section 10-76d of the  
60 general statutes is repealed and the following is substituted in lieu  
61 thereof:

62       (2) Notwithstanding any other provisions of the general statutes, for  
63 the fiscal year ending June 30, 1987, and each fiscal year thereafter,  
64 whenever a public agency, other than a local or regional board of  
65 education, the State Board of Education or the Superior Court acting  
66 pursuant to section 10-76h, places a child in a foster home, group  
67 home, hospital, state institution, receiving home, custodial institution  
68 or any other residential or day treatment facility, and such child  
69 requires special education, the local or regional board of education  
70 under whose jurisdiction the child would otherwise be attending  
71 school or, if no such board can be identified, the local or regional board  
72 of education of the town where the child is placed, shall provide the  
73 requisite special education and related services to such child in  
74 accordance with the provisions of this section. Within one business day

75 of such a placement by the Department of Children and Families, said  
76 department shall orally notify the local or regional board of education  
77 responsible for providing special education and related services to  
78 such child of such placement. The department shall provide written  
79 notification to such board of such placement within two business days  
80 of the placement. The department shall send the superintendent of the  
81 school district in which the child is placed a copy of the individualized  
82 education program for such child within two business days of the  
83 placement. Such local or regional board of education shall convene a  
84 planning and placement team meeting for such child within thirty  
85 days of the placement and shall invite a representative of the  
86 Department of Children and Families to participate in such meeting.  
87 (A) The local or regional board of education under whose jurisdiction  
88 such child would otherwise be attending school shall be financially  
89 responsible for the reasonable costs of such special education and  
90 related services in an amount equal to the lesser of one hundred per  
91 cent of the costs of such education or the average per pupil educational  
92 costs of such board of education for the prior fiscal year, determined in  
93 accordance with the provisions of subsection (a) of section 10-76f. The  
94 State Board of Education shall pay on a current basis, except as  
95 provided in subdivision (3) of this subsection, any costs in excess of  
96 such local or regional board's basic contributions paid by such board of  
97 education in accordance with the provisions of this subdivision. (B)  
98 Whenever a child is placed pursuant to this subdivision, on or after  
99 July 1, 1995, by the Department of Children and Families and the local  
100 or regional board of education under whose jurisdiction such child  
101 would otherwise be attending school cannot be identified, the local or  
102 regional board of education under whose jurisdiction the child  
103 attended school or in whose district the child resided at the time of  
104 removal from the home by said department shall be responsible for the  
105 reasonable costs of special education and related services provided to  
106 such child, for one calendar year or until the child is committed to the  
107 state pursuant to section 46b-129 or 46b-140 or is returned to [his] such

108 child's parent or guardian, whichever is earlier. If the child remains in  
109 such placement beyond one calendar year the Department of Children  
110 and Families shall be responsible for such costs. During the period the  
111 local or regional board of education is responsible for the reasonable  
112 cost of special education and related services pursuant to this  
113 subparagraph, the board shall be responsible for such costs in an  
114 amount equal to the lesser of one hundred per cent of the costs of such  
115 education and related services or the average per pupil educational  
116 costs of such board of education for the prior fiscal year, determined in  
117 accordance with the provisions of subsection (a) of section 10-76f. The  
118 State Board of Education shall pay on a current basis, except as  
119 provided in subdivision (3) of this subsection, any costs in excess of  
120 such local or regional board's basic contributions paid by such board of  
121 education in accordance with the provisions of this subdivision. The  
122 costs for services other than educational shall be paid by the state  
123 agency which placed the child. The provisions of this subdivision shall  
124 not apply to the school districts established within the Department of  
125 Children and Families, pursuant to section 17a-37, the Department of  
126 Correction, pursuant to section 18-99a, or the Department of Mental  
127 Retardation, pursuant to section 17a-240, provided in any case in  
128 which special education is being provided at a private residential  
129 institution, including the residential components of regional  
130 educational service centers, to a child for whom no local or regional  
131 board of education can be found responsible under subsection (b) of  
132 this section, Unified School District #2 shall provide the special  
133 education and related services and be financially responsible for the  
134 reasonable costs of such special education instruction for such  
135 children.

136 Sec. 6. This act shall take effect July 1, 2001.

**PD** JOINT FAVORABLE SUBST.

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:

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**OFA Fiscal Note**

**State Impact:** Significant Cost

**Affected Agencies:** Office of Policy and Management;  
Departments of Children and Families,  
Mental Retardation

**Municipal Impact:** Revenue Gain

**Explanation**

**State and Municipal Impact:**

This bill makes changes to the statute concerning: 1) zoning restrictions upon certain residential facilities licensed by the Departments of Mental Retardation (DMR) and Children and Families (DCF), and 2) the transmittal of special education records of children placed by the state. It also establishes a new grant program to municipalities in lieu of taxes. The changes and their associated fiscal impacts are as following:

**New PILOT Grant Program**

The bill establishes a state grant to municipalities in lieu of taxes (payment in lieu of taxes or PILOT) for certain residential facilities that house six or fewer mentally retarded persons or children with mental or physical disabilities. It requires the grant to be equal to one hundred percent of the property taxes that would have otherwise been

paid.

Statewide, there are 561 facilities that would qualify under the new PILOT program. This includes 560 residential facilities licensed by the DMR and one (1) group home licensed by DCF.

Approximately 27 per cent of the facilities licensed by DMR are exempt from real property taxes because they qualify as health care institutions or charitable organizations. Under current law, there is no state reimbursement to towns for this lost revenue. The bill requires state reimbursement for these facilities. Consequently, establishment of the new PILOT grant is expected to result in a cost to the state and revenue to municipalities hosting exempt facilities of about \$591,948 (see the Table below). State reimbursement for non-exempt DMR-licensed facilities would cost the state approximately \$1,600,452.

The bill would also increase the state reimbursement for the DCF-licensed facility, which is located in Prospect, from 45 per cent to 100 per cent of the property tax bill that would have been paid. The increase is expected to be about \$1,856 (see the Table below). Therefore, the total cost to the state is estimated to be \$2,194,256 annually.

Fiscal Impact of the PILOT Program				
	Exempt DMR Facilities	Non-Exempt DMR Facilities	DCF Facility *	Total
State Cost	\$591,948	\$1,600,452	\$1,856	\$2,194,256
Municipal Revenue	\$591,948	\$0	\$1,856	\$593,804

\* The town of Prospect would receive this revenue.

**Zoning Modifications Related to Certain DCF-Licensed Facilities**

In addition, the bill would potentially lead to more favorable zoning

requirements for child-care residential facilities with six or fewer beds. As discussed above, DCF anticipates licensing only one such operation in FY 02. Further, no plans to develop additional facilities of this size are underway at this time. (All other currently licensed child-care residential facilities have bed capacities in excess of six.)

Should any resident submit petitions alleging non-compliance with state law or regulation, it is anticipated that the agency will be able to respond within its anticipated budgetary resources.

### **Transmittal of Individualized Education Plan to School Superintendents**

Section 5 requires DCF to send the superintendent of the school district in which a DCF-placed child is received a copy of the child's individualized education plan (IEP) within two business days of the placement. The ability of the department to fully comply with this mandate is unclear, as at the time of placement the agency is only in possession of a child's IEP if he or she is under the oversight of Unified School District II. (USD II is DCF's education division.)

Each year the department places approximately 3,000 - 3,500 children requiring special education services. Of these, approximately 400 are assigned to USD II. The department currently meets a requirement set forth under PA 00-220, which states that the child's old school district must send education records to the new district no later than ten days after receiving notification of the child's enrollment. The agency's ability to meet the expedited timeframe in the bill is uncertain.

Since DCF does not have possession of the IEP for the remaining 2,600 - 3,100 children (it resides with the old school district), it is unlikely that the agency will be able to obtain and forward the document within the two-day window.

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**OLR Bill Analysis**

sSB 1216

**AN ACT CONCERNING ZONING REQUIREMENTS FOR RESIDENCES FOR CHILDREN WITH MENTAL OR PHYSICAL DISABILITIES.****SUMMARY:**

This bill requires local zoning regulations to treat certain child-care residential facilities the same as single-family homes. It applies to residences licensed by the Department of Children and Families (DCF) and housing six or fewer mentally or physically disabled children (not defined) and necessary staff. This requirement already applies for community residences licensed by the Department of Mental Retardation (DMR) and housing six or fewer mentally retarded people and necessary staff. The bill also permits a resident of a town hosting a DCF-licensed residential facility to petition the DCF commissioner to revoke the facility's license.

The facilities cannot be located within 1,000 feet of each other unless the local zoning commission approves. Under current law, DMR-licensed residences are also subject to this restriction.

The bill also creates a new payment in lieu taxes (PILOT) program to provide state grants to host municipalities to replace property taxes lost due to the establishment of residential facilities for disabled children or mentally retarded persons. The PILOT payment must equal 100% of the property taxes.

The bill restates the existing law relative to special education funding responsibilities for DCF- and DMR-placed children that generally places the burden of educating the child on the child's original school district. It requires DCF to forward the child's individualized education program to the appropriate school superintendent within two business days of the placement.

EFFECTIVE DATE: July 1, 2001

**PETITION FOR LICENSE REVOCATION**

This bill permits any resident of a town hosting a DCF-licensed residential facility to petition the DCF commissioner to revoke the facility's license on the grounds that it is in violation of applicable statutes or regulations. The petitioner must get the approval of the town's legislative body before seeking revocation.

**CREATION OF PILOT PROGRAM**

The bill requires the Office of Policy and Management secretary to determine, by January 1 of each year, the amount due to each town as a PILOT for residential facilities (1) licensed by DMR and housing six or fewer mentally retarded persons and (2) licensed by DCF and housing six or fewer children with mental or physical disabilities. The grants must equal 100% of the property taxes that would have been due the town during the previous fiscal year had the facilities stayed on the tax rolls. The grants will begin in FY 2001-2002.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 15    Nay 2