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Senate

General Assembly

**File No. 330**

February Session, 2012

Substitute Senate Bill No. 232

*Senate, April 10, 2012*

The Committee on Human Services reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT EXTENDING A MORATORIUM ON CERTAIN LONG-TERM CARE BEDS.**

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

1 Section 1. Subsection (a) of section 17b-354 of the 2012 supplement  
2 to the general statutes is repealed and the following is substituted in  
3 lieu thereof (*Effective from passage*):

4 (a) Except for applications deemed complete as of August 9, 1991,  
5 the Department of Social Services shall not accept or approve any  
6 requests for additional nursing home beds or modify the capital cost of  
7 any prior approval for the period from September 4, 1991, through  
8 June 30, [2012] 2016, except (1) beds restricted to use by patients with  
9 acquired immune deficiency syndrome or traumatic brain injury; (2)  
10 beds associated with a continuing care facility which guarantees life  
11 care for its residents; (3) Medicaid certified beds to be relocated from  
12 one licensed nursing facility to another licensed nursing facility, to a  
13 new facility to meet a priority need identified in the strategic plan  
14 developed pursuant to subsection (c) of section 17b-369, or to a small

15 house nursing home, as defined in section 17b-372, provided (A) the  
16 availability of beds in an area of need will not be adversely affected;  
17 (B) no such relocation shall result in an increase in state expenditures;  
18 and (C) the relocation results in a reduction in the number of nursing  
19 facility beds in the state; (4) a request for no more than twenty beds  
20 submitted by a licensed nursing facility that participates in neither the  
21 Medicaid program nor the Medicare program, admits residents and  
22 provides health care to such residents without regard to their income  
23 or assets and demonstrates its financial ability to provide lifetime  
24 nursing home services to such residents without participating in the  
25 Medicaid program to the satisfaction of the department, provided the  
26 department does not accept or approve more than one request  
27 pursuant to this subdivision; (5) a request for no more than twenty  
28 beds associated with a free standing facility dedicated to providing  
29 hospice care services for terminally ill persons operated by an  
30 organization previously authorized by the Department of Public  
31 Health to provide hospice services in accordance with section 19a-  
32 122b; and (6) new or existing Medicaid certified beds to be relocated  
33 from a licensed nursing facility in a municipality with a 2004 estimated  
34 population of one hundred twenty-five thousand to a location within  
35 the same municipality, provided such Medicaid certified beds do not  
36 exceed sixty beds. Notwithstanding the provisions of this subsection,  
37 any provision of the general statutes or any decision of the Office of  
38 Health Care Access, (i) the date by which construction shall begin for  
39 each nursing home certificate of need in effect August 1, 1991, shall be  
40 December 31, 1992, (ii) the date by which a nursing home shall be  
41 licensed under each such certificate of need shall be October 1, 1995,  
42 and (iii) the imposition of such dates shall not require action by the  
43 Commissioner of Social Services. Except as provided in subsection (c)  
44 of this section, a nursing home certificate of need in effect August 1,  
45 1991, shall expire if construction has not begun or licensure has not  
46 been obtained in compliance with the dates set forth in subparagraphs  
47 (i) and (ii) of this subsection.

48 Sec. 2. Section 19a-638 of the 2012 supplement to the general statutes  
49 is amended by adding subsection (e) as follows (*Effective from passage*):

50 (NEW) (e) Except as provided in section 17b-354, as amended by  
 51 this act, the office shall not accept or approve any request that would  
 52 add long-term acute care hospital beds to a licensed chronic disease  
 53 hospital from the effective date of this section through June 30, 2017.  
 54 For purposes of this section, "long-term acute care hospital" means a  
 55 hospital that (1) is primarily engaged in in-patient services, by and  
 56 under the supervision of a physician, to patients whose medically  
 57 complex conditions require a long hospital stay, (2) has an average in-  
 58 patient stay of greater than twenty-five days, and (3) as of January 1,  
 59 2012, is licensed in the state as a chronic disease hospital, as defined in  
 60 section 19-13-D1 of the Public Health Code, and is certified as a long-  
 61 term acute care hospital by the federal Centers for Medicare and  
 62 Medicaid Services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-354(a)
Sec. 2	<i>from passage</i>	19a-638

**HS**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Social Services, Dept.	GF - Cost Avoidance/Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill prevents the Department of Social Services (DSS) from incurring costs associated with the approval of additional nursing home beds and cost modifications, by extending the moratorium on such actions, from June 30, 2012 to June 30, 2016. The fiscal impact of lifting the moratorium would depend on the change in the statewide distribution of beds and associated cost profile.

The bill also establishes a moratorium, through June 30, 2017 on adding long-term acute care hospital beds to a licensed chronic disease hospital. This could result in a savings associated with beds that otherwise would have been added and supported by Medicaid.<sup>1</sup>

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

<sup>1</sup> Chronic disease hospitals do not file cost reports with DSS; therefore the number of actual beds & Medicaid days are not available.

**OLR Bill Analysis****sSB 232*****AN ACT EXTENDING A MORATORIUM ON CERTAIN LONG-TERM CARE BEDS.*****SUMMARY:**

By law, most health care facilities need a certificate of need (CON) from the state if they wish to, among other things, (1) establish such a facility, (2) transfer ownership or control, (3) add beds to it, or (4) purchase equipment. This bill extends, from June 30, 2012 until June 30, 2016, the Department of Social Services' moratorium on CONs for new nursing home beds. The law exempts certain nursing home beds from the moratorium, including those used by AIDS patients (see BACKGROUND).

The bill also imposes a moratorium on long term acute care hospital beds in certain chronic disease hospitals. This moratorium begins when the bill passes and expires on June 30, 2017.

EFFECTIVE DATE: Upon passage

**MORATORIUM ON CHRONIC DISEASE HOSPITAL BEDS**

The bill prohibits the Department of Public Health's Office of Health Care Access from accepting or approving any CON request that would add long-term acute care hospital beds to certain licensed chronic disease hospitals.

The bill defines these hospitals as those that:

1. are primarily engaged in inpatient services, by and under the supervision of a doctor, to patients whose medically complex conditions require a long hospital stay;

2. have an average inpatient stay of more than 25 days, and
3. as of January 1, 2012, are licensed by the state and certified as a chronic disease hospital by the federal Centers for Medicare and Medicaid Services.

Currently, there are two facilities in the state that meet these criteria – Gaylord Hospital in Wallingford and the Hospital for Special Care in New Britain.

## **BACKGROUND**

### ***Nursing Home CON Moratorium Exemptions***

By law, certain nursing home beds are exempt from the CON moratorium. Some of these include beds:

1. restricted to use by AIDS or traumatic brain injury patients;
2. associated with a continuing care facility; and
3. that are Medicaid-certified and will be relocated (a) from one licensed nursing home to another, (b) to a new facility to meet a priority need identified in its strategic plan to re-balance Medicaid long-term care supports, or (c) to a small nursing home.

## **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/22/2012)