



Senate

General Assembly

File No. 305

February Session, 2016

Senate Bill No. 108

Senate, March 30, 2016

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

AN ACT CONCERNING RESIDENTIAL CARE HOMES.

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

1 Section 1. Subdivision (1) of subsection (h) of section 17b-340 of the
2 2016 supplement to the general statutes is repealed and the following
3 is substituted in lieu thereof (*Effective from passage*):

4 (h) (1) For the fiscal year ending June 30, 1993, any residential care
5 home with an operating cost component of its rate in excess of one
6 hundred thirty per cent of the median of operating cost components of
7 rates in effect January 1, 1992, shall not receive an operating cost
8 component increase. For the fiscal year ending June 30, 1993, any
9 residential care home with an operating cost component of its rate that
10 is less than one hundred thirty per cent of the median of operating cost
11 components of rates in effect January 1, 1992, shall have an allowance
12 for real wage growth equal to sixty-five per cent of the increase
13 determined in accordance with subsection (q) of section 17-311-52 of
14 the regulations of Connecticut state agencies, provided such operating
15 cost component shall not exceed one hundred thirty per cent of the

16 median of operating cost components in effect January 1, 1992.
17 Beginning with the fiscal year ending June 30, 1993, for the purpose of
18 determining allowable fair rent, a residential care home with allowable
19 fair rent less than the twenty-fifth percentile of the state-wide
20 allowable fair rent shall be reimbursed as having allowable fair rent
21 equal to the twenty-fifth percentile of the state-wide allowable fair
22 rent. Beginning with the fiscal year ending June 30, 1997, a residential
23 care home with allowable fair rent less than three dollars and ten cents
24 per day shall be reimbursed as having allowable fair rent equal to
25 three dollars and ten cents per day. Property additions placed in
26 service during the cost year ending September 30, 1996, or any
27 succeeding cost year shall receive a fair rent allowance for such
28 additions as an addition to three dollars and ten cents per day if the
29 fair rent for the facility for property placed in service prior to
30 September 30, 1995, is less than or equal to three dollars and ten cents
31 per day. [Beginning with the fiscal year ending June 30, 2016, a
32 residential care home shall be reimbursed the greater of the allowable
33 accumulated fair rent reimbursement associated with real property
34 additions and land as calculated on a per day basis or three dollars and
35 ten cents per day if the allowable reimbursement associated with real
36 property additions and land is less than three dollars and ten cents per
37 day.] For the fiscal year ending June 30, 1996, and any succeeding fiscal
38 year, the allowance for real wage growth, as determined in accordance
39 with subsection (q) of section 17-311-52 of the regulations of
40 Connecticut state agencies, shall not be applied. For the fiscal year
41 ending June 30, 1996, and any succeeding fiscal year, the inflation
42 adjustment made in accordance with subsection (p) of section 17-311-
43 52 of the regulations of Connecticut state agencies shall not be applied
44 to real property costs. Beginning with the fiscal year ending June 30,
45 1997, minimum allowable patient days for rate computation purposes
46 for a residential care home with twenty-five beds or less shall be
47 eighty-five per cent of licensed capacity. Beginning with the fiscal year
48 ending June 30, 2002, for the purposes of determining the allowable
49 salary of an administrator of a residential care home with sixty beds or
50 less the department shall revise the allowable base salary to thirty-

51 seven thousand dollars to be annually inflated thereafter in accordance
52 with section 17-311-52 of the regulations of Connecticut state agencies.
53 The rates for the fiscal year ending June 30, 2002, shall be based upon
54 the increased allowable salary of an administrator, regardless of
55 whether such amount was expended in the 2000 cost report period
56 upon which the rates are based. Beginning with the fiscal year ending
57 June 30, 2000, and until the fiscal year ending June 30, 2009, inclusive,
58 the inflation adjustment for rates made in accordance with subsection
59 (p) of section 17-311-52 of the regulations of Connecticut state agencies
60 shall be increased by two per cent, and beginning with the fiscal year
61 ending June 30, 2002, the inflation adjustment for rates made in
62 accordance with subsection (c) of said section shall be increased by one
63 per cent. Beginning with the fiscal year ending June 30, 1999, for the
64 purpose of determining the allowable salary of a related party, the
65 department shall revise the maximum salary to twenty-seven
66 thousand eight hundred fifty-six dollars to be annually inflated
67 thereafter in accordance with section 17-311-52 of the regulations of
68 Connecticut state agencies and beginning with the fiscal year ending
69 June 30, 2001, such allowable salary shall be computed on an hourly
70 basis and the maximum number of hours allowed for a related party
71 other than the proprietor shall be increased from forty hours to forty-
72 eight hours per work week. For the fiscal year ending June 30, 2005,
73 each facility shall receive a rate that is two and one-quarter per cent
74 more than the rate the facility received in the prior fiscal year, except
75 any facility that would have been issued a lower rate effective July 1,
76 2004, than for the fiscal year ending June 30, 2004, due to interim rate
77 status or agreement with the department shall be issued such lower
78 rate effective July 1, 2004. Effective upon receipt of all the necessary
79 federal approvals to secure federal financial participation matching
80 funds associated with the rate increase provided in subdivision (4) of
81 subsection (f) of this section, but in no event earlier than October 1,
82 2005, and provided the user fee imposed under section 17b-320 is
83 required to be collected, each facility shall receive a rate that is
84 determined in accordance with applicable law and subject to
85 appropriations, except any facility that would have been issued a

86 lower rate effective October 1, 2005, than for the fiscal year ending June
87 30, 2005, due to interim rate status or agreement with the department,
88 shall be issued such lower rate effective October 1, 2005. Such rate
89 increase shall remain in effect unless: (A) The federal financial
90 participation matching funds associated with the rate increase are no
91 longer available; or (B) the user fee created pursuant to section 17b-320
92 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
93 for the period ending June 30, 2006, shall remain in effect until
94 September 30, 2006, except any facility that would have been issued a
95 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
96 2006, due to interim rate status or agreement with the department,
97 shall be issued such lower rate effective July 1, 2006. Effective October
98 1, 2006, no facility shall receive a rate that is more than four per cent
99 greater than the rate in effect for the facility on September 30, 2006,
100 except for any facility that would have been issued a lower rate
101 effective October 1, 2006, due to interim rate status or agreement with
102 the department, shall be issued such lower rate effective October 1,
103 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates
104 in effect for the period ending June 30, 2009, shall remain in effect until
105 June 30, 2011, except any facility that would have been issued a lower
106 rate for the fiscal year ending June 30, 2010, or the fiscal year ending
107 June 30, 2011, due to interim rate status or agreement with the
108 department, shall be issued such lower rate, except (i) any facility that
109 would have been issued a lower rate for the fiscal year ending June 30,
110 2010, or the fiscal year ending June 30, 2011, due to interim rate status
111 or agreement with the Commissioner of Social Services shall be issued
112 such lower rate; and (ii) the commissioner may increase a facility's rate
113 for reasonable costs associated with such facility's compliance with the
114 provisions of section 19a-495a concerning the administration of
115 medication by unlicensed personnel. For the fiscal year ending June 30,
116 2012, rates in effect for the period ending June 30, 2011, shall remain in
117 effect until June 30, 2012, except that (I) any facility that would have
118 been issued a lower rate for the fiscal year ending June 30, 2012, due to
119 interim rate status or agreement with the Commissioner of Social
120 Services shall be issued such lower rate; and (II) the commissioner may

121 increase a facility's rate for reasonable costs associated with such
122 facility's compliance with the provisions of section 19a-495a
123 concerning the administration of medication by unlicensed personnel.
124 For the fiscal year ending June 30, 2013, the Commissioner of Social
125 Services may, within available appropriations, provide a rate increase
126 to a residential care home. Any facility that would have been issued a
127 lower rate for the fiscal year ending June 30, 2013, due to interim rate
128 status or agreement with the Commissioner of Social Services shall be
129 issued such lower rate. For the fiscal years ending June 30, 2012, and
130 June 30, 2013, the Commissioner of Social Services may provide fair
131 rent increases to any facility that has undergone a material change in
132 circumstances related to fair rent and has an approved certificate of
133 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. For the
134 fiscal years ending June 30, 2014, and June 30, 2015, for those facilities
135 that have a calculated rate greater than the rate in effect for the fiscal
136 year ending June 30, 2013, the commissioner may increase facility rates
137 based upon available appropriations up to a stop gain as determined
138 by the commissioner. No facility shall be issued a rate that is lower
139 than the rate in effect on June 30, 2013, except that any facility that
140 would have been issued a lower rate for the fiscal year ending June 30,
141 2014, or the fiscal year ending June 30, 2015, due to interim rate status
142 or agreement with the commissioner, shall be issued such lower rate.
143 For the fiscal year ending June 30, 2014, and each fiscal year thereafter,
144 a residential care home shall receive a rate increase for any capital
145 improvement made during the fiscal year for the health and safety of
146 residents and approved by the Department of Social Services,
147 provided such rate increase is within available appropriations. For the
148 fiscal year ending June 30, 2015, and each succeeding fiscal year
149 thereafter, costs of less than ten thousand dollars that are incurred by a
150 facility and are associated with any land, building or nonmovable
151 equipment repair or improvement that are reported in the cost year
152 used to establish the facility's rate shall not be capitalized for a period
153 of more than five years for rate-setting purposes. For the fiscal year
154 ending June 30, 2015, subject to available appropriations, the
155 commissioner may, at the commissioner's discretion: Increase the

156 inflation cost limitation under subsection (c) of section 17-311-52 of the
 157 regulations of Connecticut state agencies, provided such inflation
 158 allowance factor does not exceed a maximum of five per cent; establish
 159 a minimum rate of return applied to real property of five per cent
 160 inclusive of assets placed in service during cost year 2013; waive the
 161 standard rate of return under subsection (f) of section 17-311-52 of the
 162 regulations of Connecticut state agencies for ownership changes or
 163 health and safety improvements that exceed one hundred thousand
 164 dollars and that are required under a consent order from the
 165 Department of Public Health; and waive the rate of return adjustment
 166 under subsection (f) of section 17-311-52 of the regulations of
 167 Connecticut state agencies to avoid financial hardship. For the fiscal
 168 years ending June 30, 2016, and June 30, 2017, rates shall not exceed
 169 those in effect for the period ending June 30, 2015, except the
 170 commissioner may, in the commissioner's discretion and within
 171 available appropriations, provide pro rata fair rent increases to
 172 facilities which have documented fair rent additions placed in service
 173 in cost report years ending September 30, 2014, and September 30,
 174 2015, that are not otherwise included in rates issued. For the fiscal
 175 years ending June 30, 2016, and June 30, 2017, and each succeeding
 176 fiscal year, any facility that would have been issued a lower rate, due
 177 to interim rate status, a change in allowable fair rent or agreement with
 178 the department, shall be issued such lower rate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-340(h)(1)

HS *Joint Favorable*

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 17 \$	FY 18 \$
Social Services, Dept.	GF - Potential Cost	None	Approximately \$2.4 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill may result in a cost to the Department of Social Services (DSS) to the extent the provisions of the bill result in increased rates paid to residential care homes (RCHs). Based on historical experience, the potential cost to DSS is approximately \$2.4 million annually. Pursuant to current law, RCH rates are frozen for FY 17, so there is no anticipated fiscal impact in FY 17.

The cost will depend on the difference between the rate calculated under provisions of the bill and the rate the department would have issued under the current reimbursement formula, which is uncertain. The current methodology reimburses RCHs based on the greater of (1) allowable accumulated fair rent reimbursement OR (2) \$3.10 per day. The bill proposes reimbursing RCHs (1) \$3.10 per day AND (2) fair rent for property in service prior to September 1995 if the fair rent is less than or equal to \$3.10 per day.

The Out Years

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

OLR Bill Analysis**SB 108*****AN ACT CONCERNING RESIDENTIAL CARE HOMES.*****SUMMARY:**

This bill increases fair rent allowances used by the Department of Social Services (DSS) to determine the rates DSS pays certain residential care homes (RCH). It does so by requiring DSS to calculate fair rent allowances for these RCHs by adding \$3.10 to the calculated allowance for property additions placed in service after September 30, 1996. The bill applies to RCHs that had a total fair rent allowance of \$3.10 or less for property put in place before September 30, 1995. The fair rent allowance is a reimbursement factor based on property costs related to patient care. A higher fair rent allowance generally results in a higher payment rate.

Under current law, DSS reimburses RCHs for the greater of their allowable accumulated fair rent reimbursement for real property additions and land as calculated on a per day basis or \$3.10 per day.

By law, unchanged by the bill, RCH rates for FY 16 and FY 17 are frozen at FY 15 levels, except that DSS (1) may issue proportional fair rent increases for RCHs that have documented fair rent additions for FY 14 and FY 15 that were not otherwise included in the rate calculation and (2) must issue lower rates for any facility that DSS would have issued a lower rate to in absence of the rate freeze due to an interim rate status, a change in allowable fair rent, or an agreement with the department.

Thus, because RCH rates are generally frozen, the bill's increase in fair rent allowance could only affect rates after FY 17.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 18 Nay 0 (03/15/2016)