

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 785

(Delegate Stein, *et al.*)

Environmental Matters

Finance

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**Commission on Land Use at the Rosewood Center**

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This bill establishes a Commission on Land Use at the Rosewood Center, staffed by the departments of Health and Mental Hygiene, General Services, and Planning. The commission must • review, discuss, and analyze options for the use of the land and buildings at the Rosewood Center once it is closed; and • make recommendations about how the property could best be used. The commission has to submit an interim report to the Governor and the General Assembly by January 1, 2009 and a final report by January 1, 2010. The State property disposition (clearinghouse) process must proceed once the commission's final report has been submitted. The bill expresses the intent of the General Assembly that the disposition proceeds be dedicated to the Community Services Trust Fund, as required under current law. Finally, nothing in the bill may be construed to have any effect on any recommendation regarding the Rosewood Center contained in the 2008 *Joint Chairmen's Report*.

The bill takes effect July 1, 2008 and terminates June 30, 2010.

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**Fiscal Summary**

**State Effect:** Because the timing of any disposition of the property in the absence of this bill is unknown, a reliable estimate of the bill's impact cannot be made at this time. However, the bill could delay any disposition of the property as well as receipt of associated special fund revenues for DHMH. DHMH, DGS, and MDP should be able to provide staffing with existing resources as they would collaborate on the disposition of the property anyway under the existing clearinghouse process.

**Local Effect:** Because the timing of any disposition of the property in the absence of this bill is unknown, any potential impact of the bill on Baltimore County cannot be estimated.

**Small Business Effect:** None.

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## Analysis

**Current Law:** It is the State's policy to support and provide resources to operate community services to sustain individuals with developmental disabilities in the community, rather than in institutions. It also is the State's policy to require the Developmental Disabilities Administration to designate sufficient resources to foster and strengthen a permanent comprehensive system of community programming for individuals with developmental disabilities as an alternative to institutional care. A developmental disability is a condition attributable to a mental or physical impairment that results in substantial functional limitations in major life activities and which is likely to continue indefinitely. Examples include autism, blindness, cerebral palsy, deafness, epilepsy, mental retardation, and multiple sclerosis.

DDA provides direct services to these individuals in four State residential centers and through funding of a coordinated service delivery system that supports the integration of these individuals into the community. The emphasis on community placement has been reinforced by the Supreme Court's ruling on *L.C. v. Olmstead* (119 S.Ct. 2176). The court ruled that, according to the Americans with Disabilities Act, no person may be required to live in an institution if able to live in the community with appropriate support. DDA accelerated the process of deinstitutionalization in response to the court's ruling, though the administration had been moving individuals from the State residential centers to the community for nearly 20 years.

Each unit of State government must notify MDP of any real property in excess of the needs of the unit or any substantial change to any real property owned by the State. With some exceptions, State law permits the Board of Public Works to transfer any property, and all rights of physical custody and control over the property, from a unit of the Executive Branch of the State government to another unit of the Executive Branch of the State government. The transferred property still remains subject to the continuing general jurisdiction of BPW. Under the State clearinghouse process, State and local agencies are allowed to express an interest in State excess real property and BPW decides how the property is disposed.

Proceeds from the sale or long-term lease of property and equipment of a DDA facility or a Mental Hygiene Administration facility are deposited into the Community Services Trust Fund. There are two accounts in the trust fund, one pertaining to proceeds from DDA facilities, and the other pertaining to proceeds from MHA facilities. Investment

earnings from the DDA account are transferred into the Waiting List Equity Fund within DHMH and generally used to provide community-based services to individuals eligible for but not receiving DDA services.

Chapter 445 of 2007 required DHMH to develop a plan generally relating to the Rosewood Center's closure; among other things, the plan was to discuss alternative uses for the property, considering the need for open space in the area and involving local residents in determining the property's most appropriate use.

**Background:** Rosewood Center was established in 1888 on a 683-acre property near the Owings Mills area of Baltimore County. According to DHMH, the center currently consists of approximately 210 acres, 75 of which are currently under contract for sale. Of the remaining 135 acres, 83 acres are improved and 52 acres are unimproved. There are 36 structures on the campus comprising nearly 730,000 square feet; 26 buildings comprising more than 480,000 square feet are in active use.

Since the fall of 2006, Rosewood has incurred repeated violations resulting in Immediate Jeopardy findings by the Office of Health Care Quality, the State's health care facility regulatory agency. Surveys completed by OHCQ are used to determine compliance by Rosewood with federal and State regulations governing Intermediate Care Facilities for the mentally retarded. As a condition of receiving federal matching Medicaid funds, facilities such as Rosewood must ensure that clients are not subject to physical, verbal, sexual, or psychological abuse or punishment.

In response to the problems plaguing Rosewood, Chapter 445 of 2007 required DDA to establish a transitional plan for each individual currently residing at Rosewood should the facility close. The plan, *Rosewood Center – Plan for Services to Residents*, was published in January 2008 and lays out a detailed plan for each individual according to their unique service needs and which will constitute the appropriateness of the community or facility placement.

On January 15, 2008, Governor O'Malley signed an executive order to close the center, citing, among other things, deteriorating physical conditions. Under the executive order, DHMH is directed to develop and implement a plan to close the center by fiscal 2010. The executive order directs the State to seek input from legislators and local county officials, community representatives, and other stakeholders, as appropriate, in determining whether to sell or find an alternative use for the property. According to the Office of the Governor, MDP will work with Baltimore County and community residents to plan for the future use of the property.

This is consistent with the information provided by DHMH in the plan it developed pursuant to Chapter 445 of 2007, which not only affects the residents currently residing at the facility, but also affects how the State will handle the care and treatment of court-ordered individuals going forward. Although it is a goal of DDA to serve all individuals in the community, the impetus for the closure of Rosewood was not attainment of that goal alone. Instead, the decision to close Rosewood was most likely a combination of transitioning individuals to the community as well as addressing the issue of serving court-ordered individuals in an appropriate manner. With the closure of Rosewood, the agency has begun the process of developing a more substantial plan of treatment for these individuals. Analysis conducted by DHMH concluded that 153 of the 166 Rosewood residents in the center at that time could be adequately served in the community. The process to relocate residents is expected to take 18 months, with all residents relocated by June 30, 2009.

Committee narrative in the 2008 *Joint Chairmen's Report* requests DHMH to submit a report to the budget committees that addresses the viability of retaining portions of the property for purposes of providing day programs, medical services, and inpatient and outpatient services for individuals receiving services in the Central Maryland Region. The narrative indicates that the agency should comment on the possibility of leasing one or more of the buildings to a local nonprofit provider of community services for developmentally disabled individuals, taking into consideration any reports or recommendations submitted to the General Assembly by groups studying the use of the Rosewood property. The narrative indicates that the report should be submitted to the budget committees 90 days before DHMH notifies MDP that the Rosewood campus is excess to the department's needs. Additionally, MDP is requested to provide the budget committees with a letter that evidences its clearinghouse review findings and recommendations on the Rosewood property as required under current law.

**State Fiscal Effect:** Because the timing of any disposition of the property in the absence of this bill is unknown, the impact of this bill on State finances cannot be reliably estimated. However, since the Governor's executive order could result in the disposition of the Rosewood property as early as July 1, 2009, prohibiting the clearinghouse process from proceeding until after the commission's final report in January 2010 could delay any such disposition that might otherwise occur under the existing clearinghouse process and the Governor's executive order. According to MDP, under current law, depending on how the patient transition is progressing, it is likely that DHMH will declare the property excess to its needs around late summer 2008, thus initiating the clearinghouse process. The potential impact of the bill, based on various assumptions, is described below.

As stated above, the property currently totals approximately 210 acres, but DHMH advises that 75 acres are already under contract for sale. Assuming that, in the absence of this bill, the remaining portions of the property (approximately 135 acres) would otherwise be sold, special fund revenues to DHMH's Community Services Trust Fund could be significantly delayed or decreased. Although any impact would depend on future appraisals and ultimate action by BPW, assuming the fair market value of the acreage averages \$30,000 per acre, the property *could* be sold for an estimated \$4.05 million. Under current law, proceeds would be paid into DHMH's Community Services Trust Fund, and any investment income (an estimated \$202,500 annually at 5% based on proceeds of \$4.05 million), would be available for DDA to provide services to clients with developmental disabilities. If the sale of Rosewood is delayed, the funding source for these DDA services would be decreased, at least temporarily.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Planning, Department of General Services, Department of Health and Mental Hygiene, Board of Public Works, Department of Legislative Services

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