

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 1199 (Petrie-Norris) – As Amended March 28, 2019

SUBJECT: State property: Fairview Developmental Center

SUMMARY: Requires the Department of General Services (DGS), if any land within the grounds of the Fairview Developmental Center is reported as excess and DGS determines that the land is needed by more than one state agency, to conduct a public hearing to receive public input regarding the use of the land prior to transferring it to any state agency, as specified.

EXISTING LAW:

- 1) Requires each state agency, on or before December 31 of each year, to make a review of all proprietary state lands over which it has jurisdiction, with the exception of certain lands, as specified, to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to DGS. (Government Code [GOV] Section 11011 (a))
- 2) Requires DGS, whenever a land is reported as excess, to determine whether or not the use of the land is needed by any other state agency, and further allows DGS to transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state, as specified. (GOV 11011 (e))
- 3) Establishes the Lanterman Developmental Disabilities Services Act (Lanterman Act), which declares California's responsibility for providing an array of services and supports to meet the needs of each person with developmental disabilities in the least restrictive environment, regardless of age or degree of disability, and to support their integration into the mainstream life of the community. (Welfare and Institutions Code [WIC] Section 4500 *et seq.*)
- 4) Establishes the jurisdiction of the California Department of Developmental Services (DDS) over state developmental centers, including Sonoma, Fairview and Porterville Developmental Centers (DCs), as specified. (WIC 4440 *et seq.*)
- 5) Requires DDS to submit a detailed plan to the Legislature when it proposes closure of a DC no later than April 1st immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget and further, requires the Legislature to approve that plan prior to its implementation. (WIC 4474.1. (a))
- 6) Authorizes DGS, with the consent of DDS, to permit the development of affordable housing for eligible individuals on the grounds of Fairview DC, as specified. (GOV 14670.35)
- 7) Creates the "DDS Trust Fund", into which proceeds received from affordable housing projects developed on the grounds of Fairview DC, as specified, may be deposited and further, specifies that moneys in this trust fund shall be used, upon appropriation by the Legislature, to provide housing and transitional services for people with developmental disabilities and that any funds not needed to do so shall be transferred to the General Fund. (GOV 14670.36 (c))

- 8) States Legislative intent that priority be given, as specified, to the disposal of surplus state real property to housing for persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community. (GOV 11011.1 (b)(2))

FISCAL EFFECT: Unknown

COMMENTS:

Developmental Services: The Lanterman Act, adopted in 1977, established that individuals with developmental disabilities and their families have the right to receive services and supports necessary to live independently in the community. The Lanterman Act outlines the rights of individuals and their families, what services are available to them, and how regional centers and service providers may best serve these individuals. The term “developmental disability” is defined as a disability that presents before an individual reaches 18 years of age, is expected to continue indefinitely, and is a significant disability for that individual; such disabilities include epilepsy, cerebral palsy, and autism spectrum disorder, among others. California’s regional center system, which consists of 21 centers, is tasked with providing information to, and helping coordinate services and supports for, individuals with developmental disabilities and their families. Currently, regional centers serve approximately 330,000 consumers.

The State of California also operates two DCs – and one state-operated, specialized community facility – which provide 24-hour habilitation, medical, and social treatment services. As of March 27, 2019, the number of consumers placed in these settings was under 380; this population is broken out as follows across the three settings:

Fairview Developmental Center:	70
Porterville Developmental Center:	257
Canyon Springs Community Facility:	48

It should also be noted that four individuals currently reside in the Stabilization, Training, Assistance and Reintegration (STAR) facility on the Sonoma Developmental Center property, which provides short-term stabilization for individuals in a home-like setting with the goal of preparing them for reintegration into the community.

DC closures: In 2012, AB 1472 (Assembly Committee on Budget), Chapter 25, Statutes of 2012, placed a moratorium on admissions to DCs, with the exception of individuals in an acute crisis needing short-term stabilization, and individuals involved in the justice system who were placed in Porterville Developmental Center’s secure treatment program. This moratorium was in line with national trends that favored deinstitutionalization of individuals with developmental disabilities and a greater emphasis on placing individuals in the community, where they can receive individualized services and supports that align with their personal goals and wishes.

In May 2015, in recognition of these national trends towards community-based services, the aging infrastructure of DCs, the moratorium on admissions and decline in DC population, and a loss of federal funding, Governor Brown’s administration announced plans to close California’s remaining developmental centers, with the exception of a smaller facility at Canyon Springs Community Facility and the secure treatment program at Porterville DC.

Sonoma DC, with the exception of the STAR facility, formally closed on December 31, 2018; the remaining DCs are slated to close by the end of 2021.

DDS is overseeing efforts to move DC residents into placements within the community that meet the specialized needs of these consumers. The movement process includes intense coordination with a resident's family members, regional center partners, advocates, and staff to identify the resident's goals and objectives, and to discern how those goals and objects can best be met. The process also includes evaluation of potential living options and, if necessary, the acquisition and preparation of a home that will enable to individual to live independently while also receiving necessary supports and services from caregivers.

DGS: property disposition: Current law requires each state agency, on or before December 31 of each year, to review all proprietary land over which it has jurisdiction, with certain exceptions, to determine what, if any, land is in excess of the agency's foreseeable needs. Agencies are then required to report, in writing, to DGS as to whether any lands are in excess. The jurisdiction of excess land is then transferred to DGS, when requested, where its disposition is determined. Once a parcel of land has been deemed excess and is within DGS's jurisdiction, DGS sends a notification letter to the directors of other state agencies to inform them of the excess land for purposes of determining whether the property is needed by other state agencies. Agencies have 60 days to respond to DGS's notification letter. According to DGS, it is rare that multiple state agencies claim a need for the property, DGS may request that the agencies explain why the property is needed, and may work with the Department of Finance to explore potential financial impacts. Ultimately, and pursuant to state law, the disposition decision lies with DGS.

If any other state agency is not in need of the property, DGS, upon authorization from the Legislature, may deem the property as surplus, thereby subjecting it to the surplus state real property process. Under the surplus state real property process, DGS is authorized to dispose of surplus state real property by sale, lease, exchange, sale combined with exchange, or other manner of disposition of property, as authorized by the Legislature. Current law also states Legislative intent that priority be given to the disposal of surplus state real property to housing for persons and families of low- or moderate-income, where land is suitable for housing and there is a need for housing in the community.

On April 1, 2016, the closure plan for Fairview and Porterville DCs declared that the surplus property process will be used to determine the disposition of the properties. The provisions of this bill would require, in the event that any land on the Fairview Developmental Center is reported as excess and it is determined that the land is needed by more than one state agency, DGS is to conduct a public hearing to receive community input regarding the use of the land, prior to transferring the land to any other state agency.

Need for this bill: According to the author, "[This bill] requires that if more than one state agency indicates an interest in the Fairview property, DGS will be required to hold a public hearing to seek community input before a transfer to another state agency could occur. Under current practices, when more than one state agency is interested in a surplus property, there is an internal process that involves DGS and the Governor's Office to determine the property's use. Because of the size and the nature of the Fairview DC property, this property deserves a careful and transparent evaluation. This bill provides transparency and community engagement on the Fairview DC property located in the 74th Assembly District."

Staff comments: The provisions of this bill require DGS to hold a public hearing to receive community input in the event that any land within the grounds of the Fairview Developmental Center is reported as excess, and DGS has determined that the land is needed by more than one

state agency. However, the April 2016 Closure Plan for Fairview Developmental Center states that the property will follow the surplus state real property process, which requires priority be given to the disposal of surplus land real property to housing for persons and families of low or moderate income, where possible. *Should this bill move forward, the author may wish to consider whether a public hearing would affect the state surplus real property process as it pertains to the closure plan for the Fairview DC and any impacts it might have on the intentions set forth in the original closure plan.*

Double referral: This bill will be referred to the Assembly Accountability and Administrative Review Committee should it pass out of this committee.

RELATED AND PRIOR LEGISLATION:

AB 192 (Mathis) of 2019 creates the “California Integrated Community Living Program” to provide permanent supportive housing options for regional center clients, to be funded using moneys from the lease of or other revenue generating agreement for any state developmental center property. AB 192 is set to be heard in the Assembly Appropriations Committee on April 10, 2019.

AB 1990 (Mathis) of 2018 would have required DDS to create the “California Integrated Community Living Program” to provide permanent supportive housing options for regional center clients, to be funded using moneys from the lease of or other revenue generating agreement for Fairview DC and the General Treatment Area of Porterville DC. AB 1990 was held on the Assembly Appropriations Committee suspense file.

ACR 77 (Lackey) of 2017 would have declared Legislative intent regarding, support for, and encouragement of using proceeds and resources resulting from the closure of DCs to provide community services to individuals with developmental disabilities. ACR 77 was held in the Senate Rules Committee.

AB 1472 (Assembly Committee on Budget), Chapter 25, Statutes of 2012, was the 2012-13 Developmental Services Trailer Bill which, among other things, imposed a moratorium on DC admissions, except in instances where an individual was involved in the criminal justice system, was in an acute crisis and in need of short-term stabilization, or was released on provisional placement with an automatic right of return.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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