

# Senate File 290 - Introduced

SENATE FILE \_\_\_\_\_  
BY KETTERING

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to adult mental health, mental retardation, and  
2 developmental disabilities services by shifting responsibility  
3 for such services from the counties to the state, revising  
4 county levy authority for such services, and providing  
5 effective and applicability dates.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7 TLSB 1687XS 82

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1 1 Section 1. NEW SECTION. 217.45 EMPLOYEE RIGHTS OF FORMER  
1 2 COUNTY EMPLOYEES.

1 3 1. County employees paid under a county mental health,  
1 4 mental retardation, and developmental disabilities services  
1 5 fund created pursuant to section 331.424A, shall become  
1 6 employees of the department of human services effective July  
1 7 1, 2008, and the department shall assume all costs associated  
1 8 with the functions of the employees on that date. Employees  
1 9 who were paid salaries by the counties immediately prior to  
1 10 becoming state employees as a result of this Act shall not  
1 11 forfeit accrued vacation, accrued sick leave, or longevity,  
1 12 except as provided in this section.

1 13 2. The department of human services, after consulting with  
1 14 the department of administrative services, shall prescribe  
1 15 rules to provide for the following:

1 16 a. A person referred to in subsection 1 shall have to the  
1 17 person's credit as a state employee commencing on the date of  
1 18 becoming a state employee the number of accrued vacation days  
1 19 that was credited to the person as a county employee as of the  
1 20 end of the day prior to becoming a state employee.

1 21 b. Each person referred to in subsection 1 shall have to  
1 22 the person's credit as a state employee commencing on the date  
1 23 of becoming a state employee the number of accrued days of  
1 24 sick leave that was credited to the person as a county  
1 25 employee as of the end of the day prior to becoming a state  
1 26 employee. However, the number of days of sick leave credited  
1 27 to a person under this subsection and eligible to be taken  
1 28 when sick or eligible to be received upon retirement shall not  
1 29 respectively exceed the maximum number of days, if any, or the  
1 30 maximum dollar amount as provided in section 70A.23 that state  
1 31 employees generally are entitled to accrue or receive  
1 32 according to rules in effect as of the date the person becomes  
1 33 a state employee.

1 34 c. Commencing on the date of becoming a state employee,  
1 35 each person referred to in subsection 1 is entitled to claim  
2 1 the person's most recent continuous period of service in full-  
2 2 time county employment as full-time state employment for  
2 3 purposes of determining the number of days of vacation which  
2 4 the person is entitled to earn each year. The actual vacation  
2 5 benefit, including the limitation on the maximum accumulated  
2 6 vacation leave, shall be determined as provided in section  
2 7 70A.1 according to rules in effect for state employees of  
2 8 comparable longevity, irrespective of any greater or lesser  
2 9 benefit as a county employee.

2 10 3. Persons referred to in subsection 1 who were covered by  
2 11 county employee life insurance and accident and health  
2 12 insurance plans prior to becoming state employees as a result  
2 13 of this Act shall be permitted to apply prior to becoming  
2 14 state employees for life insurance and health and accident  
2 15 insurance plans that are available to state employees so that  
2 16 those persons do not suffer a lapse of insurance coverage as a  
2 17 result of this Act. The department of human services, after

2 18 consulting with the department of administrative services,  
2 19 shall prescribe rules and distribute application forms and  
2 20 take other actions as necessary to enable those persons to  
2 21 elect to have insurance coverage that is in effect on the date  
2 22 of becoming state employees. The actual insurance coverage  
2 23 available to a person shall be determined by the plans that  
2 24 are available to state employees, irrespective of any greater  
2 25 or lesser benefits that may have been available to the person  
2 26 as a county employee.

2 27 4. Commencing on the date of becoming a state employee,  
2 28 each person referred to in subsection 1 is entitled to claim  
2 29 the person's most recent continuous period of service in full=  
2 30 time county employment as full-time state employment for  
2 31 purposes of determining disability benefits as provided in  
2 32 section 70A.20 according to rules in effect for state  
2 33 employees of comparable longevity, irrespective of any greater  
2 34 or lesser benefit that may have been available to the person  
2 35 as a county employee.

3 1 Sec. 2. Section 222.60, Code 2007, is amended to read as  
3 2 follows:

3 3 222.60 COSTS PAID BY ~~COUNTY OR~~ THE STATE OR COUNTY ==  
3 4 DIAGNOSIS AND EVALUATION.

3 5 1. All necessary and legal expenses for the cost of  
3 6 admission or commitment or for the treatment, training,  
3 7 instruction, care, habilitation, support, and transportation  
3 8 of persons with mental retardation, ~~as provided for in the~~  
~~3 9 county management plan provisions implemented pursuant to~~  
~~3 10 section 331.439, subsection 1, in a state resource center, or~~  
3 11 in a special unit, or any public or private facility within or  
3 12 without the state, approved by the director of the department  
3 13 of human services, shall be paid by ~~either:~~

~~3 14 1. The county in which such person has legal settlement as~~  
~~3 15 defined in section 252.16.~~

~~3 16 2. The the state when such person has no legal settlement~~  
~~3 17 or when such settlement is unknown. However, a county board~~  
~~3 18 of supervisors may voluntarily authorize payment for such~~  
~~3 19 services for a county resident who does not meet state~~  
~~3 20 eligibility guidelines and does not have a source of payment~~  
~~3 21 for the services.~~

3 22 2. Prior to a county of legal settlement the director  
3 23 approving the payment of expenses for a person under this  
3 24 section, the county director may require that the person be  
3 25 diagnosed to determine if the person has mental retardation or  
3 26 that the person be evaluated to determine the appropriate  
3 27 level of services required to meet the person's needs relating  
3 28 to mental retardation. The diagnosis and the evaluation may  
3 29 be performed concurrently and shall be performed by an  
3 30 individual or individuals approved by the county director who  
3 31 are qualified to perform the diagnosis or the evaluation.  
3 32 Following the initial approval for payment of expenses, the  
3 33 county of legal settlement director may require that an  
3 34 evaluation be performed at reasonable time periods. The cost  
3 35 of a county-required diagnosis and an evaluation under this

~~4 1 section is at the county's department's expense. In the case~~  
~~4 2 of a person without legal settlement or whose legal settlement~~  
~~4 3 is unknown, the state may apply the diagnosis and evaluation~~  
~~4 4 provisions of this paragraph at the state's expense. A~~  
~~4 5 diagnosis or an evaluation under this section may be part of a~~  
~~4 6 county's central point of coordination process under section~~  
~~4 7 331.440, provided that a diagnosis is performed only by an~~  
~~4 8 individual qualified as provided in this section.~~

4 9 3. A diagnosis of mental retardation under this section  
4 10 shall be made only when the onset of the person's condition  
4 11 was prior to the age of eighteen years and shall be based on  
4 12 an assessment of the person's intellectual functioning and  
4 13 level of adaptive skills. The diagnosis shall be made by an  
4 14 individual who is a psychologist or psychiatrist who is  
4 15 professionally trained to administer the tests required to  
4 16 assess intellectual functioning and to evaluate a person's  
4 17 adaptive skills.

4 18 4. A diagnosis of mental retardation shall be made in  
4 19 accordance with the criteria provided in the diagnostic and  
4 20 statistical manual of mental disorders, fourth edition,  
4 21 published by the American psychiatric association.

4 22 Sec. 3. Section 225C.1, subsection 1, Code 2007, is  
4 23 amended to read as follows:

4 24 1. The general assembly finds that until July 1, 2008,  
4 25 services to persons with mental illness, mental retardation,  
4 26 developmental disabilities, or brain injury ~~are were~~ provided  
4 27 in many parts of the state by highly autonomous  
4 28 community-based service providers working cooperatively with

4 29 state and county officials. However, the general assembly  
4 30 recognizes that heavy reliance on property tax funding for  
4 31 mental health and mental retardation services ~~has enabled many~~  
~~4 32 counties to exceed minimum state standards for the services~~  
~~4 33 resulting resulted~~ in an uneven level of services around the  
4 34 state. Consequently, greater efforts should be made to assure  
4 35 close coordination and continuity of care for those persons  
5 1 receiving publicly supported disability services in Iowa. It  
5 2 is the purpose of this chapter to continue and to strengthen  
5 3 the services to persons with disabilities now available in the  
5 4 state of Iowa, to make disability services conveniently  
5 5 available to all persons in this state upon a reasonably  
5 6 uniform financial basis, and to assure the continued high  
5 7 quality of these services. Effective July 1, 2008, the  
5 8 primary responsibility for adult mental health and disability  
5 9 services was transitioned from the counties to the state in  
5 10 order to enhance Iowa's capacity to achieve the purposes  
5 11 outlined in this section.

5 12 Sec. 4. Section 229.42, Code 2007, is amended to read as  
5 13 follows:

5 14 229.42 COSTS PAID VOLUNTARILY BY COUNTY.

5 15 1. If a person wishing to make application for voluntary  
5 16 admission to a mental hospital established by chapter 226 is  
5 17 unable to pay the costs of hospitalization or those  
5 18 responsible for the person are unable to pay the costs, and  
~~5 19 the person does not meet state eligibility guidelines,~~  
5 20 application for authorization of voluntary admission ~~must~~ may  
5 21 be made through ~~a central point of coordination process before~~  
~~5 22 application for admission is made to the hospital the person's~~  
~~5 23 county of residence. The person's county of legal settlement~~  
~~5 24 shall be determined through the central point of coordination~~  
~~5 25 process and if the admission is approved through the central~~  
~~5 26 point of coordination process, the person's admission to a~~  
~~5 27 mental health hospital shall be authorized as a voluntary~~  
~~5 28 case.~~ The authorization shall be issued on forms provided by  
5 29 the administrator. The costs of the hospitalization shall be  
5 30 paid by the county of ~~legal settlement residence~~ to the  
5 31 department of human services and credited to the general fund  
5 32 of the state, provided that the mental health hospital  
5 33 rendering the services has certified to the county auditor of  
5 34 the county of ~~legal settlement residence~~ the amount chargeable  
5 35 to the county and has sent a duplicate statement of the  
6 1 charges to the department of human services. ~~A~~ However, a  
6 2 county shall not be billed for the cost of a patient unless  
6 3 the patient's admission is authorized ~~through the central~~  
~~6 4 point of coordination process by the county's board of~~  
~~6 5 supervisors.~~ The mental health institute and the county ~~shall~~  
6 6 may work together to locate appropriate alternative placements  
6 7 and services, and to educate patients and family members of  
6 8 patients regarding such alternatives.

6 9 2. All the provisions of chapter 230 shall apply to such  
6 10 voluntary patients so far as is applicable.

6 11 3. The provisions of this section and of section 229.41  
6 12 shall apply to all voluntary inpatients or outpatients  
6 13 receiving mental health services either away from or at the  
6 14 institution.

6 15 4. If a county has authorized the patient's admission and  
6 16 fails to pay the billed charges within forty-five days from  
6 17 the date the county auditor received the certification  
6 18 statement from the superintendent, the department of human  
6 19 services shall charge the delinquent county the penalty of one  
6 20 percent per month on and after forty-five days from the date  
6 21 the county received the certification statement until paid.  
6 22 The penalties received shall be credited to the general fund  
6 23 of the state.

6 24 Sec. 5. Section 230.1, Code 2007, is amended to read as  
6 25 follows:

6 26 230.1 LIABILITY OF ~~COUNTY AND~~ STATE.

6 27 ~~1-~~ The necessary and legal costs and expenses attending  
6 28 the taking into custody, care, investigation, admission,  
6 29 commitment, and support of a person with mental illness  
6 30 admitted or committed to a state hospital shall be paid by ~~a~~  
~~6 31 county or by the state as follows:~~ except as otherwise  
6 32 provided in section 229.42.

6 33 a. By the county in which such person has a legal  
6 34 settlement, if the person is eighteen years of age or older.

6 35 b. By the state when such person has no legal settlement  
7 1 in this state, when the person's legal settlement is unknown,  
7 2 or if the person is under eighteen years of age.

7 3 2. The legal settlement of any person found mentally ill  
7 4 who is a patient of any state institution shall be that

~~7 5 existing at the time of admission thereto.~~  
~~7 6 3. A county of legal settlement is not liable for costs~~  
~~7 7 and expenses associated with a person with mental illness~~  
~~7 8 unless the costs and expenses are for services and other~~  
~~7 9 support authorized for the person through the central point of~~  
~~7 10 coordination process. For the purposes of this chapter,~~  
~~7 11 "central point of coordination process" means the same as~~  
~~7 12 defined in section 331.440.~~

7 13 Sec. 6. Section 249A.26, Code 2007, is amended by striking  
7 14 the section and inserting in lieu thereof the following:

7 15 249A.26 STATE RESPONSIBILITY FOR MENTAL HEALTH AND  
7 16 DISABILITY SERVICES.

7 17 Unless a county voluntarily agrees to participate in the  
7 18 costs of mental health and disability services, as defined in  
7 19 section 225C.2, effective July 1, 2008, the nonfederal share  
7 20 of the cost of such services provided under the medical  
7 21 assistance program is the responsibility of the state.

7 22 Sec. 7. Section 331.424, subsection 1, Code 2007, is  
7 23 amended by adding the following new paragraph:

7 24 NEW PARAGRAPH. k. To the extent that the board deems it  
7 25 advisable, the costs of mental health and disability services,  
7 26 as defined in section 225C.2, provided to county residents.

7 27 Sec. 8. Section 904.201, subsection 8, Code 2007, is  
7 28 amended to read as follows:

7 29 8. Chapter 230 governs the determination of costs and  
7 30 charges for the care and treatment of persons with mental  
7 31 illness admitted to the forensic psychiatric hospital, except  
7 32 that charges for the care and treatment of any person  
7 33 transferred to the forensic psychiatric hospital from an adult  
7 34 correctional institution or from a state training school shall  
7 35 be paid entirely from state funds. Charges for all other  
8 1 persons at the forensic psychiatric hospital shall be billed  
8 2 to the ~~respective counties~~ department of human services at the  
8 3 same ratio as for patients at state mental health institutes  
8 4 under section 230.20.

8 5 Sec. 9. CONFORMING AMENDMENTS LEGISLATION. If this Act is  
8 6 enacted, the legislative services agency shall prepare  
8 7 committee study bills for submission in the 2008 regular  
8 8 session of the Eighty-second General Assembly to the  
8 9 committees on human resources of the senate and house of  
8 10 representatives to amend the Code of Iowa as necessary to  
8 11 transfer responsibility for costs and delivery of mental  
8 12 health and disability services, as defined in section 225C.2,  
8 13 from the counties to the state. The provisions of the bill  
8 14 shall include but are not limited to making changes in boards,  
8 15 committees, and commissions, revising referral  
8 16 responsibilities, eliminating or changing references to  
8 17 central point of coordination administrators, repealing or  
8 18 amending provisions that are rendered obsolete, incorrect, or  
8 19 inaccurate as a result of the passage of this Act, and making  
8 20 other conforming amendments as necessary. This section takes  
8 21 effect July 1, 2007.

8 22 Sec. 10. REPEALS.

8 23 1. Sections 331.424A, 331.438, 331.439, 331.440, and  
8 24 331.440A, Code 2007, are repealed.

8 25 2. Chapter 426B, Code 2007, is repealed.

8 26 Sec. 11. EFFECTIVE DATE. Except as otherwise provided in  
8 27 this section and in section 9 of this Act, this Act takes  
8 28 effect July 1, 2008. The Act applies prior to July 1, 2008,  
8 29 for purposes of making changes in the county budget and levy  
8 30 responsibilities and authority necessary to implement the  
8 31 provisions of this Act beginning on July 1, 2008.

#### 8 32 EXPLANATION

8 33 This bill relates to adult mental health, mental  
8 34 retardation, and developmental disabilities services by  
8 35 shifting responsibility for payment of such services from the  
9 1 counties to the state effective July 1, 2008, and revising  
9 2 county levy authority for such services. Many provisions of  
9 3 the bill reference the definition of "disability services" in  
9 4 Code section 225C.2, which defines the term to mean services  
9 5 and other support available to a person with mental illness,  
9 6 mental retardation or other developmental disability, or brain  
9 7 injury (MI/MR/DD/BI).

9 8 New Code section 217.45 provides for transfer of county  
9 9 employees paid under a county MH/MR/DD services fund from  
9 10 county employment to state employment with the department of  
9 11 human services effective July 1, 2008, and outlines benefits  
9 12 and rights of such employees.

9 13 The bill amends significant Code provisions outlining  
9 14 county or state responsibilities for MH/MR/DD to provide for  
9 15 state responsibility and that county participation in costs is

9 16 voluntary. The following Code provisions are addressed:

9 17 Code section 222.60 is amended to provide that the state is  
9 18 responsible for expenses for the cost of admission or  
9 19 commitment or for the treatment, training, instruction, care,  
9 20 habilitation, support, and transportation of persons with  
9 21 mental retardation in public or private facilities. However,  
9 22 a county may voluntarily pay for the costs of such services  
9 23 for a county resident who does not meet state eligibility  
9 24 requirements and does not have a payment source.

9 25 Code section 225C.1, stating the purpose of the MH/MR/DD/BI  
9 26 services chapter, is amended to provide for state  
9 27 responsibility in lieu of counties effective July 1, 2008.

9 28 Code section 229.42, relating to financial responsibility  
9 29 under the mental health commitment Code chapter, is amended to  
9 30 provide that a county may voluntarily accept responsibility to  
9 31 pay the costs of a patient who is a county resident and placed  
9 32 in a state mental health institute.

9 33 Code section 230.1, relating to responsibility for the  
9 34 necessary and legal costs and expenses attending the taking  
9 35 into custody, care, investigation, admission, commitment, and  
10 1 support of a person with mental illness in a state mental  
10 2 health institute, is amended to provide that the state is  
10 3 responsible and to eliminate county responsibility unless it  
10 4 is provided voluntarily.

10 5 Code section 249A.26, relating to state and county  
10 6 participation in funding for medical assistance (Medicaid)  
10 7 program services to persons with disabilities, is amended by  
10 8 striking the section and providing that unless a county  
10 9 voluntarily agrees to participate in the costs, effective July  
10 10 1, 2008, the nonfederal share of the cost of mental health and  
10 11 disability services provided under the program is the  
10 12 responsibility of the state.

10 13 Code section 331.424, relating to county supplemental levy  
10 14 authority, is amended to authorize the county, when the  
10 15 general levy is insufficient, to utilize its supplemental levy  
10 16 authority to the extent that the board of supervisors deems it  
10 17 advisable to pay the costs of mental health and disability  
10 18 services provided to county residents.

10 19 Code section 904.201, relating to charges for services  
10 20 provided at the Iowa medical and classification center at  
10 21 Oakdale, is amended to provide that those costs for the care  
10 22 and treatment of persons with mental illness that under  
10 23 current law are charged to counties are instead charged to the  
10 24 department of human services.

10 25 The bill repeals these Code sections: Code section  
10 26 331.424A, providing for the establishment of the county  
10 27 MI/MR/DD services fund and prohibiting the county from paying  
10 28 for these services from any other fund; Code section 331.438,  
10 29 relating to joint state-county planning, implementing, and  
10 30 funding of MI/MR/DD services, including allowed growth  
10 31 payments to counties; Code section 331.439, relating to county  
10 32 eligibility for state funding associated with the services;  
10 33 Code section 331.440, relating to the county central point of  
10 34 coordination system and shifting of state cases to county  
10 35 responsibility; and Code section 331.440A, relating to a  
11 1 services funding decategorization project. In addition, Code  
11 2 chapter 426B, relating to property tax relief payments to  
11 3 counties and funding pools associated with allowed growth  
11 4 payments, is repealed.

11 5 The legislative services agency is directed to prepare and  
11 6 submit committee study bills for the 2008 regular legislative  
11 7 session to further amend the Code as necessary to implement  
11 8 this bill. This section takes effect July 1, 2007. The  
11 9 remainder of the bill takes effect July 1, 2008. However, the  
11 10 bill provides that the changes in the bill that affect county  
11 11 budget preparation and levy authority involving the fiscal  
11 12 year that begins on the bill's effective date, apply prior to  
11 13 the effective date.

11 14 LSB 1687XS 82

11 15 jp:sc/je/5.1