

[Passed Both Houses]

SENATE, No. 2169

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators BASSANO, SCOTT, Martin, Assemblymen Weingarten, O'Toole, Assemblywoman Crecco, Assemblymen Caraballo and Jones

1 AN ACT concerning certain maintenance costs for mentally ill and
2 developmentally disabled patients in State institutions.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. If a county of the first class with a population greater than
8 775,000 and less than 800,000 according to the 1990 federal decennial
9 census, has taken credits on charges to the county from the State for
10 maintenance costs for mentally ill patients and developmentally
11 disabled federal Medicaid and Medicare recipients in State institutions,
12 pursuant to court orders, the State shall waive any outstanding
13 repayment by the county for those credits.

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15 2. This act shall take effect immediately.

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STATEMENT

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20 This bill requires the State to waive Essex county's repayment to
21 the State of \$12 million. This obligation occurred as a result of
22 lawsuits which held favorable rulings for the county in connection
23 with the maintenance costs for indigent mentally ill patients and
24 developmentally disabled federal Medicaid and Medicare recipients
25 residing in State institutions.

26 In January, 1989, Essex county brought a lawsuit against the
27 Commissioner of Human Services, which challenged the State's
28 practice of retaining 50% of maintenance payments received in the
29 form of Social Security benefits on behalf of indigent patients with
30 Essex county settlements who reside in State institutions. The county
31 maintained that this practice violated N.J.S.A.30:4-60. The trial court
32 ruled in the county's favor and ordered the State to disburse 100% of

1 those receipts to the credit of Essex county, retroactive to January 1,
2 1980. Essex county proceeded to take credits on the monthly billings
3 for its share of the cost of patients in State institutions. On appeal, the
4 Appellate Division in County of Essex v. Waldman, 244 N.J. Super.
5 647 (App. Div.1990) (hereafter Essex I), upheld the favorable ruling
6 for the county, but limited the retrospective effect to the date of the
7 filing of the complaint, January 25, 1989. In denying retroactive relief,
8 the court considered the negative impact which the 10-year retroactive
9 order would have on the State's budget (which was facing a \$600
10 million shortfall).

11 In April, 1989, Essex county filed another suit charging that the
12 county had been wrongfully charged for maintenance costs of persons
13 in State institutions and facilities for the developmentally disabled in
14 cases where the State had received federal Medicaid and Medicare
15 benefits for those persons, in violation of N.J.S.A.30:4-68.1. The trial
16 court ruled in favor of the county, made the ruling retroactive to
17 March 30, 1989, and allowed a credit of \$4 million, pending a final
18 accounting. This decision was affirmed by the Appellate Division in
19 County of Essex v. Com'r DHS, 252 N.J. Super. 1, (App. Div. 1991).
20 Again the county proceeded to take credits against maintenance
21 billings.

22 Subsequently, other counties were eligible for credits. However,
23 while other counties were anticipating credits on past billings, Essex
24 county was faced with the task of having to repay the State \$12
25 million.

26 In the same way that the Appellate Division in Essex I was able to
27 avoid a negative impact for the State's budget by limiting retroactivity
28 of the lower court's decision, this legislation would avoid the negative
29 impact for Essex county's budget by waiving the \$12 million
30 repayment to the State.

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35 Waives certain county repayment to State for credits for maintenance
36 costs for mentally ill and developmentally disabled persons in State
37 institutions.