

No. 1994-127

AN ACT

HB 2861

Authorizing and directing the Department of Military Affairs, the Department of General Services, the Department of Environmental Resources and the Department of Public Welfare to transfer jurisdiction within the State government of certain tracts of Commonwealth real property acquired under the act of September 29, 1938 (Sp.Sess., P.L.53, No.21), entitled, as reenacted and amended, "An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws," transferring certain parcels of land on former Byberry State Hospital among the Department of Public Welfare, the Department of General Services and the Department of Environmental Resources.

WHEREAS, The site of Byberry State Hospital in northeast Philadelphia was acquired around 1900 by the City of Philadelphia, and a mental hospital was erected and operated there; and

WHEREAS, The act of September 29, 1938 (Sp.Sess., P.L.53, No.21), entitled, as reenacted and amended, "An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers

and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws," transferred the real estate and personal property used for the care, maintenance and treatment of mental patients from the City of Philadelphia to the Commonwealth of Pennsylvania. That act contained a reversion of title to the City of Philadelphia in the event the property was abandoned or not substantially improved by the Commonwealth. No consideration was paid to the city for this property; and

WHEREAS, The Commonwealth has ceased using all the facilities at Byberry State Hospital for care, maintenance or treatment of mental illness; and

WHEREAS, The Commonwealth desires to reallocate finally the land no longer used for care, maintenance or treatment of mental illness; and

WHEREAS, The jurisdiction, duties and responsibilities for the parcel described below were assigned to the Department of Environmental Resources through the act of December 22, 1975 (P.L.606, No.175), entitled "An act authorizing and directing the Department of General Services, or such department and The General State Authority, to convey to Philadelphia or transfer jurisdiction within the State government of certain tracts of Commonwealth real property acquired under the act of September 29, 1938 (Sp. Sess., P.L.53, No.21), entitled, as reenacted and amended, 'An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws,' imposing powers and duties on the Department of Environmental Resources in connection with one such tract, and providing for use of land conveyed to the City of Philadelphia"; and

WHEREAS, The Commonwealth desires to construct a veterans nursing home on the northeast corner of Roosevelt Boulevard and Southampton Road

on grounds now part of Benjamin Rush State Park herein conveyed to the Department of Military Affairs; and

WHEREAS, The Commonwealth is further committed to the development of Benjamin Rush State Park as a recreational facility and nature preserve to benefit the residents of southeast Pennsylvania and the newly created veterans home, and the Department of Environmental Resources is herein granted ground for a permanent entrance to the park from Southampton Road with the expectation that the new entrance will be constructed as soon as practicable with funding provided by the act of December 18, 1980 (P.L.1252, No.228), entitled "A supplement to the act of October 6, 1980 (P.L.784, No.145), entitled 'An act providing for the capital budget for the fiscal year 1980-1981,' itemizing public improvement and furniture and equipment projects, to be constructed by the Department of General Services and transportation assistance projects to be acquired or constructed by the Pennsylvania Department of Transportation together with their estimated financial cost; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed by the Department of General Services or Department of Transportation, stating the estimated useful life of the projects; providing for the adoption of capital projects to be financed from current revenues of the Boating Fund and the Fish Fund and making an appropriation."

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. (a) The Department of General Services, with the approval of the Governor and the Department of Public Welfare, is hereby authorized and directed on behalf of the Commonwealth of Pennsylvania to transfer the control and jurisdiction over the following parcel of land situate in the City of Philadelphia, Commonwealth of Pennsylvania, to the Department of Environmental Resources, such land being bounded and described as follows:

All that certain lot or piece of ground situate in the 58th Ward of the City of Philadelphia and derived from a plan by Vincent J. Nero, Registered Professional Engineer-Surveyor, dated November 26, 1991, as follows (subject to an official survey):

Beginning at an interior point on the Philadelphia-Bucks County Line located the following five courses and distances from a point of intersection formed by the northwesterly side of the Roosevelt Boulevard (254 feet wide - S.R.0001) and the said Philadelphia-Bucks County Line: (1) north 27 degrees 17 minutes 56 seconds west, the distance of 36.302 feet to a point; (2) north 67 degrees 18 minutes 5 seconds west, the distance of 86.750 feet to a point; (3) south 70 degrees 32 minutes 10 seconds west, the distance of 54.250 feet to a point; (4) south 83 degrees 14 minutes 10 seconds east, the distance of 42.000 feet to a point; (5) north 82 degrees 30 minutes 35 seconds west, the distance of 54.827 feet to a point; to the point of beginning; thence extending

from said point of beginning south 48 degrees 5 minutes 49 seconds west, the distance of 491.586 feet to a point; thence extending north 86 degrees 54 minutes 11 seconds west, the distance of 159.687 feet to a point; thence extending north 41 degrees 54 minutes 11 seconds west, the distance of 524.168 feet to a point; thence extending north 3 degrees 5 minutes 49 seconds east, the distance of 159.687 feet to a point; thence extending north 48 degrees 5 minutes 49 seconds east, the distance of 440.587 feet to a point; thence extending north 41 degrees 54 minutes 11 seconds west, the distance of 851.168 feet to a point; thence extending south 46 degrees 6 minutes 32 seconds west, the distance of 412.292 feet to a point; thence extending north 88 degrees 53 minutes 28 seconds west, the distance of 200.000 feet to a point; thence extending north 43 degrees 53 minutes 28 seconds west, the distance of 200.000 feet to a point; thence extending south 46 degrees 6 minutes 32 seconds west along a line parallel with and at the distance of 200.000 feet southeastwardly of Carter Road (46.5 feet wide), the distance of 919.647 feet to a point; thence extending south 41 degrees 4 minutes 22 seconds west along a line parallel with and at the distance of 200.000 feet southeastwardly of the said Carter Road, the distance of 277.530 feet to a point; thence extending north 41 degrees 41 minutes 49 seconds west, the distance of 201.603 feet to a point on the southeasterly side of the said Carter Road; thence extending north 41 degrees 4 minutes 22 seconds east along a southeasterly side of the said Carter Road, the distance of 260.952 feet to an angle point; thence further extending north 46 degrees 6 minutes 32 seconds east along a southeasterly side of the said Carter Road, the distance of 1059.795 feet to a point on the Bucks-Philadelphia County Line; thence extending the following 33 courses and distances along the said county line being within the bed of Poquessing Creek: (1) south 36 degrees 19 minutes 58 seconds east, the distance of 37.167 feet to a point; (2) south 65 degrees 20 minutes 50 seconds east, the distance of 86.479 feet to a point; (3) south 38 degrees 17 minutes 50 seconds east, the distance of 126.625 feet to a point; (4) south 52 degrees 56 seconds east, the distance of 79.906 feet to a point; (5) north 61 degrees 57 minutes 32 seconds east, the distance of 119.833 feet to a point; (6) north 47 degrees 21 minutes 38 seconds east, the distance of 169.937 feet to a point; (7) north 57 degrees 18 minutes 40 seconds east, the distance of 103.417 feet to a point; (8) north 38 degrees 8 minutes 40 seconds east, the distance of 74.500 feet to a point; (9) north 70 degrees 6 minutes 40 seconds east, the distance of 97.896 feet to a point; (10) south 88 degrees 12 minutes 35 seconds east, the distance of 74.854 feet to a point; (11) south 63 degrees 21 minutes 35 seconds east, the distance of 47.458 feet to a point; (12) south 8 degrees 6 minutes 35 seconds east, the distance of 100.146 feet to a point; (13) south 80 degrees 39 minutes 35 seconds east, the distance of 34.333 feet to a point; (14) north 80 degrees 14 minutes 40 seconds east, the distance of 180.583 feet to a point; (15) south 65 degrees 14 minutes 35 seconds east, the distance of 137.687 feet to a point; (16) south 50 degrees 18 minutes 35 seconds east, the distance of

171.062 feet to a point; (17) south 15 degrees 17 minutes 35 seconds east, the distance of 144.354 feet to a point; (18) south 14 degrees 57 minutes 40 seconds west, the distance of 66.333 feet to a point; (19) south 71 degrees 14 minutes 40 seconds west, the distance of 49.750 feet to a point; (20) south 19 degrees 20 minutes 35 seconds east, the distance of 266.500 feet to a point; (21) south 22 degrees 14 minutes 40 seconds west, the distance of 123.375 feet to a point; (22) south 28 degrees 20 minutes 35 seconds east, the distance of 40.583 feet to a point; (23) south 74 degrees 27 minutes 35 seconds east, the distance of 81.833 feet to a point; (24) south 37 degrees 29 minutes 40 seconds west, the distance of 85.000 feet to a point; (25) south 78 degrees 23 minutes 10 seconds west, the distance of 69.125 feet to a point; (26) south 44 degrees 54 minutes 10 seconds west, the distance of 128.833 feet to a point; (27) south 2 degrees 27 minutes 40 seconds west, the distance of 154.500 feet to a point; (28) south 41 degrees 11 minutes 35 seconds east, the distance of 162.250 feet to a point; (29) south 33 degrees 30 minutes 35 seconds east, the distance of 96.625 feet to a point; (30) south 76 degrees 49 minutes 35 seconds east, the distance of 169.083 feet to a point; (31) north 57 degrees 47 minutes 40 seconds east, the distance of 202.000 feet to a point; (32) north 80 degrees 29 minutes 40 seconds east, the distance of 70.792 feet to a point; (33) south 82 degrees 30 minutes 35 seconds east, the distance of 27.402 feet to the first mentioned point and place of beginning.

Containing in total area 21.500 acres.

(b) The Department of General Services, with the approval of the Governor and the Department of Environmental Resources, is hereby authorized and directed on behalf of the Commonwealth of Pennsylvania to transfer the control and jurisdiction over the following parcel of land situate in the City of Philadelphia, Commonwealth of Pennsylvania, to the Department of General Services, such land being bounded and described as follows:

Beginning at a point of curve on the northeasterly side of Southampton-Byberry Road (70 feet wide), said point being the southeasterly end of a curve; having a radius of 25.000 feet and an arc distance of 37.789 feet, connecting the northeasterly side of said Southampton-Byberry Road and the southeasterly side of Roosevelt Boulevard (254 feet wide - S.R.0001); thence extending from said beginning point in northwesterly and northeasterly directions on the said curved line bearing to the right having a radius of 25.000 feet and an arc distance of 37.789 feet to a point of tangency on the southeasterly side of the said Roosevelt Boulevard; thence extending north along the southeasterly side of the said Roosevelt Boulevard, the distance of 1,265.000 feet to a point on the southeasterly side of the said Roosevelt Boulevard; thence extending in an eastwardly direction 1,330.000 feet to a point; thence extending south a distance of 675 feet more or less to a point on the south side of East Bucks Drive; thence extending in a westwardly direction the distance of 745 feet more or less to a point on the east side of

Lawrence Drive; thence extending in a southerly direction the distance of 890 feet to a point on the northeasterly side of the said Southampton-Byberry Road; thence extending north 2 degrees 15 minutes 31 seconds west along the northeasterly side of the said Southampton-Byberry Road, the distance of 234.458 feet to a point of curve; thence extending in a northwestwardly direction along the northeasterly side of Southampton-Byberry Road on a curved line bearing to the left having a radius of 735.000 feet and an arc distance of 465.018 feet to a point of curve, being the first mentioned point and place of beginning.

Containing in total area 26.800 acres more or less, including the following parcel reserved for the Rush State Park.

Beginning at a point of curve on the northeasterly side of Southampton-Byberry Road (70 feet wide), said point being the southerly end of a curve; having a radius of 25.000 feet and an arc distance of 37.789 feet, connecting the northeasterly side of said Southampton-Byberry Road and the southeasterly side of Roosevelt Boulevard (254 feet wide - S.R.0001); thence extending from said beginning point in northwesterly and northeasterly directions on the said curved line bearing to the right having a radius of 25.000 feet and an arc distance of 37.789 feet to a point of tangency on the southeasterly side of the said Roosevelt Boulevard; thence extending north along the distance of 1265.000 feet to a point on the southeasterly side of the said Roosevelt Boulevard; thence extending eastwardly the distance of 210.000 feet to a point; thence extending in a southerly direction, the distance of 1150 feet to a point of a radius of 100 feet; thence extending in an eastwardly direction 275.000 feet more or less to a point along the east side of Lawrence Drive; thence extending in a southerly direction to a point on the northeasterly side of Southampton-Byberry Road; thence extending north 2 degrees 15 minutes 30 seconds west along the northeasterly side of the said Southampton-Byberry Road, the distance of 234.458 feet to a point of curve; thence extending in a northwesterly direction along the northeasterly side of the said Southampton-Byberry Road on a curved line bearing to the left having a radius of 735.000 feet and on an arc distance of 465.018 feet to a point of curve in the first mentioned point and place of beginning.

Containing in area 7.2000 acres more or less.

(c) The responsibilities required of the Department of Environmental Resources for managing this 7.2-acre parcel as described in subsection (b) in accordance with the act of December 22, 1975 (P.L.606, No.175), entitled "An act authorizing and directing the Department of General Services, or such department and The General State Authority, to convey to Philadelphia or transfer jurisdiction within the State government of certain tracts of Commonwealth real property acquired under the act of September 29, 1938 (Sp. Sess., P.L.53, No.21), entitled, as reenacted and amended, 'An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the

Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws,' imposing powers and duties on the Department of Environmental Resources in connection with one such tract, and providing for use of land conveyed to the City of Philadelphia," shall cease.

(d) The above-described tracts and parcels of land are a part of the same land vested in the Commonwealth of Pennsylvania by the act of September 29, 1938 (Sp.Sess., P.L.53, No.21), entitled, as reenacted and amended, "An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws." The land was subsequently transferred to the use of the Department of Military Affairs by the act of January 26, 1966 (1965 P.L.1610, No.569), entitled "An act authorizing the Department of Property and Supplies, with the approval of the Governor, to transfer and convey to the Department of Military Affairs 17.6885 acres, more or less, of land situate in the fifty-eighth ward of the City of Philadelphia, Pennsylvania," and the act of December 10,

1969 (P.L.360, No.157), entitled "An act authorizing the Department of Property and Supplies to transfer the jurisdiction and control over 7.852 acres of land situate in the 58th Ward of the City of Philadelphia, Pennsylvania, to the Department of Military Affairs with the approval of the Secretary of Public Welfare and the Governor."

(e) The above transfers shall be made under and subject, nevertheless, to all easements, servitudes and rights of others, including, but not confined to, streets, roadways and rights of any telephone, telegraph, water, electric, gas or pipeline companies, as well as under and subject, nevertheless, to any estate or tenancies vested in third persons, whether or not appearing of record, for any portion of the said land or improvements erected thereon.

Section 2. The parcels of land herein described, and the jurisdiction and control over the same herein authorized to be transferred shall be transferred free and clear of any limitations or rights of reversion more particularly set forth in section 1 of the act of September 29, 1938 (Sp.Sess., P.L.53, No.21), entitled, as reenacted and amended, "An act relating to institutions of counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, for the care, maintenance, and treatment of mental patients; providing for the transfer to the Commonwealth for the care, maintenance and treatment of mental patients of such institutions, and all grounds, lands, buildings and personal property of such political subdivisions used for the care and maintenance of indigent persons connected with such mental institutions; providing for the management and operation or closing and abandonment thereof; and the maintenance of mental patients therein; including the collection of maintenance in certain cases; providing for the retransfer of certain property to counties, cities, wards, boroughs, townships, institution districts and other political subdivisions under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, wards, boroughs, townships, institution districts and other political subdivisions certain powers and duties; prohibiting cities, counties, wards, boroughs, townships, institution districts and other political subdivisions from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws."

Section 3. Upon the appropriation of the necessary funds by the General Assembly, the Department of General Services shall be authorized and directed to construct a veterans home on the land described in section 1(b). Jurisdiction to the land described in section 1(b) shall be transferred to the Department of Military Affairs upon completion of the construction of the veterans home.

Section 4. This act shall take effect immediately.

APPROVED—The 7th day of December, A.D. 1994.

ROBERT P. CASEY