

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 831

Short Title: MH Area Authority Facilities.

(Public)

Sponsors: Representatives Hayes; Aldridge, Rayfield, and Buchanan.

Referred to: Welfare Reform and Human Resources.

April 11, 1995

A BILL TO BE ENTITLED

AN ACT TO ALLOW AREA MENTAL HEALTH AUTHORITIES TO USE STATE FUNDS FOR THE USE OF MORE TYPES OF FACILITIES AND FOR FACILITIES OPERATED BY GOVERNMENTAL ENTITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-147 reads as rewritten:

"§ 122C-147. Financing and title of area authority property.

(a) Repealed by Session Laws 1993, c. 321, s. 220(i).

(b) Unless otherwise specified by the Secretary, State appropriations to area authorities shall be used exclusively for the operating costs of the area authority; provided however:

(1) The Secretary may specify that designated State funds may be used by area authorities (i) for the purchase, alteration, improvement, or rehabilitation of real estate to be used as a ~~24-hour and day~~ facility or (ii) in contracting with a private, nonprofit corporation or with another governmental entity that operates ~~24-hour and day~~ facilities for the mentally ill, developmentally disabled, or substance abusers and according to the terms of the contract between the area authority and the private, nonprofit ~~corporation, corporation~~ corporation or with the governmental entity, for the purchase, alteration, improvement, rehabilitation of real

1 estate or, to make a lump sum down payment or periodic payments on a
2 real property mortgage in the name of the private, nonprofit ~~corporation-~~
3 corporation or governmental entity.

- 4 (2) Upon cessation of the use of the ~~24-hour and day-~~ facility by the area
5 authority, if operated by the area authority, or upon termination, default,
6 or nonrenewal of the contract if operated by a contractual agency, the
7 Department shall be reimbursed in accordance with rules adopted by the
8 Secretary for the Department's participation in the purchase of the ~~24-~~
9 ~~hour and day-~~ facility.

10 (c) All real property purchased for use by the area authority shall be provided by
11 local or federal funds unless otherwise allowed under subsection (b) of this ~~section-~~
12 section or by specific capital funds appropriated by the General Assembly. The title to
13 this real property and the authority to acquire it is held by the county where the property
14 is located. The authority to hold title to real property and the authority to acquire it,
15 including the area authority's authority to finance its acquisition by an installment
16 contract under G.S. 160A-20, may be held by the area authority or by the contracting
17 governmental entity with the approval of the board or boards of commissioners of all the
18 counties that comprise the area authority. The approval of a board of county
19 commissioners shall be by resolution of the board and may have any necessary or proper
20 conditions, including provisions for distribution of the proceeds in the event of
21 disposition of the property by the area authority. Real property may not be acquired by
22 means of an installment contract under G.S. 160A-20 unless the Local Government
23 Commission has approved the acquisition. No deficiency judgment may be rendered
24 against any unit of local government in any action for breach of a contractual obligation
25 authorized by this subsection, and the taxing power of a unit of local government is not
26 and may not be pledged directly or indirectly to secure any moneys due under a contract
27 authorized by this subsection.

28 (d) The area authority may lease real property.

29 (e) Equipment necessary for the operation of the area authority may be obtained
30 with local, State, federal, or donated funds, or a combination of these.

31 (f) The area authority may acquire or lease personal property. An acquisition may
32 be accomplished by an installment contract under G.S. 160A-20 or by a lease-purchase
33 agreement. An area authority may not acquire personal property by means of an
34 installment contract under G.S. 160A-20 without the approval of the board or boards of
35 commissioners of all the counties that comprise the area authority. The approval of a
36 board of county commissioners shall be by resolution of the board and may have any
37 necessary or proper conditions, including provisions for distribution of the proceeds in
38 the event of disposition of the property by the area authority. The area authority may not
39 acquire personal property by means of an installment contract under G.S. 160A-20
40 without the approval of the Local Government Commission, when required by that
41 statute. No deficiency judgment may be rendered against any unit of local government in
42 any action for breach of a contractual obligation authorized by this subsection, and the
43 taxing power of a unit of local government is not and ~~may shall~~ not be pledged directly or

1 indirectly to secure any moneys due under a contract authorized by this subsection. Title
2 to personal property may be held by the area authority.

3 (g) All area authority funds shall be spent in accordance with the rules of the
4 Secretary. Failure to comply with the rules is grounds for the Secretary to stop
5 participation in the funding of the particular program. The Secretary may withdraw funds
6 from a specific program of services not being administered in accordance with an
7 approved plan and budget after written notice and subject to an appeal as provided by
8 G.S. 122C-145 and Chapter 150B of the General Statutes.

9 (h) Notwithstanding subsection (b) of this section and in addition to the purposes
10 listed in that subsection, the funds allocated by the Secretary for services for members of
11 the class identified in Willie M., et al. vs. Hunt, et al. (C-C-79-294, Western District) may
12 be used for the purchase, alteration, improvement, or rehabilitation of real property
13 owned or to be owned by a nonprofit corporation or by another governmental entity and
14 used or to be used as a facility.

15 (i) Notwithstanding subsection (c) of this section and in addition to the purposes
16 listed in that subsection, funds allocated by the Secretary for services for members of the
17 class identified in Willie M., et al. vs. Hunt, et al. (C-C-79-294, Western District) may be
18 used for the purchase, alteration, improvement, or rehabilitation of real property used by
19 an area authority as long as the title to the real property is vested in the county where the
20 property is located or is vested in another governmental entity. If the property ceases to
21 be used in accordance with the annual plan, the unamortized part of funds spent under
22 this subsection for the purchase, alteration, improvement, or rehabilitation of real
23 property shall be returned to the Department, in accordance with the rules of the
24 Secretary.

25 (j) Notwithstanding subsection (c) of this section the area authority, with the
26 approval of the Secretary, may use local funds for the alteration, improvement, and
27 rehabilitation of real property owned by a nonprofit corporation or by another
28 governmental entity under contract with the area authority and used or to be used as a ~~24-~~
29 ~~hour and day~~ facility. Prior to the use of county appropriated funds for this purpose, the
30 area authority ~~must~~ shall obtain consent of the board or boards of commissioners of all the
31 counties ~~which~~ that comprise the area authority. The consent shall be by resolution of the
32 affected board or boards of county commissioners and may have any necessary or proper
33 conditions, including provisions for distribution of the proceeds in the event of
34 disposition of the property."

35 Sec. 2. This act becomes effective July 1, 1995, and applies to funds used for
36 facilities on or after that date and to contracts entered into on or after that date.