

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 536  
Committee Substitute Favorable 5/27/93

Short Title: Area Authority Property.

(Public)

Sponsors:

Referred to:

March 25, 1993

A BILL TO BE ENTITLED

AN ACT TO ALLOW AREA MENTAL HEALTH, DEVELOPMENTAL  
DISABILITIES, AND SUBSTANCE ABUSE AUTHORITIES TO PURCHASE  
PROPERTY BY INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

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

"§ 122C-147. Allocation of funds to and acquisition of property by area authorities.

(a) All State and federal funds appropriated within the Department's budget for area mental health, developmental disabilities, and substance abuse services shall be allocated to area authorities in accordance with the annual plan and budget adopted by the area authority and approved by the Secretary. An area authority may receive and allocate non-State resources for capital purchases, capital improvements, and equipment acquisitions if the expenditures are made in the support of the annual plan. The final share of State and federal funds shall be allocated on the basis of actual expenditures and reported in a way prescribed by the Secretary. Unspent State and federal funds shall be remitted to the Department within 60 days after the date that a certified audit is rendered as required by the Local Government Commission. If an audit is not submitted to the State within five days of the due date for the audit as approved by the Local Government Commission, Department funds for the area authority may be withheld by the Secretary until the audit is submitted.

(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           (1) The Secretary may specify that designated State funds may be used by  
2 area authorities (i) for the purchase, alteration, improvement, or  
3 rehabilitation of real estate to be used as a 24-hour and day facility or  
4 (ii) in contracting with a private, nonprofit corporation that operates  
5 24-hour and day facilities for the mentally ill, developmentally  
6 disabled, or substance abusers and according to the terms of the  
7 contract between the area authority and the private, nonprofit  
8 corporation, for the purchase, alteration, improvement, rehabilitation  
9 of real estate or, to make a lump sum down payment or periodic  
10 payments on a real property mortgage in the name of the private,  
11 nonprofit corporation.
- 12           (2) Upon cessation of the use of the 24-hour and day facility by the area  
13 authority, if operated by the area authority, or upon termination,  
14 default, or nonrenewal of the contract if operated by a contractual  
15 agency, the Department shall be reimbursed in accordance with rules  
16 adopted by the Secretary for the Department's participation in the  
17 purchase of the 24-hour and day facility.

18           (c) All real property purchased for use by the area authority shall be provided by  
19 local or federal funds unless otherwise allowed under subsection (b) of this section. The  
20 title to this real property and the authority to acquire it is held by the county where the  
21 property is located. The authority to hold title to real property and the authority to  
22 acquire ~~it~~, including the authority to finance its acquisition by an installment contract  
23 under G.S. 160A-20, may be held by the area authority with the ~~consent~~ approval of the  
24 board or boards of commissioners of all the counties ~~which~~ that comprise the area  
25 authority. ~~The consent to this variation~~ The approval of a board of county commissioners  
26 shall be by resolution of the affected board or boards of county commissioners and may  
27 have any necessary or proper conditions, including provisions for distribution of the  
28 proceeds in the event of disposition of the property by the area authority. Real property  
29 may not be acquired by means of an installment contract under G.S. 160A-20 unless the  
30 Local Government Commission has approved the acquisition, when required by that  
31 statute.

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

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

35           (f) The area authority may acquire or lease personal ~~property, including by~~  
36 property. An acquisition may be accomplished by an installment contract under G.S.  
37 160A-20 or by a lease-purchase agreement. An area authority may not acquire personal  
38 property by means of an installment contract under G.S. 160A-20 unless the Local  
39 Government Commission has approved the acquisition, when required by that statute.  
40 Title to personal property may be held by the area authority.

41           (g) All area authority funds shall be spent in accordance with the rules of the  
42 Secretary. Failure to comply with the rules is grounds for the Secretary to stop  
43 participation in the funding of the particular program. The Secretary may withdraw  
44 funds from a specific program of services not being administered in accordance with an

1 approved plan and budget after written notice and subject to an appeal as provided by  
2 G.S. 122C-145 and Chapter 150B of the General Statutes.

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

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

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

27 Sec. 2. G.S. 160A-20(h) reads as rewritten:

28 "(h) As used in this section, the term 'unit of local government' means any of the  
29 following:

- 30 (1) A county.
- 31 (2) A city.
- 32 (3) A water and sewer authority created under Article 1 of Chapter 162A  
33 of the General Statutes.
- 34 (4) An airport authority whose situs is entirely within a county that has (i)  
35 a population of over 120,000 according to the most recent federal  
36 decennial census and (ii) an area of less than 200 square miles.
- 37 (5) An airport authority in a county in which there are two incorporated  
38 municipalities with a population of more than 65,000 according to the  
39 most recent federal decennial census.
- 40 (6) A local school administrative unit (i) that is located in a county that  
41 has a population of over 90,000 according to the most recent federal  
42 decennial census and (ii) whose board of education is authorized to  
43 levy a school tax.

- 1           (7)    An area mental health, developmental disabilities, and substance abuse  
2                    authority, acting in accordance with G.S. 122C-147."  
3            Sec. 3. This act is effective upon ratification.