

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1237\*  
Committee Substitute Favorable 6/21/96  
Committee Substitute #2 Favorable 6/21/96

Short Title: Area Authority Accountability.

(Public)

Sponsors:

Referred to:

May 17, 1996

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENSURE AREA AUTHORITY FINANCIAL STABILITY AND  
3 DELIVERY OF ADEQUATE SERVICES TO CLIENTS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 122C-115 reads as rewritten:

6 "**§ 122C-115. Powers and duties of counties and cities.**

7 (a) Except as provided in G.S. 153A-77, a county shall provide mental health,  
8 developmental disabilities, and substance abuse services through an area authority.

9 (b) Counties and cities may appropriate funds for the support of programs that  
10 serve the catchment area, whether the programs are physically located within a single  
11 county or whether any facility housing a program is owned and operated by the city or  
12 county. Counties and cities may make appropriations for the purposes of this Chapter  
13 and may allocate for these purposes other revenues not restricted by law, and counties  
14 may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

15 (c) Within a catchment area designated by the Commission, a board of county  
16 commissioners or two or more boards of county commissioners jointly shall establish an  
17 area authority with the approval of the Secretary.

1 (d) Counties shall not reduce county appropriations and expenditures for area  
2 authorities because of the availability of State-allocated funds, fees, capitation amounts,  
3 or fund balance to the area authority."

4 Sec. 2. G.S. 122C-117 reads as rewritten:

5 **"§ 122C-117. Powers and duties of the area authority.**

6 (a) The area authority shall:

- 7 (1) Engage in comprehensive planning, budgeting, implementing, and  
8 monitoring of community-based mental health, developmental  
9 disabilities, and substance abuse services;
- 10 (2) Provide services to clients in the catchment area;
- 11 (3) Determine the needs of the area authority's clients and coordinate with  
12 the Secretary the provision of services to clients through area and State  
13 facilities;
- 14 (4) Develop plans and budgets for the area authority subject to the approval  
15 of the Secretary;
- 16 (5) Assure that the services provided by the area authority meet the rules of  
17 the Commission and Secretary;
- 18 (6) Comply with federal requirements as a condition of receipt of federal  
19 grants; and
- 20 (7) Appoint an area ~~director~~-director, chosen through a search committee on  
21 which the Secretary of the Department of Human Resources or the  
22 Secretary's designee serves as a nonvoting member.

23 (a1) The area authority may contract to provide services to governmental or private  
24 entities, including Employee Assistance Programs.

25 (b) The governing unit of the area authority is the area board. All powers, duties,  
26 functions, rights, privileges, or immunities conferred on the area authority may be  
27 exercised by the area board."

28 Sec. 3. G.S. 122C-118 reads as rewritten:

29 **"§ 122C-118. Structure of area board.**

30 (a) An area board shall have no less than 15 members and no more than 25  
31 members. The size of the area board may be changed from time to time as follows:

- 32 (1) In a single-county area, by the board of county commissioners;
- 33 (2) In a multi-county area by agreement of the boards of county  
34 commissioners of all the counties in the catchment area. The agreement  
35 shall be evidenced by concurrent resolutions adopted by the affected  
36 boards of county commissioners.

37 (b) In a single county area, the board of county commissioners shall appoint the  
38 members of the area board who may be removed with or without cause.

39 (c) In areas consisting of more than one county, each board of county  
40 commissioners within the area shall appoint one commissioner as a member of the area  
41 board. These members shall appoint the other members. A member may be removed,  
42 with or without cause, by the group authorized to make the initial appointment.

1       (c1) The group of county commissioners authorized to make appointments to the  
2 area board shall declare vacant the office of a member of the area board who does not  
3 attend three scheduled meetings without justifiable excuse within a 12-month period.

4       (d) The group of county commissioners authorized to make appointments to the  
5 area board shall appoint new members to the area board to fill vacancies occurring on the  
6 board before the end of the appointed term of office. These appointments are for the rest  
7 of the unexpired term of office.

8       (d1) Whenever a vacancy occurs on the board, it shall be filled within 120 days.

9       (e) The area board shall include:

10       (1) At least one county commissioner from each county in the area except  
11 that in a single-county area authority the board of commissioners may  
12 instead appoint any resident of the county;

13       (2) At least ~~two physicians~~ one physician licensed under Chapter 90 of the  
14 General Statutes to practice medicine in North Carolina ~~and who, when~~  
15 possible, ~~one of these physicians should be~~ is certified as having  
16 completed a residency in psychiatry;

17       (3) At least one professional representative from the fields either of  
18 psychology, social work, nursing, or religion;

19       (4) At least one individual each, either a primary consumer or an individual  
20 from a citizens' organization, representing the interests of individuals  
21 with:

22       a. Mental illness; and

23       b. Developmental disabilities.

24       (4.1) At least one primary consumer ~~each~~ presently and openly in recovery  
25 ~~and~~ representing the interests of individuals suffering from alcoholism  
26 or other drug abuse. with:

27       a. ~~Alcoholism; and~~

28       b. ~~Drug abuse.~~

29       (5) At least one family consumer each representing the interest of  
30 individuals with:

31       a. Mental illness;

32       b. Developmental disabilities; and

33       c. ~~Alcoholism; and~~ Alcoholism or other drug abuse.

34       d. ~~Drug abuse.~~

35       (6) At least one attorney licensed to practice in North Carolina.

36       (7) At least one member who has experience in finance and can understand  
37 and interpret audits and other financial reports.

38       (f) Any member of an area board who is a county commissioner serves on the  
39 board in an ex officio capacity. The terms of county commissioners on an area board are  
40 concurrent with their terms as county commissioners. The terms of the other members on  
41 the area board shall be for four years, except that upon the initial formation of an area  
42 board one fourth shall be appointed for one year, one fourth for two years, one fourth for  
43 three years, and all remaining members for four years."

1           Sec. 4. G.S. 122C-119 reads as rewritten:

2 **"§ 122C-119. Organization of area board.**

3           (a) The area board shall meet at least six times per year.

4           (b) Meetings shall be called by the area board chairman or by three or more  
5 members of the board after notifying the area board chairman in writing.

6           (c) Members of the area board elect the board's chairman. The term of office of  
7 the area board chairman shall be one year. A county commissioner area board member  
8 may serve as the area board chairman.

9           (d) The area board shall establish a finance committee that shall meet at least six  
10 times per year to review the financial strength of the area program. The finance  
11 committee shall have a minimum of three members, two of whom have expertise in  
12 budgeting and fiscal control. If the area board so chooses, the entire area board may  
13 function as the finance committee; however, its required meetings as a finance committee  
14 shall be distinct from its meetings as an area board."

15           Sec. 5. G.S. 122C-119.1 reads as rewritten:

16 **"§ 122C-119.1. Area Authority board members' training.**

17           All members of the governing body for an area authority's board of directors authority  
18 shall receive initial orientation on board members' responsibilities and training provided  
19 by the ~~Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of~~  
20 ~~the Department of Human Resources~~ in fiscal management, budget development, and fiscal  
21 accountability. A member's refusal to be trained ~~may~~ shall be grounds for removal from  
22 the board."

23           Sec. 6. G.S. 122C-124 reads as rewritten:

24 **"§ 122C-124. Area Authority funding suspended.**

25           (a) The Secretary of the Department of Human ~~Resources~~ Resources, after  
26 providing written notification of its intent to the area board, may suspend funding to any  
27 area authority with a revenue or expenditure budget variance of ten percent (10%) or a  
28 significant deterioration in the fund balance of the authority's general fund. A significant  
29 deterioration of fund balance is defined as a twenty-five percent (25%) decrease in the  
30 balance from one fiscal year to the next without the prior approval of the Department.  
31 Area authorities shall report any such revenue or expenditure variance or deterioration in  
32 fund balance to the Department of Human Resources within 30 days of its occurrence. In  
33 the event that funding is suspended, the ~~Department of Human Resources~~ Department, after  
34 providing written notification of its intent to the area board and after providing the area  
35 authority an opportunity to be heard, may contract with, and make payments of  
36 Department funds on an interim basis directly to, a contract provider of the area authority  
37 to avoid the disruption of direct services to clients.

38           (b) If the Secretary determines that an area authority is not providing minimally  
39 adequate services, in accordance with its annual service plan, to persons in need in a  
40 timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after  
41 providing written notification of the Secretary's intent to the area board and after  
42 providing the area authority an opportunity to be heard, may withhold funding for the  
43 particular service or services in question from the area authority and insure the provision

1 of these services through contracts with public or private agencies or by direct operation  
2 by the Department.

3 (c) Upon suspension of funding, the Department shall, in conjunction with the area  
4 authority, develop and implement a corrective plan of action and provide notification to  
5 the area authority's board of directors of the plan. The Department shall also keep the  
6 county board of commissioners and the area authority's board of directors informed of  
7 any ongoing concerns or problems with the area authority's ~~finances.~~ finances or delivery  
8 of services."

9 Sec. 7. G.S. 122C-125 reads as rewritten:

10 "**§ 122C-125. Area Authority financial failure; State assumption of financial**  
11 **control.**

12 At any time that the Secretary of the Department of Human Resources determines that  
13 an area authority is in imminent danger of failing financially and of failing to provide  
14 direct services to clients, the ~~Secretary~~ Secretary, after providing written notification of  
15 the Secretary's intent to the area board and after providing the area authority an  
16 opportunity to be heard, may assume control of the financial affairs of the area authority  
17 and appoint an administrator to exercise the powers assumed. This assumption of control  
18 shall have the effect of divesting the area authority of its powers as to the adoption of  
19 budgets, expenditures of money, and all other financial powers conferred in the area  
20 authority by law. County funding of the area authority shall continue when the State has  
21 assumed control of the financial affairs of the area authority. At no time after the State  
22 has assumed this control shall a county withdraw funds previously obligated or  
23 appropriated to the area authority. The Secretary shall adopt rules to define imminent  
24 danger of failing financially and of failing to provide direct services to clients.

25 Upon assumption of financial control, the Department shall, in conjunction with the  
26 area authority, develop and implement a corrective plan of action and provide notification  
27 to the area authority's board of directors of the plan. The Department shall also keep the  
28 county board of commissioners and the area authority's board of directors informed of  
29 any ongoing concerns or problems with the area authority's finances."

30 Sec. 8. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended  
31 by adding a new section to read:

32 "**§ 122C-125.1. Area Authority failure to provide services; State assumption of**  
33 **service delivery.**

34 At any time that the Secretary determines that an area authority is not providing  
35 minimally adequate services, in accordance with its annual service plan, to persons in  
36 need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary,  
37 after providing written notification of the Secretary's intent to the area board and  
38 providing the area authority an opportunity to be heard, may assume control of the  
39 particular service in question or of the area authority and appoint an administrator to  
40 exercise the powers assumed. This assumption of control shall have the effect of  
41 divesting the area authority of its powers in G.S. 122C-117 and all other service delivery  
42 powers conferred in the area authority by law as they pertain to this service. County  
43 funding of the area authority shall continue when the State has assumed control of a

1 service area or of the area authority. At no time after the State has assumed this control  
2 shall a county withdraw funds previously obligated or appropriated to the area authority.

3 Upon assumption of control of service delivery, the Department shall, in conjunction  
4 with the area authority, develop and implement a corrective plan of action and provide  
5 notification to the area authority's board of directors of the plan. The Department shall  
6 also keep the county board of commissioners and the area authority's board of directors  
7 informed of any ongoing concerns or problems with the area authority's delivery of  
8 services."

9 Sec. 9. G.S. 122C-126 reads as rewritten:

10 **"§ 122C-126. Area authority caretakers appointed.**

11 In the event that an area authority fails to comply with the corrective plan of action  
12 required pursuant to G.S. 122C-124 when funding is ~~suspended or suspended~~, pursuant to  
13 G.S. 122C-125 when the State assumes financial control of the area authority, or pursuant  
14 to G.S. 122C-125.1 when the State assumes control of service delivery, the Secretary of  
15 the Department of Human Resources Secretary, after providing written notification of the  
16 Secretary's intent to the area board, shall appoint a caretaker administrator, a caretaker  
17 board of directors, or both.

18 The Secretary may assign any of the powers and duties of the director of the area  
19 authority and of the board of directors and the caretaker board to the caretaker  
20 administrator as it deems necessary and appropriate to continue to provide direct services  
21 to clients, including the powers as to the adoption of budgets, expenditures of money, and  
22 all other financial powers conferred on the area authority by law. County funding of the  
23 area authority shall continue when the State has assumed control of the financial affairs  
24 of the area authority. At no time after the State has assumed this control shall a county  
25 withdraw funds previously obligated or appropriated to the area authority. The caretaker  
26 administrator and the caretaker board shall perform all of these powers and duties. The  
27 Secretary may terminate the contract of any director when it appoints a caretaker  
28 administrator. The Administrative Procedure Act shall apply to any such decision.  
29 Neither party to any such contract shall be entitled to damages.

30 After a caretaker board has been appointed, the General Assembly shall consider, at  
31 its next regular session, the future governance of the identified area authority."

32 Sec. 10. Reductions in fiscal year 1995-96 appropriations as a result of  
33 reductions in the Social Services Block Grant federal funds shall be absorbed by the  
34 Department of Human Resources.

35 Sec. 11. This section and Section 10 of this act become effective July 1, 1996.  
36 The remainder of this act becomes effective October 1, 1996.