

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 856  
SENATE BILL 1307

AN ACT TO PROVIDE FOR THE TRANSFER OF THE LENOX BAKER  
HOSPITAL TO DUKE UNIVERSITY.

The General Assembly of North Carolina enacts:

Section 1. The below described land and improvements together with property installed in the buildings and other movable equipment and supplies shall be transferred by the State of North Carolina to Duke University:

All of that tract, parcel or lot of land, situated, lying and being in Durham Township, in Durham County, State of North Carolina, and more particularly described as follows:

Beginning on an iron pipe in the northerly side of Erwin Road, said pipe being 1078.5 feet in a southwesterly direction from the boundary line between the property owned by Asa Day and Duke University lands, said boundary line being the westerly property line of Asa Day, and running thence North 46 degrees 00' West 572 feet to an iron pipe in the center of a small branch; thence along and with the center of said Branch the following courses and distances: South 53 degrees 50' West 60 feet, South 48 degrees 50' West 107 feet, south 51 degrees 30' West 78 feet, South 71 degrees 00' West 88 feet, South 48 degrees 05' West 77 feet and south 61 degrees 50' West 108.3 feet to an iron stake on the south bank of said branch; thence south 46 degrees 00' East 165 feet to an iron pipe; thence south 34 degrees 00' West 300 feet to an iron pipe; thence south 46 degrees 00' East 411.9 feet to an iron pipe in the northerly side of Erwin Road; thence along and with the northerly side of Erwin Road in a northeasterly direction, North 54 degrees 00' East 201.7 feet to a point; thence continuing along and with the northerly side of Erwin Road 202 feet to a point; thence continuing along and with the northerly side of Erwin Road North 44 degrees 00' East 400 feet to an iron pipe, the point and place of beginning, containing 10.31 acres more or less.

Save and excepting therefrom the following described property conveyed to the City of Durham by deed recorded in Book 183, page 25, Durham County Registry:

Beginning at a point in the line of Duke University which point is North 48 degrees 41' West 349.8 feet from an iron pin located on the Western side of Erwin Road, it being also in the southern line of the property conveyed by Duke University to the State of North Carolina for the Spastic Hospital; and running thence from said point of beginning North 11 degrees 40' East 23.4 feet to a manhole; thence North 33 degrees 32' East 163.5 feet to a manhole; thence North 58 degrees 30' East 139 feet to a manhole; thence North 58 degrees 30' East 182.3 feet to a manhole; thence North 29 degrees 00' East 109 feet to a manhole; thence North 29 degrees 00' East 208.6 feet to a point in the line of Duke University property, said point being South 29 degrees 00'

West 63.8 feet from a manhole Station No. 20, plus 17.8 in the property of Duke University, same being the centerline of an easement twenty five (25) feet in width twelve and one-half (12 1/2) feet in width on each side of said center, as shown on map showing right of way required for Veterans Hospital Outfall, dated November 1947 prepared by Water and Sewer Department, Durham, North Carolina, and of record in Plat Book 20, at page 66, Registry of Durham County, to which said map reference is hereby made for a more accurate and detailed description.

Together with any and all property now owned by the State of North Carolina which is adjacent and contiguous to the above property which is presently used as a part of the grounds or facilities of Lenox Baker Children's Hospital.

Sec. 2. The transfer made by Section 1 of this act shall be evidenced by a deed executed under G.S. 146-75 and registered in accordance with G.S. 146-77.

Sec. 3. Article 9 of Chapter 131E of the General Statutes does not apply to the transfer made under this act.

Sec. 4. The State of North Carolina shall continue the funding and operation of the Developmental Evaluation Center based at the Duke University Medical Center for a minimum period of five years from the effective date of the transfer.

Sec. 5. Employees of Lenox Baker Hospital shall be provided benefits in accordance with G.S. 143-27.2 and any other benefits to which they may be entitled.

Sec. 6. The unexpended portion of the capital improvement reserve in the Department of Human Resources for Lenox Baker Hospital, code 48557, item 5810, shall be reverted to the General Fund effective June 30, 1987.

Sec. 7. There is appropriated from the General Fund to Duke University the sum of four hundred forty-four thousand dollars (\$444,000) for fiscal year 1987-88 to construct a therapeutic pool for Lenox Baker Hospital.

Sec. 8. Up to seven hundred twenty-four thousand sixty-one dollars (\$724,061) of the funds appropriated for fiscal year 1987-88 in Chapter 738, Session Laws of 1987 to the Department of Human Resources, Division of Health Services, for the operation of Lenox Baker Hospital may be used for the following purposes:

(1) Operation of Lenox Baker Hospital from July 1, 1987, to November 1, 1987.

(2) Payments of benefits in accordance with G.S. 143-27.2 and any other benefits to which employees may be entitled.

All such unexpended funds for fiscal year 1987-88 will revert to the General Fund on December 31, 1987.

Sec. 9. Of the funds appropriated to the Department of Human Resources, Division of Health Services in Chapter 738 of the 1987 Session Laws for the operation of Lenox Baker Hospital, the sum of ninety-one thousand five hundred twenty-three dollars (\$91,523) for the 1987-88 fiscal year and the sum of ninety-one thousand five hundred twenty-three dollars (\$91,523) for the 1988-89 fiscal year is transferred to the Department of Public Education to be used to provide three twelve-month teaching positions to the Durham County School system. These funds are to be used to continue educational services to the children at Lenox Baker Hospital that had previously been provided by the Department of Human Resources.

Sec. 10. In addition to the transfers in Section 1 of this act, appropriate medical records and accounts shall be transferred to Duke University upon transfer of the hospital. All Lenox Baker Hospital accounts receivable outstanding at the date of transfer will become the property of Duke University.

Sec. 11. The Board of Directors for Lenox Baker Hospital is abolished as a State agency effective on the effective date of the transfer provided by Section 18 of this act. Any assets of the Board of Directors of Lenox Baker Hospital, including those provided for by Chapter 279, Session Laws of 1987, shall continue to be held by that board as reconstituted as the Lenox Baker Children's Hospital Foundation, in trust for the same purposes.

Sec. 12. G.S. 105A-2(1)j. reads as rewritten:

"j. State facilities as listed in G.S. 122C-181(a), School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravelly Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter 122, Article 12A; ~~the Lenox Baker Children's Hospital under Chapter 131, Article 14;~~ and these same institutions by any other names by which they may be known in the future."

Sec. 13. G.S. 131E-55, G.S. 131E-56, G.S. 131E-57, and G.S. 131E-58 are repealed.

Sec. 14. G.S. 143-117 reads as rewritten:

"§ 143-117. **Institutions included.**—All persons admitted to the following institutions operated by the Department of Human Resources are required to pay the actual cost of their care, treatment, training and maintenance at these institutions: ~~Lenox Baker Children's Hospital,~~ regional psychiatric hospitals, special care centers, regional mental retardation centers, schools for emotionally disturbed children, and alcoholic rehabilitation centers."

Sec. 15. G.S. 143-117.1(3) reads as rewritten:

"(3) 'Persons admitted' means clients of ~~Lenox Baker Children's Hospital,~~ regional psychiatric hospitals, State special care centers, regional mental retardation centers, schools for emotionally disturbed children, and alcoholic rehabilitation centers, including clients who may be treated on an outpatient basis."

Sec. 16. G.S. 143B-173(a)(5) is repealed.

Sec. 17. G.S. 143B-174 reads as rewritten:

"§ 143B-174. **Boards of directors of institutions - members; selection; quorum; compensation.**—~~The Board of Directors of the Lenox Baker Children's Hospital of the Department of Human Resources shall consist of nine members appointed by the Governor for terms of six years.~~ The Board of Directors of the Governor Morehead School of the Department of Human Resources shall consist of 11 members appointed by the Governor for terms of six years. The Board of Directors of the North Carolina Schools for the Deaf of the Department of Human Resources shall consist of 11 members appointed by the Governor for terms of four years. The initial members of

each of the aforementioned boards of directors shall be the members of the previously existing board of directors for each institution. The members of the various boards of directors shall serve for a period equal to the remainder of their current terms on their respective boards, which are as follows: ~~the Board of Directors of the Lenox Baker Children's Hospital, three of whose appointments expire July 10, 1973, three of whose appointments expire July 10, 1975, and three of whose appointments expire July 10, 1977;~~—the Board of Directors of the Governor Morehead School, four of whose appointments expire May 1, 1973, three of whose appointments expire May 1, 1975, and four of whose appointments expire May 1, 1977; the Board of Directors of the North Carolina Schools for the Deaf, all of whose appointments expire July 17, 1973. At the end of the respective terms of office of the initial members of each board, their successors shall be appointed for terms as hereinabove delineated and until their successors are appointed and qualify. Any appointment to fill a vacancy on the board of directors created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of a board of directors from office for misfeasance, malfeasance or nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of each board of directors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of a board of directors shall constitute a quorum for the transaction of business.

All clerical and other services required by a board of directors shall be supplied by the Secretary of Human Resources."

Sec. 18. The transfer shall become effective on a date agreed to by the Department of Human Resources and Duke University but not later than November 1, 1987.

Sec. 19. The Department of Human Resources, Division of Medical Assistance, upon acceptance of the conditions set out in Sections 21 through 26 of this act by the Board of Trustees of Duke University shall adjust the Medicaid target days for Duke University and the Lenox Baker Medicaid rate in accordance with the North Carolina Division of Medical Assistance Medicaid Reimbursement Plan.

Sec. 20. Sections 1 through 19 are effective only upon agreement by Duke University to the terms of Sections 21 through 26 of this act and certification of that fact by the Secretary of the Department of Human Resources to the Governor, and Sections 12 through 17 are then effective on the date of the transfer. Any disputes arising out of this transfer shall be resolved by the Director of the Budget.

Sec. 21. Duke University shall agree to receive the lands and improvements as described in Section 1.

Sec. 22. Duke University shall offer employment to Lenox Baker employees who are interested in employment by Duke University, who are necessary to Duke's operation of the facility and who are acceptable to Duke. The offer of employment will be in positions similar to those currently filled by the employee and shall include the same benefits and rights as those accorded to other Duke employees.

Sec. 23. Duke University shall maintain the services now provided by Lenox Baker Hospital for a period of five years from the date of transfer. Any patient whose course of treatment at Lenox Baker Hospital has commenced prior to this transfer shall continue to receive treatment from Duke University.

Sec. 24. Duke University shall treat patients at Lenox Baker Hospital who are admitted by authorized physicians without regard for their ability to pay.

Sec. 25. Duke University shall provide the Developmental Evaluation Center and the Speech and Hearing Clinic with space and make it available to the State for this purpose rent-free. This section expires on the earlier of five years from the date of transfer or the date on which State-funding for such programs terminates.

Sec. 26. Duke University shall maintain the name of Lenox Baker Children's Hospital as the name of the facility after transfer.

Sec. 27. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of August, 1987.