

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

6

SENATE BILL 321
Health Care Committee Substitute Adopted 5/8/13
Third Edition Engrossed 5/9/13
House Committee Substitute Favorable 6/5/13
House Committee Substitute #2 Favorable 6/27/13
House Committee Substitute #3 Favorable 7/16/13

Short Title: Inmate Costs/Ct.Appt./ROD/Env.Laws/Notaries.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO CAP REIMBURSEMENT BY COUNTIES, TO MAKE ADDITIONAL PROVISIONS RELATING TO PAYMENT, FOR MEDICAL SERVICES PROVIDED TO INMATES IN COUNTY JAILS, TO ALLOW COUNTIES TO UTILIZE MEDICAID FOR ELIGIBLE PRISONERS, TO PROVIDE THAT VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR, TO REQUIRE REGISTERS OF DEEDS TO MAINTAIN REGULAR OFFICE HOURS, AMEND PROVISIONS IN 2013 ENVIRONMENTAL LAW AMENDMENTS, AND TO CREATE A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO VIOLATE THE NOTARY PUBLIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

§ 153A-225.2. Payment of medical care of prisoners.

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility to prisoners or other persons under arrest by, or in the lawful custody of, county law enforcement officers the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section, but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

For the purposes of this section, "requested or emergency medical care" shall include all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate.

Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.



1 **(b)** No county may avoid liability for payment of medical care by discharging or
2 otherwise releasing a prisoner or other person under arrest or in lawful custody of county law
3 enforcement officers for the purposes of avoiding liability for payment of medical care for
4 which the county is otherwise responsible.

5 **(c)** The county shall make reasonable efforts to equitably distribute prisoners among all
6 hospitals or other appropriate health care facilities located within the same county and shall do
7 so based upon the licensed acute care bed capacity at each of the hospitals located within the
8 same county. Counties with more than one hospital or other appropriate health care facility
9 shall provide semiannual reports conspicuously posted on the county's Web site that detail
10 compliance with this section, including information on the distribution of prisoner health care
11 services among different hospitals and health care facilities."

12 **SECTION 2.** G.S. 153A-225(a) reads as rewritten:

13 **"(a)** Each unit that operates a local confinement facility shall develop a plan for
14 providing medical care for prisoners in the facility. ~~The plan-plan:~~

- 15 (1) Shall be designed to protect the health and welfare of the prisoners and to
16 avoid the spread of contagious disease;
- 17 (2) Shall provide for medical supervision of prisoners and emergency medical
18 care for prisoners to the extent necessary for their health and welfare;
- 19 (3) Shall provide for the detection, examination and treatment of prisoners who
20 are infected with tuberculosis or venereal ~~diseases-diseases; and~~
- 21 (4) May utilize Medicaid coverage for inpatient hospitalization or for any other
22 Medicaid services allowable for eligible prisoners, provided that the plan
23 includes a reimbursement process which pays to the State the State portion
24 of the costs, including the costs of the services provided and any
25 administrative costs directly related to the services to be reimbursed, to the
26 State's Medicaid program.

27 The unit shall develop the plan in consultation with appropriate local officials and
28 organizations, including the sheriff, the county physician, the local or district health director,
29 and the local medical society. The plan must be approved by the local or district health director
30 after consultation with the area mental health, developmental disabilities, and substance abuse
31 authority, if it is adequate to protect the health and welfare of the prisoners. Upon a
32 determination that the plan is adequate to protect the health and welfare of the prisoners, the
33 plan must be adopted by the governing body.

34 As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00)
35 per incident for the provision of nonemergency medical care to prisoners. In establishing fees
36 pursuant to this section, each unit shall establish a procedure for waiving fees for indigent
37 prisoners."

38 **SECTION 3.** In preparation for the July 1, 2014, effective date of Section 2 of this
39 act, the Department of Health and Human Services, Division of Medical Assistance, shall work
40 with the North Carolina Association of County Commissioners to prepare for the change to
41 G.S. 153A-225(a)(4) contained in Section 2 of this act. The Department of Health and Human
42 Services, Division of Medical Assistance, shall use a uniform method, developed by the North
43 Carolina Association of County Commissioners, which will allow all counties to interface with
44 the Division of Medical Assistance to implement this act. The Department of Public Safety
45 shall provide technical assistance as needed.

46 **SECTION 4.** G.S. 7A-142 reads as rewritten:

47 **"§ 7A-142. Vacancies in office.**

48 A vacancy in the office of district judge shall be filled for the unexpired term by
49 appointment of the ~~Governor-Governor~~. The bar of the judicial district, as defined in
50 G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly
51 authorized to practice law in the district for consideration by the Governor. The nominees shall

1 be selected by vote of only those bar members who reside in the district. In the event less than
2 five persons are nominated, upon providing the nominations to the Governor, the bar shall
3 certify that there were insufficient nominations in the district to comply with this section. Any
4 vacancy shall be filled no sooner than 30 days after the vacancy occurs. Prior to filling the
5 vacancy, the Governor shall give due consideration to the nominations provided by the bar of
6 the judicial district.~~from nominations submitted by the bar of the judicial district as defined in~~
7 ~~G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9~~
8 ~~or 9B, only those members who reside in the district court district shall participate in the~~
9 ~~selection of the nominees. When vacancies occur in District Court District 18, all members who~~
10 ~~reside in the district court district shall participate in the selection of the nominees. If the~~
11 ~~district court district is comprised of counties in more than one judicial district, the nominees~~
12 ~~shall be submitted jointly by the bars of those judicial districts, but only those members who~~
13 ~~reside in the district court district shall participate in the selection of the nominees. If the~~
14 ~~district court judge was elected as the nominee of a political party, then the district bar shall~~
15 ~~submit to the Governor the names of three persons who are residents of the district court district~~
16 ~~who are duly authorized to practice law in the district and who are members of the same~~
17 ~~political party as the vacating judge; provided that if there are not three persons who are~~
18 ~~available, the bar shall submit the names of two persons who meet the qualifications of this~~
19 ~~sentence. If the district court judge was not elected as the nominee of a political party, then the~~
20 ~~district bar shall submit to the Governor the names of three persons who are residents of the~~
21 ~~district court district and who are duly authorized to practice law in the district; provided that if~~
22 ~~there are not three persons who are available, the bar shall submit the names of two persons~~
23 ~~who meet the qualifications of this sentence. Within 60 days after the district bar submits~~
24 ~~nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails~~
25 ~~to appoint a district bar nominee within 60 days, then the district bar nominee who received the~~
26 ~~highest number of votes from the district bar shall fill the vacancy. If the district bar fails to~~
27 ~~submit nominations within 30 days from the date the vacancy occurs, the Governor may~~
28 ~~appoint to fill the vacancy without waiting for nominations."~~

29 **SECTION 5.** G.S. 161-8 is repealed.

30 **SECTION 6.** Article 1 of Chapter 161 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 161-8.1. Office hours; notice of hours.**

33 (a) The register of deeds shall ensure that the office is open for the conduct of public
34 business during county office workdays and hours as set by the board of county commissioners
35 pursuant to G.S. 153A-94(b) and shall attend at the office during those periods in person or by
36 deputy. The register of deeds may set the hours for the registration of real estate instruments to
37 begin not more than 30 minutes after the office opens to the public and end not more than 30
38 minutes before the office closes.

39 (b) Notwithstanding the requirements of subsection (a) of this section, the register of
40 deeds may temporarily close the office for a limited time with the prior approval of the board of
41 county commissioners or county manager.

42 (c) The register of deeds shall ensure that the schedule of workdays, holidays, and
43 office hours, including the hours of real estate instrument registration, are posted prominently
44 in the office, on a county government Web site and on the Web site established in subsection
45 (d) of this section. Any change in schedule pursuant to action by the board of county
46 commissioners pursuant to G.S. 153A-94(b) or temporary closing pursuant to subsection (b) of
47 this section that is not due to severe weather or emergency conditions shall be posted in all
48 locations required by this subsection no less than 10 calendar days prior to the change in
49 schedule or temporary closing. Any temporary closing due to severe weather or emergency
50 conditions shall be posted in all locations required by this subsection as soon as practicable.

1 (d) The Secretary of State shall establish a Web site and procedures for the posting of
2 the workdays, holidays, and office hours of each county register of deeds office in the manner
3 required by subsection (c) of this section."

4 **SECTION 7.** If House Bill 94, 2013 Regular Session, becomes law, then
5 G.S. 89C-19, as amended by Section 34 of House Bill 94, reads as rewritten:

6 **"§ 89C-19. Public works; requirements where public safety involved.**

7 This State and its political subdivisions such as counties, cities, towns, or other political
8 entities or legally constituted boards, commissions, public utility companies, or authorities, or
9 officials, or employees of these entities shall not engage in the practice of engineering or land
10 surveying involving either public or private property where the safety of the public is directly
11 involved without the project being under the supervision of a professional engineer for the
12 preparations of plans and specifications for engineering projects, or a professional land
13 surveyor for land surveying projects, as provided for the practice of the respective professions
14 by this Chapter. In the course of conducting the technical review of an application for a permit
15 or a plan submitted to the entity for approval, the entity (i) shall review the application or plan
16 solely on the basis of the application or plan's ability to satisfy the intent of the requirements of
17 the statute, rule, standard, or criterion against which the application or plan is being evaluated
18 and (ii) shall not require revisions to an application or plan that constitute the practice of
19 engineering. In the course of conducting the technical review of an application or plan that is or
20 includes elements of an innovative design, the entity may require revisions to such an
21 application or a plan that constitutes the practice of engineering, provided the reviewer is a
22 professional engineer. For purposes of this section, "innovative design" is considered an
23 advanced design based on sound engineering practices that does not meet the letter of the
24 statute, rule, standard, or criterion but meets the intent of the statute, rule, standard, or criterion.

25 Any revisions to the application or plan that are required by the reviewing entity and that
26 constitute the practice of engineering shall be provided by written notice to the applicant or the
27 person submitting a plan for approval. The written notice shall be on agency letterhead and
28 shall, in accordance with Chapter 89C of the General Statutes, be signed and sealed by the
29 professional engineer reviewing or supervising the review of the submission, and shall include
30 the engineer's state license number.

31 An official or employee of the State or any political subdivision specified in this section,
32 holding the positions set out in this section as of June 19, 1975, shall be exempt from the
33 provisions of this section so long as such official or employee is engaged in substantially the
34 same type of work as is involved in the present position.

35 Nothing in this section shall be construed to prohibit inspection, maintenance and service
36 work done by employees of the State of North Carolina, any political subdivision of the State,
37 or any municipality including construction, installation, servicing, and maintenance by regular
38 full-time employees of, secondary roads and drawings incidental to work on secondary roads,
39 streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,
40 electric and sewage treatment and disposal plants, the services of superintendents, inspectors or
41 foremen regularly employed by the State of North Carolina or any political subdivision of the
42 State, or municipal corporation.

43 The provisions in this section shall not be construed to alter or modify the requirements of
44 Article 1 of Chapter 133 of the General Statutes."

45 **SECTION 8.** If House Bill 94, 2013 Regular Session, becomes law, then
46 G.S. 133-40(a), as enacted by Section 16 of House Bill 94, reads as rewritten:

47 "(a) For purposes of this Article, the term "public entity" means any department or
48 agency of the State, a State university or college, and other similar entities. For purposes of this
49 Article, the term "public entity" shall not include municipalities, county governments, public
50 utilities, transportation authorities, or airport authorities."

1 **SECTION 9.** If House Bill 94, 2013 Regular Session, becomes law, then
2 G.S. 143-215.1(j)(3), as enacted by Section 22(a) of House Bill 94, reads as rewritten:

3 "(3) A violation of any standard in groundwater occurring in the bedrock,
4 including limestone aquifers in Coastal Plain sediments, unless it can be
5 demonstrated that the violation will not adversely affect, or have the
6 potential to adversely affect, a water supply well."

7 **SECTION 10.** Part 8 of Article 1 of Chapter 10B of the General Statutes is
8 amended by adding a new section to read:

9 "**§ 10B-61. Private right of action.**

10 (a) Any party to a transaction requiring a notarial certificate for verification, and any
11 attorney licensed in this State who is involved in such a transaction in any capacity, whether or
12 not the attorney is representing one of the parties to the transaction, shall have standing to bring
13 a civil action in superior court against any public notary commissioned under this Chapter who
14 violates the provisions of this act in connection with that transaction.

15 (b) A party or attorney having standing under subsection (a) of this section may
16 maintain an action for damages against the notary or may seek injunctive relief against the
17 notary, or both. The action shall be brought in the county where the transaction took place, and
18 if that cannot be determined, then the action may be filed in the Superior Court of Wake
19 County.

20 (c) The remedies available in this section are cumulative and do not affect the
21 availability of any other sanction, remedy, or claim against a notary allowed under this Chapter
22 or other State or federal law.

23 (d) It is the intention of the General Assembly that if the provisions of this act are held
24 invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal
25 protection of the laws, within the meaning of Sections 19 and 32 of Article I of the North
26 Carolina Constitution, the remainder of this act shall be given effect without the invalid
27 provision or provisions."

28 **SECTION 11.** Sections 1, 3, 5, and 6 of this act become effective September 1,
29 2013. Section 2 of this act becomes effective July 1, 2014. Section 10 of this act is effective
30 when it becomes law and applies to notarial acts and omissions occurring on or after that date.
31 The remainder of this act is effective when it becomes law.