

Senator Carlene M. Walker proposes the following substitute bill:

COUNTY OVERSIGHT OF LOCAL AUTHORITIES

FOR HUMAN SERVICES

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Carlene M. Walker

This act modifies provisions related to Special Districts. ^h THE ACT SHIFTS, IN CERTAIN COUNTIES, THE RESPONSIBILITIES ASSOCIATED WITH LOCAL MENTAL HEALTH AUTHORITIES AND LOCAL SUBSTANCE ABUSE AUTHORITIES FROM THE COUNTY LEGISLATIVE BODY TO THE COUNTY EXECUTIVE. ^h The act clarifies that counties may jointly provide mental health services and substance abuse services through an interlocal agreement. The act provides for the designation of officers for combined local mental health or substance abuse authorities and for the adoption of policies for the combined authorities. The act expands the records that a contract provider is required to make available for inspection and expands those who may inspect those records. The act expands mental health and substance abuse services to include those for incarcerated persons. The act modifies the oversight responsibility of a local mental health or substance abuse authority over contract providers and their employees. The act provides a coordination clause.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-3-602, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

17A-3-603.5, as enacted by Chapter 106, Laws of Utah 1999

17A-3-701, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

17A-3-703, as enacted by Chapter 106, Laws of Utah 1999

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17A-3-602** is amended to read:



24 17A-3-602. Local mental health authorities -- Responsibilities.

25 (1) ~~[A]~~ ~~h~~ ~~[Each]~~ ~~(a)(i) IN EACH COUNTY OPERATING UNDER A COUNTY~~

25a1 ~~EXECUTIVE-COUNCIL FORM OF GOVERNMENT UNDER SECTION 17-52-504, THE COUNTY~~

25a2 ~~EXECUTIVE IS THE LOCAL MENTAL HEALTH AUTHORITY.~~

25a3 ~~(ii) IN EACH COUNTY OPERATING UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT~~

25a4 ~~UNDER SECTION 17-52-505, THE COUNTY MANAGER IS THE LOCAL MENTAL HEALTH AUTHORITY.~~

25a5 ~~(iii) IN EACH COUNTY OTHER THAN A COUNTY DESCRIBED IN SUBSECTION (1)(a)(i) OR (ii).~~

25a6 ~~THE~~ ~~h~~ county ~~h~~ § ~~[f] legislative [f]~~ ~~[EXECUTIVE-§]~~ ~~h~~ ~~[bodies in this state are]~~ body is ~~h~~ ~~[a]~~ ~~THE~~ ~~h~~

25a7 local

25a mental health

26 ~~[authorities]~~ authority.

26a h (b) h Within legislative appropriations and county matching funds required
 27 by this section, under the policy direction of the ~~[state Board of Substance Abuse and Mental~~
 28 ~~Health]~~ board and the administrative direction of the ~~[Division of Substance Abuse and Mental~~
 29 ~~Health within the Department of Human Services;]~~ division, each local mental health
 30 ~~[authorities]~~ authority shall provide mental health services to persons within ~~[their respective~~
 31 ~~counties]~~ the county. ~~[Two]~~

32 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
 33 Cooperation Act, two or more counties may join to provide mental health prevention and
 34 treatment services.

35 ~~[(2)]~~ (b) The legislative bodies of counties joining to provide services may establish
 36 acceptable ways of apportioning the cost of mental health services. ~~[Any]~~

37 (c) Each agreement for joint mental health services ~~[may]~~ shall:

38 (i) (A) designate the treasurer of one of the participating counties or another person as
 39 the treasurer for the combined mental health authorities and as the custodian of moneys
 40 available for ~~[those]~~ the joint services; and

41 (B) provide that the designated treasurer, or other disbursing officer authorized by the
 42 treasurer, may make payments from [those] the moneys available for [such purposes] the joint
 43 services upon audit of the appropriate auditing officer or officers representing the participating
 44 counties; ~~[The];~~

45 (ii) provide for the appointment of an independent auditor or a county auditor of one of
 46 the participating counties as the designated auditing officer for the combined mental health
 47 authorities;

48 (iii) (A) provide for the appointment of the county or district attorney of one of the
 49 participating counties as the designated legal officer for the combined mental health
 50 authorities; and

51 (B) authorize the designated legal officer to request and receive the assistance of the
 52 county or district attorneys of the other participating counties in defending or prosecuting
 53 actions within their counties relating to the combined mental health authorities; and

54 (iv) provide for the adoption of management, clinical, financial, procurement,
 55 personnel, and administrative policies as already established by one of the participating
 56 counties or as approved by the legislative body of each participating county h OR INTERLOCAL
 56a BOARD h .



57 (d) An agreement for joint mental health services may provide for:

58 ~~[(a)]~~ (i) joint operation of services and facilities or for operation of services and
59 facilities under contract by one participating local mental health authority for other
60 participating local mental health authorities; and

61 ~~[(b)]~~ (ii) allocation of appointments of members of the mental health advisory council
62 between or among participating counties.

63 (3) (a) ~~[AH] Each h [county § [legislative] EXECUTIVE § [bodies] body, as a] h~~ local mental
63a1 health

63a ~~[authorities;~~

64 ~~are] authority h [;] h~~ is accountable to the ~~[Department of Human Services] department~~, the
65 Department of Health, and the state with regard to the use of state and federal funds received
66 from those departments for mental health services, regardless of whether the services are
67 provided by a private contract provider.

68 (b) ~~[A] Each~~ local mental health authority shall comply, and require compliance by its
69 contract provider, with all directives issued by the ~~[Department of Human Services] department~~
70 and the Department of Health regarding the use and expenditure of state and federal funds
71 received from those departments for the purpose of providing mental health programs and
72 services. The ~~[Department of Human Services] department~~ and Department of Health shall
73 ensure that those directives are not duplicative or conflicting, and shall consult and coordinate
74 with local mental health authorities with regard to programs and services.

75 (4) ~~[Local] (a) Each local~~ mental health ~~[authorities] authority~~ shall:

76 ~~[(a)]~~ (i) review and evaluate mental health needs and services, including mental health
77 needs and services for persons incarcerated in a county jail or other county correctional facility;

78 ~~[(b)]~~ (ii) as provided in Subsection (4)(b), annually prepare and submit to the division
79 a plan for mental health funding and service delivery~~[- The plan shall include services for~~
80 ~~adults, youth, and children, including, but not limited to, the following:],~~ either directly by the
81 local mental health authority or by contract;

82 ~~[(i) inpatient care and services;]~~

83 ~~[(ii) residential care and services;]~~

84 ~~[(iii) outpatient care and services;]~~

85 ~~[(iv) 24-hour crisis care and services;]~~

86 ~~[(v) psychotropic medication management;]~~

87 ~~[(vi) psychosocial rehabilitation including vocational training and skills development;]~~

88 ~~[(vii) case management;]~~
89 ~~[(viii) community supports including in-home services, housing, family support~~
90 ~~services, and respite services; and]~~
91 ~~[(ix) consultation and education services, including but not limited to, case~~
92 ~~consultation, collaboration with other service agencies, public education, and public~~
93 ~~information;]~~
94 ~~[(e)] (iii) establish and maintain, either directly or by contract, programs licensed under~~
95 ~~Title 62A, Chapter 2, Licensure of Programs and Facilities;~~
96 ~~[(d)] (iv) appoint, directly or by contract, a full-time or part-time director for mental~~
97 ~~health programs and prescribe [his] the director's duties;~~
98 ~~[(e)] (v) provide input and comment on new and revised policies established by the~~
99 ~~[state Board of Substance Abuse and Mental Health] board;~~
100 ~~[(f)] (vi) establish and require contract providers to establish administrative, clinical,~~
101 ~~personnel, financial, procurement, and management policies regarding mental health services~~
102 ~~and facilities, in accordance with the policies of the [state Board of Substance Abuse and~~
103 ~~Mental Health] board and state and federal law;~~
104 ~~[(g)] (vii) establish mechanisms allowing for direct citizen input;~~
105 ~~[(h)] (viii) annually contract with the [Division of Substance Abuse and Mental Health]~~
106 ~~division to provide mental health programs and services in accordance with the provisions of~~
107 ~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act;~~
108 ~~[(i)] (ix) comply with all applicable state and federal statutes, policies, audit~~
109 ~~requirements, contract requirements, and any directives resulting from those audits and contract~~
110 ~~requirements;~~
111 ~~[(j)] (x) provide funding equal to at least 20% of the state funds that it receives to fund~~
112 ~~services described in the plan; and~~
113 ~~[(k)] (xi) comply with the requirements and procedures of Title 11, Chapter 13,~~
114 ~~Interlocal Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special~~
115 ~~Districts Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal~~
116 ~~Organizations and Other Local Entities.~~
117 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and
118 children, ~~h~~ [including] WHICH MAY INCLUDE ~~h~~ :

- 119 (i) inpatient care and services;
- 120 (ii) residential care and services;
- 121 (iii) outpatient care and services;
- 122 (iv) 24-hour crisis care and services;
- 123 (v) psychotropic medication management;
- 124 (vi) psychosocial rehabilitation, including vocational training and skills development;
- 125 (vii) case management;
- 126 (viii) community supports, including in-home services, housing, family support
- 127 services, and respite services;
- 128 (ix) consultation and education services, including case consultation, collaboration
- 129 with other county service agencies, public education, and public information; and
- 130 (x) services to persons incarcerated in a county jail or other county correctional facility.
- 131 (5) Before disbursing any public funds, each local mental health [~~authorities~~] authority
- 132 shall require that [~~all entities~~] each entity that [~~receive~~] receives any public funds from a local
- 133 mental health authority [~~agree~~] agrees in writing that:
- 134 (a) [~~the division may examine~~] the entity's financial records[;] and other records
- 135 relevant to the entity's performance of the services provided to the mental health authority,
- 136 except patient identifying information, shall be subject to examination by:
- 137 (i) the division;
- 138 (ii) the local mental health authority director;
- 139 (iii) (A) the county treasurer and county or district attorney; or
- 140 (B) if two or more counties jointly provide mental health services under an agreement
- 141 under Subsection (2), the designated treasurer and the designated legal officer;
- 142 (iv) the county legislative body; and
- 143 (v) in a county with a county executive that is separate from the county legislative
- 144 body, the county executive;
- 145 (b) the county auditor may examine and audit the entity's financial and other records
- 146 relevant to the entity's performance of the services provided to the local mental health
- 147 authority; and
- 148 (c) the entity will comply with the provisions of Subsection (3)(b).
- 149 (6) [~~Local~~] A local mental health [~~authorities~~] authority may receive property, grants,

150 gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health
151 services. If those gifts are conditioned upon their use for a specified service or program, they
152 shall be so used.

153 (7) (a) ~~[For purposes of]~~ As used in this section, "public funds" means the same as that
154 term is defined in Section 17A-3-603.5.

155 (b) Nothing in this section limits or prohibits an organization exempt under Section
156 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
157 financial arrangement that is otherwise lawful for that organization.

158 Section 2. Section **17A-3-603.5** is amended to read:

159 **17A-3-603.5. Definition of "public funds" -- Responsibility for oversight of public**
160 **funds -- Mental health programs and services.**

161 (1) As used in this section, "public funds":

162 (a) means:

163 (i) federal ~~[monies]~~ money received from the ~~[Department of Human Services]~~
164 department or the Department of Health~~[-];~~ and

165 (ii) state ~~[monies]~~ money appropriated by the Legislature to the ~~[Department of Human~~
166 ~~Services]~~ department, the Department of Health, a county governing body, or a local mental
167 health authority for the purposes of providing mental health programs or services~~[-"Public~~
168 ~~funds"];~~ and

169 (b) includes ~~[those]~~ that federal and state ~~[monies that have]~~ money:

170 (i) even after the money has been transferred by a local mental health authority to a
171 private provider under an annual or otherwise ongoing contract to provide comprehensive
172 mental health programs or services for the local mental health authority~~[- Those monies~~
173 ~~maintain the nature of "public funds"];~~ and

174 (ii) while in the possession of the private ~~[entity that has an annual or otherwise~~
175 ~~ongoing contract with a local mental health authority to provide comprehensive mental health~~
176 ~~programs or services for the local mental health authority]~~ provider.

177 (2) Each local mental health authority is responsible for oversight of all public funds
178 received by it, to determine that those public funds are utilized in accordance with federal and
179 state law, the rules and policies of the ~~[Department of Human Services]~~ department and the
180 Department of Health, and the provisions of any contract between the local mental health

181 authority and the [~~Department of Human Services~~] department, the Department of Health, or a
182 private provider. That oversight includes requiring that neither the contract provider, as
183 described in Subsection (1), nor any of its employees:

184 (a) violate any applicable federal or state criminal law;
185 (b) knowingly violate[~~, on more than one occasion,~~] any applicable rule or policy of the
186 [~~Department of Human Services~~] department or Department of Health, or any provision of
187 contract between the local mental health authority and the [~~Department of Human Services~~]
188 department, the Department of Health, or the private provider;

189 (c) knowingly keep any false account or make any false entry or erasure in any account
190 of or relating to the public funds;

191 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
192 to public funds;

193 (e) fail to ensure competent oversight for lawful disbursement of public funds;

194 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
195 with contract provisions; or

196 (g) knowingly or intentionally use public funds unlawfully or in violation of a
197 governmental contract provision, or in violation of state policy.

198 (3) Nothing in this section limits or prohibits an organization exempt under Section
199 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
200 financial arrangement that is otherwise lawful for that organization.

201 (4) A local mental health authority that knew or reasonably should have known of any
202 of the circumstances described in Subsection (2), and that fails or refuses to take timely
203 corrective action in good faith shall, in addition to any other penalties provided by law, be
204 required to make full and complete repayment to the state of all public funds improperly used
205 or expended.

206 (5) Any public funds required to be repaid to the state by a local mental health
207 authority pursuant to Subsection (4), based upon the actions or failure of the contract provider,
208 may be recovered by the local mental health authority from its contract provider, in addition to
209 the local mental health authority's costs and attorney's fees.

210 Section 3. Section **17A-3-701** is amended to read:

211 **17A-3-701. Local substance abuse authorities -- Responsibilities.**

212 (1) ~~[A] h~~ Each ~~(a)(i)~~ IN EACH COUNTY OPERATING UNDER A COUNTY
212a1 EXECUTIVE-COUNCIL FORM OF GOVERNMENT UNDER SECTION 17-52-504, THE COUNTY
212a2 EXECUTIVE IS THE LOCAL SUBSTANCE ABUSE AUTHORITY.
212a3 (ii) IN EACH COUNTY OPERATING UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT
212a4 UNDER SECTION 17-52-505, THE COUNTY MANAGER IS THE LOCAL SUBSTANCE ABUSE
212a5 AUTHORITY.
212a6 (iii) IN EACH COUNTY OTHER THAN A COUNTY DESCRIBED IN SUBSECTION (1)(a)(i) OR (ii),
212a7 THE h county § h [f] legislative [f] [EXECUTIVE-§] h [bodies in this state are] body is h [a] THE h
212a8 local
212a substance
213 abuse [authorities] authority.
213a h (b) h Within legislative appropriations and county matching funds
214 required by this section, and under the policy direction of the ~~[state Board of Substance Abuse~~
215 ~~and Mental Health] board~~ and the administrative direction of the ~~[Division of Substance Abuse~~
216 ~~and Mental Health within the Department of Human Services,]~~ division, each local substance
217 abuse ~~[authorities]~~ authority shall:
218 (a) develop substance abuse prevention and treatment services plans; and
219 (b) provide substance abuse services to residents of [their respective counties] the
220 county. [Two]
221 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
222 Cooperation Act, two or more counties may join to provide substance abuse prevention and
223 treatment services.
224 ~~[(2)]~~ (b) The legislative bodies of counties joining to provide services may establish
225 acceptable ways of apportioning the cost of substance abuse services. ~~[Any]~~
226 (c) Each agreement for joint substance abuse services ~~[may]~~ shall:
227 (i) (A) designate the treasurer of one of the participating counties or another person as
228 the treasurer for the combined substance abuse authorities and as the custodian of moneys
229 available for [those] the joint services[;]; and
230 (B) provide that the designated treasurer, or other disbursing officer authorized by the
231 treasurer, may make payments from ~~[those]~~ the moneys for ~~[such purposes]~~ the joint services
232 upon audit of the appropriate auditing officer or officers representing the participating
233 counties~~[-The];~~
234 (ii) provide for the appointment of an independent auditor or a county auditor of one of
235 the participating counties as the designated auditing officer for the combined substance abuse
236 authorities;
237 (iii) (A) provide for the appointment of the county or district attorney of one of the

238 participating counties as the designated legal officer for the combined substance abuse
239 authorities; and
240 (B) authorize the designated legal officer to request and receive the assistance of the
241 county or district attorneys of the other participating counties in defending or prosecuting
242 actions within their counties relating to the combined substance abuse authorities; and

243 (iv) provide for the adoption of management, clinical, financial, procurement,
244 personnel, and administrative policies as already established by one of the participating
245 counties or as approved by the legislative body of each participating county ~~h~~ **OR INTERLOCAL**
245a **BOARD** ~~h~~ .

246 (d) An agreement for joint substance abuse services may provide for joint operation of
247 services and facilities or for operation of services and facilities under contract by one
248 participating local substance abuse authority for other participating local substance abuse
249 authorities.

250 (3) (a) ~~[AH]~~ Each ~~h~~ ~~[county § [legislative] EXECUTIVE § [bodies] body, as a]~~ ~~h~~ local
250a substance
250a abuse

251 ~~[authorities, are]~~ authority ~~h~~ ~~[,]~~ ~~h~~ is accountable to the ~~[Department of Human Services]~~
department,

252 the Department of Health, and the state with regard to the use of state and federal funds
253 received from those departments for substance abuse services, regardless of whether the
254 services are provided by a private contract provider.

255 (b) ~~[A]~~ Each local substance abuse authority shall comply, and require compliance by
256 its contract provider, with all directives issued by the ~~[Department of Human Services]~~
257 department and the Department of Health regarding the use and expenditure of state and federal
258 funds received from those departments for the purpose of providing substance abuse programs
259 and services. The ~~[Department of Human Services]~~ department and Department of Health
260 shall ensure that those directives are not duplicative or conflicting, and shall consult and
261 coordinate with local substance abuse authorities with regard to programs and services.

262 (4) ~~[Local]~~ Each local substance abuse ~~[authorities]~~ authority shall:

263 (a) review and evaluate substance abuse prevention and treatment needs and services,
264 including substance abuse needs and services for individuals incarcerated in a county jail or
265 other county correctional facility;

266 (b) annually prepare and submit ~~[a plan]~~ to the division a plan for funding and service
267 delivery~~[, the plan shall include, but is not limited to,]~~ that includes:

268 (i) provisions for services, either directly by the substance abuse authority or by
269 contract, for adults, youth, and children, including those incarcerated in a county jail or other
270 county correctional facility; and

271 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

272 (c) establish and maintain, either directly or by contract, programs licensed under Title
273 62A, Chapter 2, Licensure of Programs and Facilities;

- 274 (d) appoint directly or by contract a full or part time director for substance abuse
275 programs, and prescribe ~~[his]~~ the director's duties;
- 276 (e) provide input and comment on new and revised policies established by the [~~state~~
277 ~~Board of Substance Abuse and Mental Health~~] board;
- 278 (f) establish and require contract providers to establish administrative, clinical,
279 procurement, personnel, financial, and management policies regarding substance abuse services
280 and facilities, in accordance with the policies of the [~~state Board of Substance Abuse and~~
281 ~~Mental Health~~] board, and state and federal law;
- 282 (g) establish mechanisms allowing for direct citizen input;
- 283 (h) annually contract with the [~~Division of Substance Abuse and Mental Health~~]
284 division to provide substance abuse programs and services in accordance with the provisions of
285 Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
- 286 (i) comply with all applicable state and federal statutes, policies, audit requirements,
287 contract requirements, and any directives resulting from those audits and contract requirements;
- 288 (j) promote or establish programs for the prevention of substance abuse within the
289 community setting through community-based prevention programs;
- 290 (k) provide funding equal to at least 20% of the state funds that it receives to fund
291 services described in the plan;
- 292 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
293 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts
294 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and
295 Other Local Entities;
- 296 (m) for persons convicted of driving under the influence in violation of Subsection
297 41-6-44(2) or Section 41-6-44.6, conduct the following as defined in Section 41-6-44:
- 298 (i) a screening and assessment;
- 299 (ii) an educational series; and
- 300 (iii) substance abuse treatment; and
- 301 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to
302 supplement the cost of providing the services described in Subsection (4)(m).
- 303 (5) Before disbursing any public funds, each local substance abuse [~~authorities~~]
304 authority shall require that [~~all entities~~] each entity that [~~receive~~] receives any public funds

305 from [a] the local substance abuse authority [~~agree~~] agrees in writing that:

306 (a) [~~the division may examine~~] the entity's financial records[;] and other records
307 relevant to the entity's performance of the services provided to the local substance abuse
308 authority, except patient identifying information, shall be subject to examination by:

309 (i) the division;

310 (ii) the local substance abuse authority director;

311 (iii) (A) the county treasurer and county or district attorney; or

312 (B) if two or more counties jointly provide substance abuse services under an
313 agreement under Subsection (2), the designated treasurer and the designated legal officer;

314 (iv) the county legislative body; and

315 (v) in a county with a county executive that is separate from the county legislative
316 body, the county executive;

317 (b) the county auditor may examine and audit the entity's financial and other records
318 relevant to the entity's performance of the services provided to the local substance abuse
319 authority; and

320 (c) the entity will comply with the provisions of Subsection (3)(b).

321 (6) [~~Local~~] A local substance abuse [authorities] authority may receive property, grants,
322 gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse
323 services. If those gifts are conditioned upon their use for a specified service or program, they
324 shall be so used.

325 (7) (a) [~~For purposes of~~] As used in this section, "public funds" means the same as that
326 term is defined in Section 17A-3-703.

327 (b) Nothing in this section limits or prohibits an organization exempt under Section
328 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
329 financial arrangement that is otherwise lawful for that organization.

330 Section 4. Section **17A-3-703** is amended to read:

331 **17A-3-703. Definition of "public funds" -- Responsibility for oversight of public**
332 **funds -- Substance abuse programs and services.**

333 (1) As used in this section, "public funds":

334 (a) means:

335 (i) federal [monies] money received from the [~~Department of Human Services~~]

336 department or the Department of Health[;]; and

337 (ii) state [~~monies~~] money appropriated by the Legislature to the [~~Department of Human~~
338 ~~Services~~] department, the Department of Health, a county governing body, or a local substance
339 abuse authority for the purposes of providing substance abuse programs or services[. "~~Public~~
340 ~~funds~~"; and

341 (b) includes [~~those~~] that federal and state [~~monies that have~~] money:

342 (i) even after the money has been transferred by a local substance abuse authority to a
343 private provider under an annual or otherwise ongoing contract to provide comprehensive
344 substance abuse programs or services for the local substance abuse authority[. "~~Those monies~~
345 ~~maintain the nature of "public funds"~~"; and

346 (ii) while in the possession of the private [~~entity that has an annual or otherwise~~
347 ~~ongoing contract with a local substance abuse authority to provide comprehensive substance~~
348 ~~abuse programs or services for the local substance abuse authority~~] provider.

349 (2) Each local substance abuse authority is responsible for oversight of all public funds
350 received by it, to determine that those public funds are utilized in accordance with federal and
351 state law, the rules and policies of the [~~Department of Human Services~~] department and the
352 Department of Health, and the provisions of any contract between the local substance abuse
353 authority and the [~~Department of Human Services~~] department, the Department of Health, or a
354 private provider. That oversight includes requiring that neither the contract provider, as
355 described in Subsection (1), nor any of its employees:

356 (a) violate any applicable federal or state criminal law;

357 (b) knowingly violate[. "~~on more than one occasion~~,"] any applicable rule or policy of the
358 [~~Department of Human Services~~] department or Department of Health, or any provision of
359 contract between the local substance abuse authority and the [~~Department of Human Services~~]
360 department, the Department of Health, or the private provider;

361 (c) knowingly keep any false account or make any false entry or erasure in any account
362 of or relating to the public funds;

363 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
364 to public funds;

365 (e) fail to ensure competent oversight for lawful disbursement of public funds;

366 (f) appropriate public funds for an unlawful use or for a use that is not in compliance

367 with contract provisions; or

368 (g) knowingly or intentionally use public funds unlawfully or in violation of a
369 governmental contract provision, or in violation of state policy.

370 (3) Nothing in this section limits or prohibits an organization exempt under Section
371 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
372 financial arrangement that is otherwise lawful for that organization.

373 (4) ~~[A]~~ Each local substance abuse authority that ~~[knew]~~ knows or reasonably should
374 ~~[have known]~~ know of any of the circumstances described in Subsection (2), and that fails or
375 refuses to take timely corrective action in good faith shall, in addition to any other penalties
376 provided by law, be required to make full and complete repayment to the state of all public
377 funds improperly used or expended.

378 (5) Any public funds required to be repaid to the state by a local substance abuse
379 authority ~~[pursuant to]~~ under Subsection (4), based upon the actions or failure of the contract
380 provider, may be recovered by the local substance abuse authority from its contract provider, in
381 addition to the local substance abuse authority's costs and attorney's fees.

382 **Section 5. Coordination clause.**

383 If this bill and S.B. 24, Local Human Services Authorities Amendments, both pass, it is
384 the intent of the Legislature that:

385 (1) except as provided in Subsection (2), the amendments in this bill to Sections
386 17A-3-602, 17A-3-603.5, 17A-3-701, and 17A-3-703 supercede the amendments in S.B. 24 to
387 those sections; and

388 (2) in preparing the Utah Code database for publication, the Office of Legislative
389 Research and General Counsel shall:

390 (a) renumber Sections 17A-3-602, 17A-3-603.5, 17A-3-701, and 17A-3-703 as those
391 sections are renumbered in S.B. 24;

392 (b) change the reference to Section 17A-3-603.5 in Subsection 17A-3-602(7)(a) of this
393 bill to Section 17-43-303; and

394 (c) change the reference to Section 17A-3-703 in Subsection 17A-3-701(7)(a) of this
395 bill to Section 17-43-203..