

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 433*
PROPOSED COMMITTEE SUBSTITUTE S433-PCS55215-SQ-7

Short Title: Local Human Services Administration.

(Public)

Sponsors:

Referred to:

March 29, 2011

A BILL TO BE ENTITLED

AN ACT CONCERNING ADMINISTRATION OF HUMAN SERVICES IN COUNTIES
THAT HAVE ELECTED TO CONSOLIDATE THOSE SERVICES DIRECTLY EITHER
UNDER THE COUNTY OR UNDER A CONSOLIDATED HUMAN SERVICE BOARD,
AND TO MAKE THAT STATUTE STATEWIDE IN APPLICABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-77 reads as rewritten:

**"§ 153A-77. Authority of boards of commissioners in certain counties over commissions,
boards, agencies, etc.**

(a) In the exercise of its jurisdiction over commissions, boards and agencies, the board of county commissioners may assume direct control of any activities theretofore conducted by or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the board of county commissioners all powers, responsibilities and duties of any such commission, board or agency. This subsection shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board and any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said county. A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. The board of county commissioners may exercise the power and authority herein conferred only after a public hearing held by said board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said county.

The board of county commissioners may also appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of county commissioners of said county.

(b) In the exercise of its jurisdiction over commissions, boards, and agencies, the board of county commissioners of a county having a county manager pursuant to G.S. 153A-81 may:

(1) Consolidate the provision of human services in the county under the direct control of a human services director appointed and supervised by the county



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- 1 manager or by the consolidated human services board under subdivision (2)
2 of this subsection, in accordance with subsection (e) of this section;
- 3 (2) Create a consolidated human services board having the powers conferred by
4 subsection (c) of this section;
- 5 (3) Create a consolidated county human services agency having the authority to
6 carry out the functions of the local health department, the county department
7 of social services, and the area mental health, developmental disabilities, and
8 substance abuse services authority; and
- 9 (4) Assign other county human services functions to be performed by the
10 consolidated human services agency under the direction of the human
11 services director, with policy-making authority granted to the consolidated
12 human services board as determined by the board of county commissioners.
- 13 (c) A consolidated human services board appointed by the board of county
14 commissioners shall serve as the policy-making, rule-making, and administrative board of the
15 consolidated human services agency. The consolidated human services board shall be
16 composed of no more than 25 members. The composition of the board shall reasonably reflect
17 the population makeup of the county and shall include:
- 18 (1) Eight persons who are consumers of human services, public advocates, or
19 family members of clients of the consolidated human services agency,
20 including: one person with mental illness, one person with a developmental
21 disability, one person in recovery from substance abuse, one family member
22 of a person with mental illness, one family member of a person with a
23 developmental disability, one family member of a person with a substance
24 abuse problem, and two consumers of other human services.
- 25 (2) Eight persons who are professionals, each with qualifications in one of these
26 categories: one psychologist, one pharmacist, one engineer, one dentist, one
27 optometrist, one veterinarian, one social worker, and one registered nurse.
- 28 (3) Two physicians licensed to practice medicine in this State, one of whom
29 shall be a psychiatrist.
- 30 (4) One member of the board of county commissioners.
- 31 (5) Other persons, including members of the general public representing various
32 occupations.
- 33 The board of county commissioners may elect to appoint a member of the consolidated
34 human services board to fill concurrently more than one category of membership if the member
35 has the qualifications or attributes of more than one category of membership.
- 36 All members of the consolidated human services board shall be residents of the county. The
37 members of the board shall serve four-year terms. No member may serve more than two
38 consecutive four-year terms. The county commissioner member shall serve only as long as the
39 member is a county commissioner.
- 40 The initial board shall be appointed by the board of county commissioners upon the
41 recommendation of a nominating committee comprised of members of the preconsolidation
42 board of health, social services board, and area mental health, developmental disabilities, and
43 substance abuse services board. In order to establish a uniform staggered term structure for the
44 board, a member may be appointed for less than a four-year term. After the subsequent
45 establishment of the board, its board shall be appointed by the board of county commissioners
46 from nominees presented by the human services board. Vacancies shall be filled for any
47 unexpired portion of a term.
- 48 A chairperson shall be elected annually by the members of the consolidated human services
49 board. A majority of the members shall constitute a quorum. A member may be removed from
50 office by the county board of commissioners for (i) commission of a felony or other crime
51 involving moral turpitude; (ii) violation of a State law governing conflict of interest; (iii)

1 violation of a written policy adopted by the county board of commissioners; (iv) habitual
2 failure to attend meetings; (v) conduct that tends to bring the office into disrepute; or (vi)
3 failure to maintain qualifications for appointment required under this subsection. A board
4 member may be removed only after the member has been given written notice of the basis for
5 removal and has had the opportunity to respond.

6 A member may receive a per diem in an amount established by the county board of
7 commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy
8 set by the county board of commissioners. The board shall meet at least quarterly. The
9 chairperson or three of the members may call a special meeting.

10 (d) The consolidated human services board shall have authority to:

- 11 (1) Set fees for departmental services based upon recommendations of the
12 human services director. Fees set under this subdivision are subject to the
13 same restrictions on amount and scope that would apply if the fees were set
14 by a county board of health, a county board of social services, or a mental
15 health, developmental disabilities, and substance abuse area authority.
- 16 (2) Assure compliance with laws related to State and federal programs.
- 17 (3) Recommend creation of local human services programs.
- 18 (4) Adopt local health regulations and participate in enforcement appeals of
19 local regulations.
- 20 (5) Perform regulatory health functions required by State law.
- 21 (6) Act as coordinator or agent of the State to the extent required by State or
22 federal law.
- 23 (7) Plan and recommend a consolidated human services budget.
- 24 (8) Conduct audits and reviews of human services programs, including quality
25 assurance activities, as required by State and federal law or as may otherwise
26 be necessary periodically.
- 27 (9) Advise local officials through the county manager.
- 28 (10) Perform public relations and advocacy functions.
- 29 (11) Protect the public health to the extent required by law.
- 30 (12) Perform comprehensive mental health services planning.
- 31 (13) Develop dispute resolution procedures for human services contractors and
32 clients and public advocates, subject to applicable State and federal dispute
33 resolution procedures for human services programs, when applicable.

34 Except as otherwise provided, the consolidated human services board shall have the powers
35 and duties conferred by law upon a board of health, a social services board, and an area mental
36 health, developmental disabilities, and substance abuse services board.

37 Local employees who serve as staff of a consolidated county human services agency are
38 subject to county personnel policies and ordinances only and are not subject to the provisions
39 of the State Personnel ~~Act~~. Act, unless the county board of commissioners elects to subject the
40 local employees to the provisions of that Act.

41 (e) The human services director of a consolidated county human services agency shall
42 be appointed and dismissed by the county manager with the advice and consent of the
43 consolidated human services ~~board~~. board, unless the county board of commissioners elects to
44 have the human services director appointed and dismissed by the consolidated human services
45 board. The human services director shall report directly to the county ~~manager~~. manager, unless
46 the county board of commissioners elects to have the human services director appointed and
47 supervised by the consolidated human services board. The human services director shall:

- 48 (1) Appoint staff of the consolidated human services agency with the county
49 manager's ~~approval~~. approval, unless the county board of commissioners
50 elects to have the human services director appointed and supervised by the
51 consolidated human services board.

- 1 (2) Administer State human services programs.
- 2 (3) Administer human services programs of the local board of county
- 3 commissioners.
- 4 (4) Act as secretary and staff to the consolidated human services board under the
- 5 direction of the county manager.
- 6 (5) Plan the budget of the consolidated human services agency.
- 7 (6) Advise the board of county commissioners through the county manager.
- 8 (7) Perform regulatory functions of investigation and enforcement of State and
- 9 local health regulations, as required by State law.
- 10 (8) Act as an agent of and liaison to the State, to the extent required by law.

11 Except as otherwise provided by law, the human services director or the director's designee
 12 shall have the same powers and duties as a social services director, a local health director, and a
 13 director of an area mental health, developmental disabilities, and substance abuse services
 14 authority.

15 (f) ~~This section applies to counties with a population in excess of 425,000."~~

16 **SECTION 2.** G.S. 153A-76 reads as rewritten:

17 "**§ 153A-76. Board of commissioners to organize county government.**

18 The board of commissioners may create, change, abolish, and consolidate offices, positions,
 19 departments, boards, commissions, and agencies of the county government, may impose ex
 20 officio the duties of more than one office on a single officer, may change the composition and
 21 manner of selection of boards, commissions, and agencies, and may generally organize and
 22 reorganize the county government in order to promote orderly and efficient administration of
 23 county affairs, subject to the following limitations:

- 24 (1) The board may not abolish an office, position, department, board,
- 25 commission, or agency established or required by law.
- 26 (2) The board may not combine offices or confer certain duties on the same
- 27 officer when this action is specifically forbidden by law.
- 28 (3) The board may not discontinue or assign elsewhere a function or duty
- 29 assigned by law to a particular office, position, department, board,
- 30 commission, or agency.
- 31 (4) The board may not change the composition or manner of selection of a local
- 32 board of education, ~~the board of health, the board of social services,~~ the
- 33 board of elections, or the board of alcoholic beverage control."

34 **SECTION 3.** G.S. 126-5(a) reads as rewritten:

35 "(a) The provisions of this Chapter shall apply to:

- 36 (1) All State employees not herein exempt, and
- 37 (2) All employees of the following local entities:
 - 38 a. Area mental health, developmental disabilities, and substance abuse
 - 39 authorities.
 - 40 b. Local social services departments.
 - 41 c. County health departments and district health departments.
 - 42 d. Local emergency management agencies that receive federal
 - 43 grant-in-aid funds.

44 ~~An employee of a consolidated county human services agency created pursuant to~~
 45 ~~G.S. 153A-77(b) is not considered an employee of an entity listed in this~~
 46 ~~subdivision.~~

- 47 (3) County employees not included under subdivision (2) of this subsection as
- 48 the several boards of county commissioners may from time to time
- 49 determine."

50 **SECTION 4.** This act is effective when it becomes law.