

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 438
PROPOSED SENATE COMMITTEE SUBSTITUTE H438-PCS70290-SQ-81

Short Title: Accountable Co. Comms./Expand Loc. Bd. Auth.

(Public)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY AND EFFECTIVENESS IN THE
ADMINISTRATION OF HUMAN SERVICES AND TO STRENGTHEN THE LOCAL
PUBLIC HEALTH INFRASTRUCTURE BY ESTABLISHING A PUBLIC HEALTH
IMPROVEMENT INCENTIVE PROGRAM AND ENSURING THE PROVISION OF
THE TEN ESSENTIAL PUBLIC HEALTH SERVICES.

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~~ section shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board ~~and/or~~ 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~~ county except as provided in G.S. 153A-76. 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.

A board of county commissioners that has assumed direct control of a local health board and that does not delegate the powers and duties of that board to a consolidated health service



* H 4 3 8 - P C S 7 0 2 9 0 - S Q - 8 1 *

1 board shall appoint an advisory committee consistent with the membership described in
2 G.S. 130A-35.

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

5 (1) Consolidate ~~the provision~~ certain provisions of human services in the county
6 under the direct control of a human services director appointed and
7 supervised by the county manager in accordance with subsection (e) of this
8 section;

9 (2) Create a consolidated human services board having the powers conferred by
10 subsection (c) of this section;

11 (3) Create a consolidated county human services agency having the authority to
12 carry out the functions of any combination of commissions, boards, or
13 agencies appointed by the board of county commissioners or acting under
14 and pursuant to authority of the board of county commissioners, including
15 the local health department, the county department of social services, and/or
16 the area mental health, developmental disabilities, and substance abuse
17 services authority; and

18 (4) Assign other county human services functions to be performed by the
19 consolidated human services agency under the direction of the human
20 services director, with policy-making authority granted to the consolidated
21 human services board as determined by the board of county commissioners.

22 (c) A consolidated human services board appointed by the board of county
23 commissioners shall serve as the policy-making, rule-making, and administrative board of the
24 consolidated human services agency. The consolidated human services board shall be
25 composed of no more than 25 members. The composition of the board shall reasonably reflect
26 the population makeup of the county and shall include:

27 (1) Eight persons who are consumers of human services, public advocates, or
28 family members of clients of the consolidated human services agency,
29 including: one person with mental illness, one person with a developmental
30 disability, one person in recovery from substance abuse, one family member
31 of a person with mental illness, one family member of a person with a
32 developmental disability, one family member of a person with a substance
33 abuse problem, and two consumers of other human services.

34 (1a) Notwithstanding subdivision (1) of this subsection, a consolidated human
35 services board not exercising powers and duties of an area mental health,
36 developmental disabilities, and substance abuse services board shall include
37 four persons who are consumers of human services.

38 (2) Eight persons who are professionals, each with qualifications in one of these
39 categories: one psychologist, one pharmacist, one engineer, one dentist, one
40 optometrist, one veterinarian, one social worker, and one registered nurse.

41 (3) Two physicians licensed to practice medicine in this State, one of whom
42 shall be a psychiatrist.

43 (4) One member of the board of county commissioners.

44 (5) Other persons, including members of the general public representing various
45 occupations.

46 The board of county commissioners may elect to appoint a member of the consolidated
47 human services board to fill concurrently more than one category of membership if the member
48 has the qualifications or attributes of more than one category of membership.

49 All members of the consolidated human services board shall be residents of the county. The
50 members of the board shall serve four-year terms. No member may serve more than two

1 consecutive four-year terms. The county commissioner member shall serve only as long as the
2 member is a county commissioner.

3 The initial board shall be appointed by the board of county commissioners upon the
4 recommendation of a nominating committee comprised of members of the preconsolidation
5 board of health, social services board, and area mental health, developmental disabilities, and
6 substance abuse services board. In order to establish a uniform staggered term structure for the
7 board, a member may be appointed for less than a four-year term. After the subsequent
8 establishment of the board, its board shall be appointed by the board of county commissioners
9 from nominees presented by the human services board. Vacancies shall be filled for any
10 unexpired portion of a term.

11 A chairperson shall be elected annually by the members of the consolidated human services
12 board. A majority of the members shall constitute a quorum. A member may be removed from
13 office by the county board of commissioners for (i) commission of a felony or other crime
14 involving moral turpitude; (ii) violation of a State law governing conflict of interest; (iii)
15 violation of a written policy adopted by the county board of commissioners; (iv) habitual
16 failure to attend meetings; (v) conduct that tends to bring the office into disrepute; or (vi)
17 failure to maintain qualifications for appointment required under this subsection. A board
18 member may be removed only after the member has been given written notice of the basis for
19 removal and has had the opportunity to respond.

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

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

- 25 (1) Set fees for departmental services based upon recommendations of the
26 human services director. Fees set under this subdivision are subject to the
27 same restrictions on amount and scope that would apply if the fees were set
28 by a county board of health, a county board of social services, or a mental
29 health, developmental disabilities, and substance abuse area authority.
- 30 (2) Assure compliance with laws related to State and federal programs.
- 31 (3) Recommend creation of local human services programs.
- 32 (4) Adopt local health regulations and participate in enforcement appeals of
33 local regulations.
- 34 (5) Perform regulatory health functions required by State law.
- 35 (6) Act as coordinator or agent of the State to the extent required by State or
36 federal law.
- 37 (7) Plan and recommend a consolidated human services budget.
- 38 (8) Conduct audits and reviews of human services programs, including quality
39 assurance activities, as required by State and federal law or as may otherwise
40 be necessary periodically.
- 41 (9) Advise local officials through the county manager.
- 42 (10) Perform public relations and advocacy functions.
- 43 (11) Protect the public health to the extent required by law.
- 44 (12) Perform comprehensive mental health services ~~planning-planning~~ if the
45 county is exercising the powers and duties of an area mental health,
46 developmental disabilities, and substance abuse services board under the
47 consolidated human services board.
- 48 (13) Develop dispute resolution procedures for human services contractors and
49 clients and public advocates, subject to applicable State and federal dispute
50 resolution procedures for human services programs, when applicable.

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

4 Local employees who serve as staff of a consolidated county human services agency are
5 subject to county personnel policies and ordinances only and are not subject to the provisions
6 of the State Personnel Act. Act, unless the county board of commissioners elects to subject the
7 local employees to the provisions of that Act. All consolidated county human services agencies
8 shall comply with all applicable federal laws, rules, and regulations requiring the establishment
9 of merit personnel systems.

10 (e) The human services director of a consolidated county human services agency shall
11 be appointed and dismissed by the county manager with the advice and consent of the
12 consolidated human services board. The human services director shall report directly to the
13 county manager. The human services director shall:

- 14 (1) Appoint staff of the consolidated human services agency with the county
15 manager's approval.
- 16 (2) Administer State human services programs.
- 17 (3) Administer human services programs of the local board of county
18 commissioners.
- 19 (4) Act as secretary and staff to the consolidated human services board under the
20 direction of the county manager.
- 21 (5) Plan the budget of the consolidated human services agency.
- 22 (6) Advise the board of county commissioners through the county manager.
- 23 (7) Perform regulatory functions of investigation and enforcement of State and
24 local health regulations, as required by State law.
- 25 (8) Act as an agent of and liaison to the State, to the extent required by law.

26 Except as otherwise provided by law, the human services director or the director's designee
27 shall have the same powers and duties as a social services director, a local health director,
28 ~~and~~ or a director of an area mental health, developmental disabilities, and substance abuse
29 services authority.

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

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

32 **"§ 153A-76. Board of commissioners to organize county government.**

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

- 39 (1) The board may not abolish an office, position, department, board,
40 commission, or agency established or required by law.
- 41 (2) The board may not combine offices or confer certain duties on the same
42 officer when this action is specifically forbidden by law.
- 43 (3) The board may not discontinue or assign elsewhere a function or duty
44 assigned by law to a particular office, position, department, board,
45 commission, or agency.
- 46 (4) The board may not change the composition or manner of selection of a local
47 board of education, ~~the board of health, the board of social services,~~ the
48 board of elections, or the board of alcoholic beverage control.
- 49 (5) The board may not abolish nor consolidate into a human services agency a
50 hospital authority assigned to provide public health services pursuant to
51 Section 12 of S. L. 1997-502.

1 (6) A board may not consolidate an area mental health, developmental
2 disabilities, and substance abuse services board into a consolidated human
3 services board. The board may not abolish an area mental health,
4 developmental disabilities, and substance abuse services board, except as
5 provided in Chapter 122C of the General Statutes. This subdivision shall not
6 apply to any board that has exercised the powers and duties of an area
7 mental health, developmental disabilities, and substance abuse services
8 board as of January 1, 2012.

9 (7) The board may not abolish, assume control over, or consolidate into a human
10 services agency a public hospital as defined in G.S. 159-39(a) pursuant to
11 G.S. 153A-77."

12 **SECTION 3.** Article 2 of Chapter 130A of the General Statutes is amended by
13 adding the following new sections to read:

14 **"§ 130A-34.3. Incentive program for public health improvement.**

15 (a) In order to promote efficiency and effectiveness of the public health delivery
16 system, the Department shall establish a Public Health Improvement Incentive Program. The
17 Program shall provide monetary incentives for the creation and expansion of multicounty local
18 health departments serving a population of not less than 75,000.

19 (b) The Commission shall adopt rules to implement the Public Health Improvement
20 Incentive Program.

21 **"§ 130A-34.4. Strengthening local public health infrastructure.**

22 (a) By July 1, 2014, in order for a local health department to be eligible to receive State
23 and federal public health funding from the Division of Public Health, the following criteria
24 shall be met:

25 (1) A local health department shall obtain and maintain accreditation pursuant to
26 G.S. 130A-34.1.

27 (2) The county or counties comprising the local health department shall
28 maintain operating appropriations to local health departments from local ad
29 valorem tax receipts at levels equal to amounts appropriated in State fiscal
30 year 2010-2011.

31 (b) The criteria established in subsection (a) of this section shall be in addition to any
32 other funding criteria established by State or federal law."

33 **SECTION 4.** G.S. 130A-1.1(b) reads as rewritten:

34 "(b) A local health department shall ensure that the following 10 essential public health
35 services are available and accessible to the population in each county served by the local health
36 department:

37 (1) Monitoring health status to identify community health problems.

38 (2) Diagnosing and investigating health hazards in the community.

39 (3) Informing, educating, and empowering people about health issues.

40 (4) Mobilizing community partnerships to identify and solve health problems.

41 (5) Developing policies and plans that support individual and community health
42 efforts.

43 (6) Enforcing laws and regulations that protect health and ensure safety.

44 (7) Linking people to needed personal health care services and assuring the
45 provision of health care when otherwise unavailable.

46 (8) Assuring a competent public health workforce and personal health care
47 workforce.

48 (9) Evaluating effectiveness, accessibility, and quality of personal and
49 population-based health services.

50 (10) Conducting research.

1 As used in this section, the term "essential public health services" means those services that
2 the State shall ensure because they are essential to promoting and contributing to the highest
3 level of health possible for the citizens of North Carolina. The Departments of Environment
4 and Natural Resources and Health and Human Services shall attempt to ensure within the
5 resources available to them that the following essential public health services are available and
6 accessible to all citizens of the State, and shall account for the financing of these services:

7 (1) Health Support:

- 8 a. Assessment of health status, health needs, and environmental risks to
9 health;
10 b. Patient and community education;
11 c. Public health laboratory;
12 d. Registration of vital events;
13 e. Quality improvement; and

14 (2) Environmental Health:

- 15 a. Lodging and institutional sanitation;
16 b. On-site domestic sewage disposal;
17 c. Water and food safety and sanitation; and

18 (3) Personal Health:

- 19 a. Child health;
20 b. Chronic disease control;
21 c. Communicable disease control;
22 d. Dental public health;
23 e. Family planning;
24 f. Health promotion and risk reduction;
25 g. Maternal health; and

26 (4) Public Health Preparedness.

27 The Commission for Public Health shall determine specific services to be provided under
28 each of the essential public health services categories listed above."

29 **SECTION 5.** The Department of Health and Human Services shall allocate, from
30 funds appropriated, the sum of five million dollars (\$5,000,000) to the Division of Public
31 Health to provide incentives to local health departments through the Public Health
32 Improvement Incentive Program.

33 **SECTION 6.** The Program Evaluation Division of the General Assembly shall
34 study the feasibility of the transfer of all functions, powers, duties, and obligations vested in the
35 Division of Public Health in the Department of Health and Human Services to the University of
36 North Carolina Healthcare System and/or the School of Public Health at The University of
37 North Carolina and submit its findings and recommendations to the Joint Legislative Program
38 Evaluation Oversight Committee and the Joint Legislative Oversight Committee on Health and
39 Human Services no later than February 1, 2013.

40 **SECTION 7.** Section 5 of this act becomes effective July 1, 2012. The remainder
41 of this act is effective when it becomes law.