

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS95008-MGa-81A (03/10)

Short Title: Establish State Public Health Authority. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE QUALITY AND ACCOUNTABILITY OF THE PUBLIC HEALTH SYSTEM, TO REORGANIZE THE DIVISION OF PUBLIC HEALTH, AND TO STRENGTHEN THE PUBLIC HEALTH INFRASTRUCTURE BY THE DEVELOPMENT AND IMPLEMENTATION OF REGIONAL PUBLIC HEALTH AUTHORITIES.

Whereas, North Carolina has a rich local public health heritage and wishes to continue that heritage by strengthening the State's public health infrastructure; and

Whereas, the public health system must respond to new serious public health emergencies, significant changes in population, decreasing funding, and significant variations in public health protection between counties and regions; and

Whereas, the mission of protecting and promoting the health of the public can most efficiently and effectively be addressed through the coordinated efforts of State and local public health agencies and the collaboration of the public and private sectors within the public health system; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** All programs in the Division of Public Health in the Department of Health and Human Services are abolished except as provided in subsection (b) of this section. This act creates the North Carolina Public Health Authority which shall have administrative direction over the Division of Public Health and the Institute for Public Improvement.

**SECTION 1.(b)** The following programs shall remain in the Division of Public Health in the Department of Health and Human Services and shall be administered by the State Health Director:

- (1) State Lab.
- (2) Vital Records.
- (3) Medical Examiner.
- (4) Public Health Emergency Response.

**SECTION 2.** All functions, powers, duties, and obligations previously vested in the Division of Environmental Health in the Department of Environment and Natural Resources is transferred to and vested in the Division of Public Health in the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 3.** Chapter 130A of the General Statutes is amended by adding a new Article to read:

"Article 1C.  
"State Public Health Authority.



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1 **"§ 130A-33.60. Title and purpose.**

2 (a) This Article shall be known and may be cited as the "State Public Health Authority  
3 Act."

4 (b) It is the policy of the General Assembly that the State Public Health Authority  
5 should have adequate authority to exercise the powers, rights, duties, functions, privileges, and  
6 immunities as conferred upon by law.

7 **"§ 130A-33.61. State Public Health Authority.**

8 (a) Creation. – The State Public Health Authority is created as a body corporate and  
9 politic having the powers and jurisdiction as provided under this Chapter or any other law. The  
10 Authority is a State agency created to perform essential governmental and public functions. The  
11 Authority shall be located within the Department of Health and Human Services, but shall  
12 exercise all of its powers subject to and under the direct supervision of the Authority Board.

13 (b) Authority Board. – The State Public Health Authority shall be governed by a  
14 13-member Authority Board consisting of four members appointed by the General Assembly  
15 upon the recommendation of the President Pro Tempore of the Senate in accordance with  
16 G.S. 120-121, four members appointed by the General Assembly upon the recommendation of  
17 the Speaker of the House of Representatives in accordance with G.S. 120-121, four members  
18 appointed by the Governor, and the Secretary of Health and Human Services. Each appointing  
19 authority shall appoint members who reside in one of the four regional public health authorities  
20 of the State. The Chair of the Authority shall be selected by the Authority Board.

21 (c) Staggered Terms. – Two of the initial appointments to the Authority Board by the  
22 General Assembly upon the recommendation of the President Pro Tempore of the Senate, two  
23 of the initial appointments to the Authority Board by the General Assembly upon the  
24 recommendation of the Speaker of the House of Representatives, and three of the initial  
25 appointments of the Governor shall be appointed to terms ending January 14, 2017. Two of the  
26 initial appointments to the Authority Board by the General Assembly upon the recommendation  
27 of the President Pro Tempore of the Senate, two of the initial appointments to the Authority  
28 Board by the General Assembly upon the recommendation of the Speaker of the House of  
29 Representatives, and one of the initial appointments of the Governor shall be appointed to  
30 terms ending January 14, 2013. The Secretary of Health and Human Services shall serve as an  
31 ex officio nonvoting member of the Board. Thereafter, at the expiration of each stipulated term  
32 of office, all appointments shall be to a term of four years from the date of the expiration of the  
33 term.

34 (d) Vacancies. – All members of the Authority Board shall remain in office until their  
35 successors are appointed and qualified. The original appointing authority may appoint a  
36 member to serve out the unexpired term of any member.

37 (e) Removal of Board Members. – Each member of the Authority Board,  
38 notwithstanding subsection (c) of this section, shall serve at the pleasure of the appointing  
39 authority. The Chair of the Authority serves at the pleasure of the Authority Board.

40 (f) Conflicts of Interest; Ethics. – Members of the Authority Board shall be subject to  
41 the provisions of G.S. 136-13, 136-13.1, and 136-14.

42 (g) Compensation. – The appointed members of the Authority Board shall receive no  
43 salary for their services but shall be entitled to receive per diem and travel allowances in  
44 accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.

45 (h) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect  
46 to the calling of meetings, quorums, voting procedures, the keeping of records, and other  
47 organizational, staffing, and administrative matters as the Authority Board may determine.

48 **"§ 130A-33.62. Powers and duties of Authority Board.**

49 (a) The State Public Health Authority shall have all the powers necessary or convenient  
50 to carry out the purposes of this Article, including the following powers to:

- 1           (1)   Protect and promote the public health. The board shall have the authority to  
2                   adopt rules necessary for that purpose.
- 3           (2)   Construct, equip, operate, and maintain public health facilities.
- 4           (3)   Use property owned or controlled by the Authority.
- 5           (4)   Acquire real or personal property, including existing public health facilities,  
6                   by purchase, grant, gift, devise, lease or, with the permission of the county  
7                   commissioners, condemnation.
- 8           (5)   Establish a fee schedule for services received from public health facilities  
9                   and make services available regardless of ability to pay.
- 10          (6)   Appoint an executive director of the Institute of Public Health Improvement  
11                to serve at the pleasure of the Authority Board.
- 12          (7)   Establish a salary plan which shall set the salaries for employees of the  
13                authority.
- 14          (8)   To adopt and enforce a professional reimbursement policy which may  
15                include the following provisions: (i) require that fees for the provision of  
16                services received directly under the supervision of the Authority shall be  
17                paid to the Authority, (ii) prohibit employees of the Authority from  
18                providing services on a private basis which require the use of the resources  
19                and facilities of the Authority, and (iii) provide that employees may not  
20                accept dual compensation and dual employment unless they have the written  
21                permission of the executive director.
- 22          (9)   Delegate to its agents or employees any powers or duties as it may deem  
23                appropriate.
- 24          (10)  Employ its own counsel and legal staff.
- 25          (11)  Adopt, amend, and repeal bylaws for the conduct of its business.
- 26          (12)  Enter into contracts for necessary supplies, equipment, or services for the  
27                operation of its business.
- 28          (13)  Act as an agent for the federal, State, or local government in connection with  
29                the acquisition, construction, operation, or management of a public health  
30                facility, or any part thereof.
- 31          (14)  Insure the property or the operations of the Authority against risks as the  
32                Authority may deem advisable.
- 33          (15)  Sue and be sued.
- 34          (16)  Accept donations or money, personal property, or real estate for the benefit  
35                of the Authority and to take title to the same from any person, firm,  
36                corporation, or society.
- 37          (17)  Appoint advisory boards, committees, and councils composed of qualified  
38                and interested residents of the authority service area to study, interpret, and  
39                advise the public health authority board.
- 40          (b)   The State Public Health Authority shall have the power to establish and operate  
41                health care networks and may contract with or enter into any arrangement with other public  
42                health authorities or local health departments of this or other states, federal, or other public  
43                agencies, or with any person, private organization, or nonprofit corporation or association for  
44                the provision of public health services, including managed health care activities; provided,  
45                however, that for the purposes of this subsection only, the Authority shall be permitted to and  
46                shall comply with the requirements of Article 67 of Chapter 58 of the General Statutes to the  
47                extent that such requirements apply to the activities undertaken by the Authority pursuant to  
48                this subsection. The Authority may pay for or contribute its share of the cost of any such  
49                contract or arrangement from revenues available for these purposes, including revenues arising  
50                from the provision of public health services.

1       (c)       The State Public Health Authority may lease any public health facility, or part, to a  
2 nonprofit association on terms and conditions consistent with the purposes of this Article. The  
3 Authority will determine the length of the lease. No lease executed under this subsection shall  
4 be deemed to convey a freehold interest.

5       (d)       The State Public Health Authority shall neither sell nor convey any rights of  
6 ownership the county has in any public health facility, including the buildings, land, and  
7 equipment associated with the facility, to any corporation or other business entity operated for  
8 profit, except that nothing herein shall prohibit the sale of surplus buildings, surplus land, or  
9 surplus equipment by the Authority to any corporation or other business entity operated for  
10 profit. For purposes of this subsection, "surplus" means any building, land, or equipment which  
11 is not required for use in the delivery of public health care services by a public health facility at  
12 the time of the sale or conveyance of ownership rights.

13       (e)       The State Public Health Authority may lease any public health facility, or part, to  
14 any corporation, foreign or domestic, authorized to do business in North Carolina on terms and  
15 conditions consistent with the purposes of this Article and with G.S. 160A-272.

16       (f)       The State Public Health Authority may exercise any or all of the powers conferred  
17 upon it by this Article, either generally or with respect to any specific public health facility or  
18 facilities, through or by designated agents, including any corporation or corporations which are  
19 or shall be formed under the laws of this State.

20       (g)       The Authority may contract to insure itself and any of its board members, agents, or  
21 employees against liability for wrongful death or negligent or intentional damage to person or  
22 property or against absolute liability for damage to person or property caused by an act or  
23 omission of the Authority or of any of its board members, agents, or employees when acting  
24 within the scope of their authority and the course of their employment. The board shall  
25 determine what liabilities and what members, agents, and employees shall be covered by any  
26 insurance purchased pursuant to this subsection.

27       Purchase of insurance pursuant to this subsection waives the Authority's governmental  
28 immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise  
29 of a governmental function. Participation in a local government risk pool pursuant to Article 23  
30 of Chapter 58 of the General Statutes shall be deemed to be the purchase of insurance for the  
31 purposes of this section. By entering into an insurance contract with the Authority, an insurer  
32 waives any defense based upon the governmental immunity of the Authority.

33       (h)       If the Authority has waived its governmental immunity pursuant to subsection (g) of  
34 this section, any person or, in the event of death, their personal representative, sustaining  
35 damages as a result of an act or omission of the Authority or any of its board members, agents,  
36 or employees, occurring in the exercise of a governmental function, may sue the authority for  
37 recovery of damages. To the extent of the coverage of insurance purchased pursuant to  
38 subsection (g) of this section, governmental immunity may not be a defense to the action.  
39 Otherwise, however, the Authority has all defenses available to private litigants in any action  
40 brought pursuant to this section without restriction, limitation, or other effect, whether the  
41 defense arises from common law or by virtue of a statute.

42       Despite the purchase of insurance as authorized by subsection (g) of this section, the  
43 liability of the Authority for acts or omissions occurring in the exercise of governmental  
44 functions does not attach unless the plaintiff waives the right to have all issues of law or fact  
45 relating to insurance in the action determined by a jury. The judge shall hear and determine  
46 these issues without resort to a jury, and the jury shall be absent during any motion, argument,  
47 testimony, or announcement of findings of fact or conclusions of law relating to these issues  
48 unless the defendant requests a jury trial on them.

49       **§ 130A-33.63. Powers and duties – Institute for Public Health Improvement executive**  
50 **director.**

1       (a)     The Institute for Public Health Improvement executive director is an employee of  
2 the Authority Board and shall serve at the pleasure of the Authority Board.

3       (b)     An executive director shall perform public health duties prescribed by and under the  
4 supervision of the State Authority Board and shall be employed full time in the field of public  
5 health.

6       (c)     An executive director shall have the following powers and duties:

7           (1)   To administer programs as directed by the Authority Board;

8           (2)   To enforce the rules of the public health Authority Board;

9           (3)   To disseminate public health information and to promote the benefits of  
10 good health;

11          (6)   To advise local officials concerning public health matters;

12          (7)   To employ, discipline, and dismiss employees of the health authority."

13       **SECTION 4.** Article 2 of Chapter 130A of the General Statutes is amended by  
14 adding a new section to read:

15 **"§ 130A-46. Institute for Public Health Improvement and Regional Public Health**  
16 **Authorities – established.**

17       (a)     There is established under the State Public Health Authority the Institute for Public  
18 Health Improvement to administer all State and federal public health appropriations and grants  
19 and provide public health administration through four regional public health authorities.

20       (b)     The Board of Directors of the State Public Health Authority shall appoint the  
21 Executive Director of the Institute for Public Health Improvement.

22       (c)     There is established four regional public health authorities to administer the  
23 provision of public health services to the citizens of North Carolina. The authorities shall be  
24 located in Asheville, Kannapolis, Greenville, and Wilmington and shall provide coverage to the  
25 State's counties as follows:

26           (1)   The regional public health authority in Asheville shall provide public health  
27 administration and/or public health services to the following counties:  
28 Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay,  
29 Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell,  
30 Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, Wilkes, and  
31 Yancey.

32           (2)   The regional public health authority in Kannapolis shall provide public  
33 health administration and/or public health services to the following counties:  
34 Alamance, Alexander, Anson, Cabarrus, Caswell, Catawba, Chatham,  
35 Cleveland, Davidson, Davie, Durham, Forsyth, Gaston, Guilford, Iredell,  
36 Lee, Lincoln, Mecklenburg, Moore, Orange, Person, Randolph, Richmond,  
37 Rockingham, Rowan, Stanly, Stokes, Surry, and Yadkin.

38           (3)   The regional public health authority in Greenville shall provide public health  
39 administration and/or public health services to the following counties:  
40 Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Franklin,  
41 Gates, Granville, Greene, Halifax, Hertford, Hyde, Johnston, Martin, Nash,  
42 Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Vance, Wake, Warren,  
43 and Washington.

44           (4)   The regional public health authority in Wilmington shall provide public  
45 health administration and/or public health services to the following counties:  
46 Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin,  
47 Harnett, Hoke, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender,  
48 Robeson, Sampson, Scotland, and Wayne.

49       (d)     The authorities shall have the same powers and duties as provided in  
50 G.S. 130A-45.3.

1 (e) A county may, in its sole discretion, select a regional public health authority to serve  
2 as the public health department for the county."

3 **SECTION 5.** The Office of State Budget and Management shall transfer to the  
4 State Public Health Authority any funds appropriated to the Department of Health and Human  
5 Services for the 2013-2014 fiscal year or for the 2014-2015 fiscal year for the support of public  
6 health programs abolished by the act. The State Public Health Authority shall allocate those  
7 funds to the Institute for Public Health Improvement for administrative costs of the Institute  
8 and for the support of the four regional public health authorities established under  
9 G.S. 166-37.3.

10 **SECTION 6.** Notwithstanding any other provision of law, only health departments  
11 accredited by the Local Health Department Accreditation Board established under  
12 G.S. 130A-34.1 or operating as a regional public health authority are eligible to receive State  
13 funds or federal funds as pass-through grants administered by State and local agencies unless  
14 provided otherwise by federal law.

15 **SECTION 7.** This act becomes effective July 1, 2013.