

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 438  
Senate State and Local Government Committee Substitute Adopted 6/5/12

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



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

- 3 (1) Consolidate ~~the provision~~ certain provisions of human services in the county  
4 under the direct control of a human services director appointed and  
5 supervised by the county manager in accordance with subsection (e) of this  
6 section;
- 7 (2) Create a consolidated human services board having the powers conferred by  
8 subsection (c) of this section;
- 9 (3) Create a consolidated county human services agency having the authority to  
10 carry out the functions of any combination of commissions, boards, or  
11 agencies appointed by the board of county commissioners or acting under  
12 and pursuant to authority of the board of county commissioners, including  
13 the local health department, the county department of social services, and/or  
14 the area mental health, developmental disabilities, and substance abuse  
15 services authority; and
- 16 (4) Assign other county human services functions to be performed by the  
17 consolidated human services agency under the direction of the human  
18 services director, with policy-making authority granted to the consolidated  
19 human services board as determined by the board of county commissioners.

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

- 25 (1) Eight persons who are consumers of human services, public advocates, or  
26 family members of clients of the consolidated human services agency,  
27 including: one person with mental illness, one person with a developmental  
28 disability, one person in recovery from substance abuse, one family member  
29 of a person with mental illness, one family member of a person with a  
30 developmental disability, one family member of a person with a substance  
31 abuse problem, and two consumers of other human services.
- 32 (1a) Notwithstanding subdivision (1) of this subsection, a consolidated human  
33 services board not exercising powers and duties of an area mental health,  
34 developmental disabilities, and substance abuse services board shall include  
35 four persons who are consumers of human services.
- 36 (2) Eight persons who are professionals, each with qualifications in one of these  
37 categories: one psychologist, one pharmacist, one engineer, one dentist, one  
38 optometrist, one veterinarian, one social worker, and one registered nurse.
- 39 (3) Two physicians licensed to practice medicine in this State, one of whom  
40 shall be a psychiatrist.
- 41 (4) One member of the board of county commissioners.
- 42 (5) Other persons, including members of the general public representing various  
43 occupations.

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

47 All members of the consolidated human services board shall be residents of the county. The  
48 members of the board shall serve four-year terms. No member may serve more than two  
49 consecutive four-year terms. The county commissioner member shall serve only as long as the  
50 member is a county commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

29 **"§ 153A-76. Board of commissioners to organize county government.**

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

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

developmental disabilities, and substance abuse services board, except as provided in Chapter 122C of the General Statutes. This subdivision shall not apply to any board that has exercised the powers and duties of an area mental health, developmental disabilities, and substance abuse services board as of January 1, 2012.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Conducting research.

~~As used in this section, the term "essential public health services" means those services that the State shall ensure because they are essential to promoting and contributing to the highest level of health possible for the citizens of North Carolina. The Departments of Environment and Natural Resources and Health and Human Services shall attempt to ensure within the~~

1 resources available to them that the following essential public health services are available and  
2 accessible to all citizens of the State, and shall account for the financing of these services:

3 (1) ~~Health Support:~~

- 4 a. ~~Assessment of health status, health needs, and environmental risks to~~  
5 ~~health;~~  
6 b. ~~Patient and community education;~~  
7 c. ~~Public health laboratory;~~  
8 d. ~~Registration of vital events;~~  
9 e. ~~Quality improvement; and~~

10 (2) ~~Environmental Health:~~

- 11 a. ~~Lodging and institutional sanitation;~~  
12 b. ~~On-site domestic sewage disposal;~~  
13 c. ~~Water and food safety and sanitation; and~~

14 (3) ~~Personal Health:~~

- 15 a. ~~Child health;~~  
16 b. ~~Chronic disease control;~~  
17 c. ~~Communicable disease control;~~  
18 d. ~~Dental public health;~~  
19 e. ~~Family planning;~~  
20 f. ~~Health promotion and risk reduction;~~  
21 g. ~~Maternal health; and~~

22 (4) ~~Public Health Preparedness:~~

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

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

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

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