
Coates' Canons Blog: Organizational Options for Local Public Health Agencies in North Carolina, Part 1: Current Law

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UPDATE: Legislation changing the organizational and governance options for NC local public health agencies was enacted in June 2012. The legislation, commonly called House Bill 438, is summarized here. More information and resources about the implementation of this legislation in North Carolina is available on the consolidated human services section of the SOG's NC public health law website.

During the legislative session that just ended, several bills were introduced that had the potential to affect the way public health services are provided at the local level in North Carolina. None of the bills were enacted, but several passed their chambers of introduction before the crossover deadline of June 9, which means they remain eligible for consideration during the 2011-12 session.

What would those bills mean for counties and local public health agencies in North Carolina? I'll attempt to answer that question with two posts. Today, I will briefly describe the options counties have for forming local public health agencies under current law. In tomorrow's post, I'll delve into the details of the bills that were introduced this session and explain the alternative methods for delivery of local public health services that they contemplate.

What are the organizational options for local public health under current law?

Each county in North Carolina is required by **statute** to provide public health services to its residents. Counties have several options for how they carry out this responsibility. Any county in North Carolina may:

- Operate a county health department, governed by a county board of health.
- Join with one or more other counties to operate a district health department, governed by a district board of health.
- Form a single-county or multi-county public health authority, governed by a public health authority board.
- Contract with the state for the provision of public health services within the county.

Counties with populations exceeding 425,000 have additional options under **GS 153A-77**. First, they may establish a consolidated human services agency, in which public health, mental health, and social services are provided by a single agency governed by a consolidated human services board. Second, counties that meet the population threshold may abolish any or all of their local human services boards (including the board of health) and permit the board of county commissioners to exercise the powers and duties of the abolished board(s).

Finally, an uncodified provision of a **1997 session law** allows a hospital authority board to serve as the local board of health for a county, if the hospital board was formed before July 1, 1997 and certain other conditions are met. This provision appears to apply only to Cabarrus county.

For the remainder of this post, I will use the term "local health department" to refer to all of the different types of agencies just described, because that is the term used by the North Carolina statutes and regulations that establish the agencies' powers and duties.

How have North Carolina counties organized their local health departments?

Each of the options described above is in effect somewhere in North Carolina, with one exception: no county contracts with the state to provide public health services. (Every local health department receives funding from the state and signs a contract—the "consolidated agreement"—which establishes the terms and conditions for the funding, but that is not what

is meant by the statute that authorizes a county to “contract with the State for the provision of public health services.” No county has a contract in which the state actually provides the public health services carried out in the county.)

North Carolina’s 100 counties are served by 85 local health departments:

- 75 counties operate county health departments governed by county boards of health.
- 21 counties participate in one of the state’s six multi-county district health departments.
- 2 counties with populations in excess of 425,000 operate consolidated human services agencies. Wake county’s agency is governed by a consolidated human services board. In Mecklenburg county, the board of county commissioners has exercised its additional authority under GS 153A-77 to abolish the consolidated human services board and assume its powers and duties.
- 1 county (Hertford) has a public health authority governed by a public health authority board.
- 1 county (Cabarrus) operates the Cabarrus Health Alliance, which carries out the functions of a local health department and is governed by a public hospital authority board.

This **map** displays the different types of local health departments in North Carolina by county.

Who chooses the type of local health department for a county?

North Carolina law makes counties responsible for providing public health services, which places ultimate responsibility on boards of county commissioners. Commissioner approval is all that is required to create a county health department or a consolidated human services agency in counties that meet the population threshold, but board of health approval is also required when counties create or join a public health authority or a district health department. (Of course, commissioners may choose to consult with the board of health about the form of agency even when board of health approval is not required.)

The decision to create or join a district health department requires the agreement of the boards of county commissioners and the boards of health for each county in the district. In contrast, a decision to withdraw from a district may be made by the county commissioners alone, if they determine that the district is not operating in the best health interests of the county.

A public health authority is created by a joint resolution of the board of county commissioners and board of health, or if it is a multi-county authority, by a joint resolution of all the affected counties’ boards of commissioners and boards of health. (See **GS 130A-45.02** for more information about the adoption of the joint resolution, including a requirement for a public hearing.) Although both the county commissioners and the board(s) of health must agree to the creation of a public health authority, the commissioners alone may dissolve or withdraw from an authority upon a determination that it is not operating in the best interest of the county.

How are the different models for local health departments in North Carolina similar?

Each local health department in North Carolina has a board, a director, and an agency with staff members who provide public health services at the local level. Each department is required by **law** to be accredited by the North Carolina Local Health Department Accreditation Board. A set of state regulations commonly known as the **mandated services rules** specify the public health services that each department must assure are available within the department’s jurisdiction, either by providing the services itself or certifying the services are otherwise available. The boards governing the local health departments serve as the policy-making, rule-making, and adjudicatory body for public health within the department’s jurisdiction. Each type of board has the legal authority to impose fees for public health services, subject to conditions that are set forth in state law. Each department has a director who may exercise the powers and duties of a local health director as set forth in **G.S. 130A-41** and other laws, with some exceptions for public health authority directors and consolidated human services directors.

How do the models differ?

The boards of the different types of agencies differ, both in composition and in powers and duties. Public health authority boards have expanded powers and duties compared to county and district boards of health. For example, they may purchase or finance property in the same manner as cities and counties. A chart comparing the powers and duties of a public health authority board to the powers and duties of traditional (county or district) boards of health is available on the

last page of **this document**.

Consolidated human services boards have all of the powers of county and district boards of health, except for two: a consolidated human services board may not appoint the agency director (who is appointed instead by the county manager), and the board is not permitted to transmit or present the budget for local health services. The boards of the other types of agencies appoint the local health director. They also have a role in the preparation and presentation of the budget: district boards of health and public health authority boards approve the budgets for their departments; county boards of health present their budgets to the county commissioners for approval.

Other differences pertain to agency employees. The employees of county and district health departments are covered by the State Personnel Act. Public health authorities have specific statutory authority to establish salary plans for their employees and are exempt from the State Personnel Act. Employees of consolidated human services agencies are subject to county personnel ordinances and policies and are not covered by the State Personnel Act. Also, the directors of all of the different types of local health departments have the authority to appoint employees, but appointments made by a director of a consolidated human services agency must be approved by the county manager. The directors of the other types of departments are not required to obtain the county manager's approval before appointing employees.

Where can I read more about local public health agencies in North Carolina?

A recently-updated introduction to local public health services in North Carolina is available **here**.

Links

- www.ncleg.net/Sessions/2011/Bills/House/PDF/H438v5.pdf
- lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp_content/SummaryofSL2012-126.pdf
- www.sog.unc.edu/resources/microsites/north-carolina-public-health-law/consolidated-human-services-agencies-chsas
- www.sog.unc.edu/resources/microsites/north-carolina-public-health-law
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130A-34
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153A-77
- www.ncleg.net/EnactedLegislation/SessionLaws/HTML/1997-1998/SL1997-502.html
- www.sog.unc.edu/warehouse-documents/map-nc-local-public-health-agencies-jan-2016
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130A-45.02
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130A-34.1
- ncrules.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2046%20-%20local%20standards/chapter%2046%20rules.html
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130A-41
- www.sog.unc.edu/sites/www.sog.unc.edu/files/Summary-PHAs-Feb%202011%20revision.pdf
- www.sog.unc.edu/warehouse-documents/introduction-local-public-health-services-north-carolina