

AN ACT
CREATING THE LOCAL PUBLIC HEALTH GOVERNANCE ACT, AND PROVIDING
PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 137.100 **Title and purpose.**

This chapter shall be known and may be cited as the "*Local Public Health Governance Act*". The purpose of this chapter is to define the structure, powers, and duties of local boards of health. This chapter also provides an optional process for counties to merge to form a district board of health in order to increase efficiencies and enhance the delivery and availability of public health services.

Sec. 2. NEW SECTION. 137.101 **Definitions.**

As used in this chapter unless the context otherwise requires:

1. "*City board*" means a city board of health in existence prior to July 1, 2010.
2. "*City health department*" refers to the personnel and property under the jurisdiction of a city board in existence prior to July 1, 2010.
3. "*Council*" means a city council.
4. "*County board*" means a county board of health.
5. "*County health department*" refers to the personnel and property under the jurisdiction of a county board.
6. "*Director*" means the director of public health.
7. "*District*" means any two or more geographically contiguous counties.
8. "*District board*" means a board of health representing at least two geographically contiguous counties formed with approval of the state department in accordance with this

chapter, or any district board of health in existence prior to July 1, 2010.

9. "*District health department*" refers to the personnel and property under the jurisdiction of a district board.

10. "*Iowa public health standards*" means Iowa public health standards as defined in section 135A.2.

11. "*Local board of health*" means a city, county, or district board of health.

12. "*Officers*" means a local board of health chairperson, vice chairperson, and secretary, and other officers which may be named at the discretion of the local board of health.

13. "*State board*" means the state board of health.

14. "*State department*" means the Iowa department of public health.

Sec. 3. NEW SECTION. 137.102 **Local boards of health — jurisdiction.**

1. A city board shall have jurisdiction over public health matters within the city.

2. A county board shall have jurisdiction over public health matters within the county.

3. A district board shall have jurisdiction over public health matters within the district.

Sec. 4. NEW SECTION. 137.103 **Local boards of health — powers and duties.**

Local boards of health shall have the following powers and duties:

1. A local board of health shall:

a. Enforce state health laws and the rules and lawful orders of the state department.

b. Make and enforce such reasonable rules and regulations not inconsistent with law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health.

(1) Rules of a city board shall become effective upon approval by the council and publication in a newspaper having general circulation in the city.

(2) Rules of a county board shall become effective upon approval by the county board of supervisors by a motion or resolution as defined in section 331.101, subsection 13, and publication in a newspaper having general circulation in the county.

(3) Rules of a district board shall become effective upon approval by the district board and publication in a newspaper

having general circulation in the district.

(4) Before approving any rule or regulation the local board of health shall hold a public hearing on the proposed rule. Any citizen may appear and be heard at the public hearing. A notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation shall be published in a newspaper having general circulation as provided in section 331.305 in the area served by the local board of health.

c. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of chapter 8A, subchapter IV, or any civil service provision adopted under chapter 400.

d. Provide the names of all local board of health members and officers to the state department.

e. Provide minutes of local board of health meetings and reports of the local board of health's operations and activities to the state department as may be required by the director, by rule, or by contract.

2. A local board of health may:

a. Provide such population-based and personal health services as may be deemed necessary for the promotion and protection of the health of the public and charge reasonable fees for personal health services. A person shall not be denied necessary services within the limits of available resources because of inability to pay the cost of such services.

b. Provide such environmental health services as may be deemed necessary for the protection and improvement of the public health and issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems.

c. Engage in joint operations and contract with colleges and universities, the state department, other public, private, and nonprofit agencies, and individuals or form a district health department to provide personal and population-based public health services.

d. By written agreement, with the council of any city within its jurisdiction, enforce appropriate ordinances of the city relating to public health.

Sec. 5. NEW SECTION. 137.104 Local boards of health — membership and meetings.

1. *Membership, terms, compensation, and vacancies.*

a. All members of a city board shall be appointed by the council.

b. All members of a county board shall be appointed by the county board of supervisors.

c. All members of a district board shall be appointed by the county board of supervisors from each county represented by the district. Each county board of supervisors shall appoint at least one but no more than three members to the district board, and each county board of supervisors shall appoint the same number of members to the district board. There shall be no more than one board of supervisors member from any participating county on the district board.

d. Local boards of health shall consist of at least five members. At least one member shall be licensed as a physician under chapter 148.

e. A local board of health member shall serve for a term of three years. A member is eligible for reappointment.

f. A local board of health member shall serve without compensation, but may be reimbursed for necessary expenses in accordance with rules established by the state board or the applicable jurisdiction.

g. A local board of health member vacancy due to death, resignation, or other cause shall be filled as soon as possible after the vacancy exists for the unexpired term of the original appointment.

2. Meetings. A majority of the members of a local board of health shall be considered a quorum and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

Sec. 6. NEW SECTION. 137.105 District boards of health — request to form.

The county boards of any two or more geographically contiguous counties may at any time submit a request to form a district board to the state department. The formation request shall be in writing, shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district board, and shall include but not be limited to the following required elements:

1. A written narrative that explains how the formation of a district board will increase organizational capacity and

capability to provide population-based and personal public health services compared with operating as individual county boards.

2. The composition of the district board, including the number of members each county shall appoint pursuant to section 137.104 and the total number of members on the district board.

3. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district board and of the elements included in the formation plan.

4. The service delivery plan.

5. The budget and fiscal plan for the proposed district board. The budget plan shall include an estimate of proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district board.

6. A table of organization.

7. A personnel system description, including identification of the district treasurer and district auditor and a section which addresses the employment issues contained in section 137.109.

8. The location of the district board offices and workforce throughout the jurisdiction.

9. An inventory of the property and equipment in the custody of each county board and a description as to whether such property and equipment shall remain in the custody of the county or shall be transferred to the district board to become property of the district board.

10. A timeline for the adoption of district board rules and regulations.

11. Other criteria as established by rule of the state department.

Sec. 7. NEW SECTION. 137.106 Request reviewed by state department.

The state department shall review requests submitted pursuant to section 137.105. The state department, upon finding that all required elements are present, shall present findings to the state board. The state board may approve the formation of a district board and if the formation is approved, shall notify the county boards from whom the request was received.

Sec. 8. NEW SECTION. 137.107 Initial appointment of district board of health.

Upon receipt of notice of approval as a district board, district board members shall be appointed as specified in section 137.104.

Sec. 9. NEW SECTION. 137.108 Organizational structure of district board.

A district board is a governing body for purposes of chapter 670 and a district health department is a municipality for purposes of chapter 670. All meetings of a district board shall comply with the requirements of chapter 21 and all records of a district board and a district health department shall be maintained in accordance with chapter 22.

Sec. 10. NEW SECTION. 137.109 District personnel.

1. A district board may employ persons as necessary for the efficient discharge of its duties. A district board shall have all the duties and powers in employing such persons as a county board of supervisors is granted pursuant to section 331.324, with the exception of the authority to provide for support of the civil service commission for deputy sheriffs as specified in section 331.324, subsection 1, paragraph "k". A district board may employ persons who were employed at the time of the formation of the district board by the counties represented by the district board, or may employ persons who were not employed by such counties. The county boards involved shall specify in the request submitted pursuant to section 137.105 whether the individual counties or the district board will be responsible for payment of unemployment compensation for any county employees employed by the county board at the time of formation of the district board but not employed by the district board following formation.

2. If the district board employs persons who were employed by the counties represented by the district board at the time of formation of the district board, the district board shall recognize the term of service of the former county employees for purposes of all employee benefits offered by the district board to such employees and such employees shall not forfeit accrued vacation, accrued sick leave, or longevity by becoming district board employees.

3. Persons who were covered by county employee life insurance, accident insurance, and health insurance plans prior to becoming district board employees pursuant to this chapter shall be permitted to apply prior to becoming district board employees for life, accident, and health insurance plans that are available to district board employees so that those persons

do not suffer a lapse of insurance coverage as a result of becoming district board employees.

4. The district board may employ or contract with legal counsel to enforce this chapter and district board rules, represent and defend the district board and its officers and employees, provide legal advice to the district board, and perform any other legal duties required by law or assigned by the district board. The district board may employ or contract with the county attorney of a county within its jurisdiction.

Sec. 11. NEW SECTION. 137.110 District treasurer and auditor.

Upon establishment of a district board, the district board shall designate a treasurer of a county within its jurisdiction to serve as treasurer of the district health department, and shall designate the auditor of the same county to serve as auditor of the district health department. The treasurer's and the auditor's official bonds shall extend to cover their respective duties performed on behalf of the district health department. A county treasurer shall not serve in the capacity of district health department treasurer without consent from the county and agreement from the treasurer to perform this function, and a county auditor shall not serve in the capacity of district health department auditor without consent from the county and agreement from the auditor to perform this function.

Sec. 12. NEW SECTION. 137.111 District public health fund.

1. The district treasurer shall establish a district public health fund from which disbursements may be made in the manner specified for disbursements by law for the disbursement of county funds.

2. All moneys received by a district board or district health department for local public health purposes from federal appropriations, state appropriations, local appropriations, fees, gifts, grants, bequests, or other sources shall be deposited in the district public health fund. Expenditures shall be made from the fund on order of the district board for the purpose of carrying out its duties. No more than twenty percent of the unexpended balance remaining in the fund at the end of each fiscal year shall be maintained in the district public health fund. The remainder of the unexpended balance shall revert to the general funds of the member counties in the manner determined by the district board.

3. The district board shall adopt and certify an annual budget in accordance with section 24.17 relating

to certification of budgets and section 24.27 relating to protesting budgets.

Sec. 13. NEW SECTION. 137.112 Adding to district.

A county may be added to an existing district board by submission and approval of a request, as specified in sections 137.105 and 137.106.

Sec. 14. NEW SECTION. 137.113 Withdrawal from district.

A county may withdraw from an existing district board upon submission of a request for withdrawal to and approval by the state department. The request shall include a plan to reform its county board or join a different district board, information specified in section 137.105, and approval of the request by the district board and, at the recommendation of the state department, the state board. Any county choosing to withdraw from the district board shall commit to the continuity of services in its county by reestablishing its county board or joining a different district board. The remaining counties in the district shall submit an application including the information specified in section 137.105 to the state department for review as provided in section 137.106.

Sec. 15. NEW SECTION. 137.114 Dissolution of county boards.

Upon appointment of a district board, the county boards involved shall be dissolved and their powers and duties specified in section 137.103 transferred to the district board. All property and equipment in the custody of the county board shall either remain the property of the county or shall become the property of the district board, as so provided in the district board formation request submitted pursuant to section 137.105.

Sec. 16. NEW SECTION. 137.115 Emergency request for funds.

A local board of health may, during a public health disaster as defined in section 135.140 or in preparation for or response to such disaster, request additional appropriations which may upon approval of the director be allotted from the funds reserved for that purpose to the extent that funds are appropriated and available. Upon termination of the disaster response, the local board of health shall report its expenditures of emergency funds to the director.

Sec. 17. NEW SECTION. 137.116 Penalties — criminal and civil.

1. Any person who violates any provision of this chapter or the rules of a local board of health or any lawful order of the board, its officers, or authorized agents is guilty of a simple

misdemeanor. Each additional day of neglect or failure to comply with such provision, rule, or lawful order after notice of violation by the local board of health shall constitute a separate offense.

2. A local board of health may impose a civil penalty not to exceed seven hundred fifty dollars for each violation of this chapter or the rules of the local board of health or any lawful order of the board, its officers, or authorized agents. If the violation is a repeat offense a civil penalty not to exceed one thousand dollars may be imposed. The local board of health shall impose and enforce such penalties in the manner provided in section 331.307 for county infractions.

Sec. 18. NEW SECTION. 137.117 **Individual choice of treatment.**

Nothing in this chapter shall be construed to impede, limit, or restrict the right of free choice by an individual to the health care or treatment that the individual may select.

Sec. 19. NEW SECTION. 137.118 **Adoption of rules.**

The state board of health shall adopt rules to implement this chapter. The department is vested with discretionary authority to interpret the provisions of this chapter.

Sec. 20. Section 135I.1, subsection 2, Code 2009, is amended to read as follows:

2. "*Local board of health*" means a ~~county~~, city, county, or district board of health as defined in section 137.2 137.101.

Sec. 21. Section 331.321, subsection 1, paragraph c, Code Supplement 2009, is amended to read as follows:

c. The members of the county board of health in accordance with section 137.4 137.104.

Sec. 22. REPEAL. Chapter 137, Code and Code Supplement 2009, is repealed.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2266, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER
Governor