

Senate Study Bill 3046 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act creating the local public health governance Act, and
2 providing penalties.

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

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

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

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

10 As used in this chapter unless the context otherwise
11 requires:

12 1. "*City board*" means a city board of health in existence
13 prior to July 1, 2010.

14 2. "*City health department*" refers to the personnel and
15 property under the jurisdiction of a city board in existence
16 prior to July 1, 2010.

17 3. "*Council*" means a city council.

18 4. "*County board*" means a county board of health.

19 5. "*County health department*" refers to the personnel and
20 property under the jurisdiction of a county board.

21 6. "*Director*" means the director of public health.

22 7. "*District*" means any two or more geographically
23 contiguous counties.

24 8. "*District board*" means a board of health representing
25 at least two geographically contiguous counties formed with
26 approval of the state department in accordance with this
27 chapter, or any district board of health in existence prior to
28 July 1, 2010.

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

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

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

35 12. "*Officers*" means a local board of health chairperson,

1 vice chairperson, and secretary, and other officers which may
2 be named at the discretion of the local board of health.

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

4 14. "State department" means the Iowa department of public
5 health.

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

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

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

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

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

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

18 1. A local board of health shall:

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

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

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

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

33 (3) Rules of a district board shall become effective upon
34 approval by the district board and publication in a newspaper
35 having general circulation in the district.

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

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

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

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

19 2. A local board of health may:

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

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

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

1 health services.

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

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

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

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

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

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

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

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

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

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

33 2. *Meetings.* A majority of the members of a local board
34 of health shall be considered a quorum and an affirmative
35 vote of the majority of the members present is necessary for

1 action taken by a local board of health. The majority shall
2 not include any member who has a conflict of interest and a
3 statement by the member that a conflict of interest exists
4 shall be conclusive for this purpose.

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

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

14 1. A written narrative that explains how the formation of
15 a district board will increase organizational capacity and
16 capability to provide population-based and personal public
17 health services compared with operating as individual county
18 boards.

19 2. The composition of the district board, including the
20 number of members each county shall appoint pursuant to section
21 137.104 and the total number of members on the district board.

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

26 4. The service delivery plan.

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

32 6. A table of organization.

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

1 137.109.

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

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

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

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

13 Sec. 7. NEW SECTION. 137.106 **Request reviewed by state**
14 **department.**

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

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

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

27 Sec. 9. NEW SECTION. 137.108 **Organizational structure of**
28 **district board.**

29 A district board is a governing body for purposes of chapter
30 670 and a district health department is a municipality for
31 purposes of chapter 670. All meetings of a district board
32 shall comply with the requirements of chapter 21 and all
33 records of a district board and a district health department
34 shall be maintained in accordance with chapter 22.

35 Sec. 10. NEW SECTION. 137.109 **District personnel.**

1 1. A district board may employ persons as necessary for
2 the efficient discharge of its duties. A district board shall
3 have all the duties and powers in employing such persons as
4 a county board of supervisors is granted pursuant to section
5 331.324, with the exception of the authority to provide for
6 support of the civil service commission for deputy sheriffs
7 as specified in section 331.324, subsection 1, paragraph "k".
8 A district board may employ persons who were employed at the
9 time of the formation of the district board by the counties
10 represented by the district board, or may employ persons who
11 were not employed by such counties. The county boards involved
12 shall specify in the request submitted pursuant to section
13 137.105 whether the individual counties or the district board
14 will be responsible for payment of unemployment compensation
15 for any county employees employed by the county board at the
16 time of formation of the district board but not employed by the
17 district board following formation.

18 2. If a district board employs persons who were employed
19 at the time of formation of the district board by the counties
20 represented by the district board and such employees were
21 covered by collective bargaining agreements with those
22 counties, the collective bargaining agreement of the county
23 with the largest population for the year prior to the formation
24 of the district board shall serve as the base agreement and the
25 employees of the other counties shall automatically be accreted
26 to the bargaining unit of that collective bargaining agreement
27 for purposes of negotiating the contracts in subsequent years
28 without further action. If only one collective bargaining
29 agreement is in effect among the counties represented by the
30 district board, that agreement may serve as the base agreement
31 if the counties so elect, and the employees of the other
32 counties represented by the district board shall automatically
33 be accreted to the bargaining unit of that collective
34 bargaining agreement for purposes of negotiating the contracts
35 for subsequent years without further action. The new district

1 board, using the base agreement as its existing contract, may
2 bargain with the covered employees of the district board for
3 the next contract period.

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

12 4. Persons who were covered by county employee life
13 insurance, accident insurance, and health insurance plans prior
14 to becoming district board employees pursuant to this chapter
15 shall be permitted to apply prior to becoming district board
16 employees for life, accident, and health insurance plans that
17 are available to district board employees so that those persons
18 do not suffer a lapse of insurance coverage as a result of
19 becoming district board employees.

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

27 **Sec. 11. NEW SECTION. 137.110 District treasurer and**
28 **auditor.**

29 Upon establishment of a district board, the district board
30 shall designate a treasurer of a county within its jurisdiction
31 to serve as treasurer of the district health department, and
32 shall designate the auditor of the same county to serve as
33 auditor of the district health department. The treasurer's
34 and the auditor's official bonds shall extend to cover their
35 respective duties performed on behalf of the district health

1 department. A county treasurer shall not serve in the capacity
2 of district health department treasurer without consent from
3 the county and agreement from the treasurer to perform this
4 function, and a county auditor shall not serve in the capacity
5 of district health department auditor without consent from the
6 county and agreement from the auditor to perform this function.

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

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

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

24 3. The district board shall adopt and certify an
25 annual budget in accordance with section 24.17 relating
26 to certification of budgets and section 24.27 relating to
27 protesting budgets.

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

29 A county may be added to an existing district board by
30 submission and approval of a request, as specified in sections
31 137.105 and 137.106.

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

33 A county may withdraw from an existing district board upon
34 submission of a request for withdrawal to and approval by
35 the state department. The request shall include a plan to

1 reform its county board or join a different district board,
2 information specified in section 137.105, and approval of the
3 request by the district board and, at the recommendation of
4 the state department, the state board. Any county choosing to
5 withdraw from the district board shall commit to the continuity
6 of services in its county by reestablishing its county
7 board or joining a different district board. The remaining
8 counties in the district shall submit an application including
9 the information specified in section 137.105 to the state
10 department for review as provided in section 137.106.

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

12 Upon appointment of a district board, the county boards
13 involved shall be dissolved and their powers and duties
14 specified in section 137.103 transferred to the district board.
15 All property and equipment in the custody of the county board
16 shall either remain the property of the county or shall become
17 the property of the district board, as so provided in the
18 district board formation request submitted pursuant to section
19 137.105.

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

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

29 Sec. 17. NEW SECTION. 137.116 **Penalties — criminal and**
30 **civil.**

31 1. Any person who violates any provision of this chapter or
32 the rules of a local board of health or any lawful order of the
33 board, its officers, or authorized agents is guilty of a simple
34 misdemeanor. Each additional day of neglect or failure to
35 comply with such provision, rule, or lawful order after notice

1 of violation by the local board of health shall constitute a
2 separate offense.

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

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

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

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

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

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

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

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

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

28 Sec. 22. REPEAL. Chapter 137, Code and Code Supplement
29 2009, is repealed.

30 EXPLANATION

31 This bill amends Code chapter 137, relating to local
32 boards of health. The bill provides definitions; establishes
33 jurisdiction of city, county, and district boards of health;
34 specifies powers and duties of local boards of health, their
35 membership, and meeting requirements; provides a process for

1 two or more geographically contiguous counties to form a
2 district board; specifies the organizational structure of a
3 district board as a governing body for the purposes of tort
4 liability of governmental subdivisions and a process for
5 employing personnel; provides for the use of a county treasurer
6 and auditor of a county within the district of the district
7 board to serve the district health department; provides for
8 the establishment of a district public health fund including
9 the unexpended balance of the fund at the end of each fiscal
10 year; provides a process for counties to join or withdraw
11 from a district board; provides for dissolution of county
12 boards joining a district board; provides civil and criminal
13 penalties for violations of the Code chapter; and provides for
14 adoption of rules by the state board of health to implement the
15 Code chapter and the department is vested with discretionary
16 authority to interpret the provisions of the Code chapter.