S 433, Sixth Edition: Summary of Major Provisions
June 15, 2012

On June 14, 2012, the North Carolina House passed the sixth edition of Senate Bill 433. The sixth edition differs from the version of S 433 that passed the Senate in April 2011. The bill has therefore been returned to the Senate so that it may decide whether to concur in the House's version. If the Senate votes to concur, the bill will be sent to the Governor.

The sixth edition of S 433 would:

- Remove the 425,000 population threshold from G.S. 153A-77, thus allowing any county to (1) abolish its local board of health and transfer its powers and duties to the board of county commissioners, or (2) create a consolidated human services agency (CHSA).[1] A county could also take both actions, by creating a CHSA but then abolishing the consolidated human services board and transferring its powers and duties to the commissioners.

- Require a county that abolishes its board of health and transfers its powers and duties to the county commissioners to appoint an advisory committee with the same membership that presently is required for a county board of health.[2] The requirement for an advisory committee applies to counties that abolish their boards after January 1, 2012,[3] and does not apply to a county that delegates health board powers and duties to a consolidated human services board.

- Require the director of a CHSA to appoint an individual that meets the requirements of the law that sets out the minimum education and experience qualifications for a local health director.[4] The county manager must approve the appointment. This provision does not specify a role for the appointee, so it appears that the powers and duties of a local health director would remain with the CHSA director, as they are under present law. However, the CHSA director could delegate those duties to the appointee.[5]

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[1] There is an additional condition attached to this provision: the county must have a county manager appointed pursuant to G.S. 153A-81. However, every North Carolina county except Tyrrell has this. Tyrrell is presently part of a three-county district health department.

[2] G.S. 130A-35 requires a county board of health to have a physician, a dentist, an optometrist, a veterinarian, a registered nurse, a pharmacist, a county commissioner, a professional engineer, and three representatives of the general public.

[3] This amounts to an exception for Mecklenburg county, which abolished its county board of health in the 1980s. Mecklenburg created a consolidated human services agency in 2008, but it abolished that board as well.

[4] G.S. 130A-40(a). In general, a local health director must have a background in medicine, public health, or public administration related to health services.

[5] See G.S. 130A-43(c) (giving a CHSA director most of the powers and duties of a local health director); 130A-6 (allowing an official with authority granted by Chapter 130A to delegate that authority to another person).

- Amend G.S. 153A-76, a law that addresses the authority of county commissioners to organize county government. Among other things, the law permits commissioners to change the manner of selection or composition of some county boards, but not the boards of education, health, social services, elections, or alcoholic beverage control. S 433 would delete the exception for boards of health and social services.[6]

- Make a number of changes that appear to have the effect of removing mental health agencies from consolidated human services agencies. Specifically, the bill would:
    - Prohibit a board of county commissioners from consolidating an area mental health, developmental disabilities, and substance abuse services (MHDDSAS) board into a consolidated human services board.[7]
    - Permit a county to form a consolidated human services agency that does not include MHDDSAS.
    - Alter the composition of the board for a consolidated human services agency that does not include MHDDSAS. Such a board would be required to include four consumers of human services.[8]
    - Remove the requirement that a consolidated human services board perform comprehensive mental health planning, if the consolidated board is not exercising the powers and duties of a MHDDSAS board.

- Prohibit the board of county commissioners from:
    - Abolishing or including in a consolidated human services agency a public hospital authority assigned to perform public health services under S.L. 1997-502, section 12—a provision that applies only to Cabarrus county.
    - Abolishing, assuming control over, or including in a consolidated human services agency a public hospital as defined in GS 159-39(a).

- Require consolidated human services agencies to have merit personnel systems that comply with any applicable federal laws. As one way of meeting this requirement, county commissioners would be authorized to elect to make the employees subject to the State Personnel Act.

- Create the Public Health Improvement Incentive Program, which would provide monetary incentives for the creation and expansion of multicounty local health departments serving populations of 75,000 or more. The bill does not provide funding for the program.

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[6] The significance of this deletion is unclear. It may be that it is intended simply to clarify that G.S. 153A-76 does not impede the authority of commissioners to abolish those boards, or to create a consolidated human services board that would then take on the duties of those boards.

[7] The bill would also prohibit the commissioners from abolishing the area MHDDSAS board, but with a grandfather clause for Mecklenburg county.

[8] The bill does not specify which human services the consumer members must represent. Present law requires a consolidated board to have eight consumer members, six of whom are consumers of MHDDSA services.

- By July 1, 2014, condition the provision of state and federal funds to local health departments[9] on two criteria:
    - The local health department must obtain and maintain accreditation under North Carolina's existing local health department accreditation law (G.S. 130A-34.1), and
    - The county or counties comprising the department must maintain operating appropriations to the local health department from local tax receipts at levels equal to amounts appropriated in state fiscal year 2010-2011.

- Amend G.S. 130A-1.1 to make local health departments responsible for assuring that essential public health services are available and accessible to the population in each county served by the health department. Under present law, the state is responsible for ensuring that essential public health services are available and accessible throughout the state. The bill also would rewrite the essential services to match the list presently used in the state's local health department accreditation law (G.S. 130A-34.1), which reflects a nationally recognized list of ten essential public health services.[10] The list of essential public health services that presently appears in G.S. 130A-1.1. pre-dates the national list and is similar but not identical to it.

- Require the General Assembly's Program Evaluation Division to study the feasibility of transferring all the functions, powers, duties and obligations of the North Carolina Division of Public Health to the UNC Healthcare System and/or the UNC School of Public Health, and report its findings by February 1, 2013.

The bill would be effective upon enactment.

[9] The proportion of a local health department's budget that comes from state and federal funding varies by department, but the amount ranges from about one-fifth to about one-third of the agency's total budget (not including Medicaid payments, which are not affected by the condition imposed by this provision). See *Comparing North Carolina's Local Public Health Agencies: The Legal Landscape, the Perspectives, and the Numbers (Issue Brief)*, page 5 (available at http://www.sog.unc.edu/node/2258).
[10] See http://www.cdc.gov/nphpsp/essentialServices.html.