

Summary of H 438, Second Edition
June 8, 2012

The first edition of H 438 would have created a limited exception to the population threshold in G.S. 153A-77 for New Hanover county.¹ It passed the North Carolina House on April 14, 2011 and was sent to the Senate. The bill was referred to the Senate Committee on State and Local Government on April 19, 2011, but no further action was taken on the bill in 2011.

The Senate committee took up H 438 on June 5, 2012. The committee replaced the original bill with a committee substitute that proposed to make changes that would affect all North Carolina counties, not just New Hanover. The committee substitute received a favorable report and thus became the second edition of H 438. Many of the provisions in the second edition of H 438 had appeared previously in the fourth edition of Senate Bill 433 or the second edition of H 1075,² but there were a few new items as well.

The second edition of H 438 passed its second reading in the Senate on June 6, 2012. The third reading was originally scheduled for June 7 and the bill was taken up on that date, but it was withdrawn from the calendar during discussion of a proposed amendment. It is presently on the June 11 Senate calendar for third reading with the amendment still pending.

The second edition of H 438 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.
- Require any 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.³ The bill states that this requirement would not apply to a county that delegates health board powers and duties to a consolidated human services board.
- 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

¹ G.S. 153A-77 is the state law that allows counties with populations exceeding 425,000 to take either or both of two actions: (1) form a consolidated human services agency, or (2) abolish any or all of their local human services boards (including the board of health) and transfer the abolished boards' powers and duties to the county commissioners.

² H 1075 addresses mental health agency governance and the implementation of the 1915(b)/(c) Medicaid waiver. Section 12 of the second edition of H 1075 includes amendments to G.S. 153A-77 and G.S. 153A-76. The second edition of H 438 includes the same amendments in identical language, but it also makes a couple of additional changes to those two statutes.

³ 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.

of selection or composition of some county boards, but not the boards of education, health, social services, elections, or alcoholic beverage control. H 438 would delete the exception for boards of health and social services.⁴

- 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, developmental disabilities, and substance abuse services (MHDDSAS) board into a consolidated human services board.⁵
 - 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.⁶
 - 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).
 - 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 would require that \$5 million of the funds presently appropriated to the Division of Public Health be allocated to this program.
- By July 1, 2014, condition the provision of state and federal funds to local health departments 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 meet a maintenance-of-effort requirement. Specifically, operating appropriations to the local health department from

⁴ 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.

⁵ The bill would also prohibit the commissioners from abolishing the area MHDDSAS board, but with a grandfather clause for Mecklenburg county.

⁶ The proposed amendment does not specify which human services those must be. Present law requires a consolidated board to have eight consumer members, six of whom are consumers of MHDDSA services.

local tax receipts must be maintained at levels equal to amounts appropriated in fiscal year 2010-2011.

- Amend G.S. 130A-1.1 to make local health departments responsible for ensuring 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.⁷ The list of essential public health services that presently appears in G.S. 130A-1.1. predates 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.

⁷ See <http://www.cdc.gov/nphpsp/essentialServices.html>.