

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2030
(Legislative Management)
(Health Services Committee)

AN ACT to create and enact a new section to chapter 23-35 of the North Dakota Century Code, relating to tribal health districts; to amend and reenact section 23-35-01, subsection 2 of section 23-35-03, subsection 1 of section 23-35-04, sections 23-35-06, 23-35-07, 23-35-08, 23-35.1-01, 23-35.1-02, 23-35.1-03, and 23-35.1-04 of the North Dakota Century Code, relating to health districts, regional public health network definitions, joint powers agreement review, annual plan, and receipt and use of moneys; to provide a report to the legislative management; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board of health" means a district, county, ~~or city,~~ or tribal board of health.
2. "Department" means the state department of health.
3. "Governing body" means, as applicable, a city commission, city council, board of county commissioners, ~~or joint board of county commissioners,~~ or tribal council.
4. "Health district" means an entity formed under section 23-35-04 or 23-35-05.
5. "Joint board of county commissioners" means the boards of county commissioners of two or more counties acting together in joint session.
6. "Local health officer" means the health officer of a public health unit.
7. "Public health department" means a city ~~or,~~ county, or tribal health department formed under this chapter.
8. "Public health unit" means the local organization formed under this chapter to provide public health services in a city, county, or designated multicounty or city-county area, or Indian reservation. The term includes a city public health department, county public health department, tribal health department, and a health district.

SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Tribal health units.

An Indian nation that occupies a reservation the external boundaries of which border more than four counties may form a health district or public health department as provided in this chapter. A tribal public health unit and bordering public health units shall collaborate regarding the provision of public health services. If an individual who is not an enrolled member of an Indian tribe of the Indian reservation that forms a tribal public health unit is a party to a civil action in which the tribal public health unit is also a party, that individual may bring the action in or move the action to tribal court or district court.

SECTION 3. AMENDMENT. Subsection 2 of section 23-35-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A city's ~~or~~, county's, or tribe's governing body may establish a public health unit by creating and appointing a board of health, which in the case of a city, may be composed of the city's governing body, or in the case of a tribe, may be composed of the tribal council or governing body. A board of health must have at least five members.
 - a. In the case of a board of health created by a joint board of county commissioners, each county in the health district must have at least one representative on the board; each county of over fifteen thousand population must have an additional representative for each fifteen thousand population or major fraction of that number; and in a health district of fewer than five counties, each county must have at least one representative on the district board of health, and the additional representatives selected to constitute the minimum five-member board must be equitably apportioned among the counties on a population basis.
 - b. In the case of a joint city-county health district composed of only one county and having at least one city over fifteen thousand population, each city having a population over fifteen thousand must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, and the remaining population of the county, exclusive of the populations of cities with more than fifteen thousand each, must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, or at least one member if the remaining population is less than fifteen thousand.

SECTION 4. AMENDMENT. Subsection 1 of section 23-35-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon the adoption of a resolution, the governing body may form a single county, multicounty, ~~or a city-county,~~ or tribal health district.

SECTION 5. AMENDMENT. Section 23-35-06 of the North Dakota Century Code is amended and reenacted as follows:

23-35-06. Health districts - Dissolution - Withdrawal.

1. ~~If~~ Except for a tribal health district, if a health district has been in operation for two years, the district may be dissolved as provided for under this section. If a petition is filed with the county auditor of each county of a health district which is signed by qualified electors of that county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of dissolution must be presented to the qualified electors in each county in the district at the next election held in each county in the district. If a majority of the votes cast on the question in a majority of the counties favor dissolution, the health district is dissolved on the second January first following the election. If a majority of the votes cast on the question in a majority of the counties are against dissolution, no other election on this issue may be held for two years.
2. If a health district has been in operation for two years, any county may withdraw from the district as provided under this section. If a petition is filed with the withdrawing county's auditor which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of withdrawal must be presented to the qualified electors in the county at the next election in the county. If a majority of the votes cast on the question favor withdrawing from the district, the county is withdrawn from the district on the second January first following the election. If a majority of the votes cast on the question are against withdrawal, no other election on this issue may be held for two years.

3. A tribal health district may be dissolved by the tribal council or governing body at any time.

SECTION 6. AMENDMENT. Section 23-35-07 of the North Dakota Century Code is amended and reenacted as follows:

23-35-07. Health district funds.

1. ~~A~~Except for a tribal health district, a district board of health shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit this budget to the joint board of county commissioners for approval. The amount budgeted and approved must be prorated in health districts composed of more than one county among the various counties in the health district according to the taxable valuation of the respective counties in the health district. For the purpose of this section, "prorated" means that each member county's contribution must be based on an equalized mill levy throughout the district, except as otherwise permitted under subsection 3 of section 23-35-05. Within ten days after approval by the joint board of county commissioners, the district board of health shall certify the budget to the respective county auditors and the budget must be included in the levies of the counties. The budget may not exceed the amount that can be raised by a levy of five mills on the taxable valuation, subject to public hearing in each county in the health district at least fifteen days before an action taken by the joint board of county commissioners. Action taken by the joint board of county commissioners must be based on the record, including comments received at the public hearing. A levy under this section is not subject to the limitation on the county tax levy for general and special county purposes. The amount derived by a levy under this section must be placed in the health district fund. The health district fund must be deposited with and disbursed by the treasurer of the district board of health. Each county in a health district quarterly shall remit and make settlements with the treasurer. Any funds remaining in the fund at the end of any fiscal year may be carried over to the next fiscal year.
2. ~~The~~Except for a tribal health district, the district board of health, or the president and secretary of the board when authorized or delegated by the board, shall audit all claims against the health district fund. The treasurer shall pay all claims from the health district fund. The district board of health shall approve or ratify all claims at the board's quarterly meetings.

SECTION 7. AMENDMENT. Section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

23-35-08. Boards of health - Powers and duties.

Except when in conflict with a local ordinance or a civil service rule within a board of health's jurisdiction, or a tribal code, ordinance, or policy, each board of health:

1. Shall keep records and make reports required by the department.
2. Shall prepare and submit a public health unit budget.
3. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this chapter.
4. May accept and receive any contribution offered to aid in the work of the board of health or public health unit.
5. May make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety.
6. May establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this subsection. If a tribal board of health establishes fees for services rendered, the fees may

not exceed the highest corresponding fee of any of the public health units that border the tribal public health unit.

7. May make rules in a health district or county public health department, as the case may be, and in the case of a city public health department may recommend to the city's governing body ordinances for the protection of public health and safety.
8. May adopt confinement, decontamination, and sanitary measures in compliance with chapter 23-07.6 which are necessary when an infectious or contagious disease exists.
9. May make and enforce an order in a local matter if an emergency exists.
10. May inquire into any nuisance, source of filth, or cause of sickness.
11. Except in the case of an emergency, may conduct a search or seize material located on private property to ascertain the condition of the property as the condition relates to public health and safety as authorized by an administrative search warrant issued under chapter 29-29.1.
12. May abate or remove any nuisance, source of filth, or cause of sickness when necessary to protect the public health and safety.
13. May supervise any matter relating to preservation of life and health of individuals, including the supervision of any water supply and sewage system.
14. May isolate, kill, or remove any animal affected with a contagious or infectious disease if the animal poses a material risk to human health and safety.
15. Shall appoint a local health officer.
16. May employ any person necessary to effectuate board rules and this chapter.
17. If a public health unit is served by a part-time local health officer, the board of health may appoint an executive director. An executive director is subject to removal for cause by the board of health. The board of health may assign to the executive director the duties of the local health officer, and the executive director shall perform these duties under the direction of the local health officer.
18. May contract with any person to provide the services necessary to carry out the purposes of the board of health.
19. Shall designate the location of a local health officer's office and shall furnish the office with necessary equipment.
20. May provide for personnel the board of health considers necessary.
21. Shall set the salary of the local health officer, the executive director, and any assistant local health officer and shall set the compensation of any other public health unit personnel.
22. Shall pay for necessary travel of the local health officer, the local health officer's assistants, and other personnel in the manner and to the extent determined by the board.

SECTION 8. AMENDMENT. Section 23-35.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. The definitions of section 23-35-01 apply; and

2. ~~"Regional public health network" means a group of public health units that have entered a joint powers agreement or an existing lead multidistrict health unit identified in the emergency preparedness and response region which has been reviewed by the state health officer and has been verified as meeting the requirements of this chapter and chapter 54-40.3 and have been verified by the state health officer as meeting the requirements of this chapter.~~

SECTION 9. AMENDMENT. Section 23-35.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-02. Regional public health network - Joint powers agreement - Review by state health officer - Criteria.

Before a group of public health units may be designated as a regional public health network and eligible for state funding, the state health officer shall review the joint powers agreement the districts public health units entered and verify that:

1. ~~The geographical region covered by the regional public health network corresponds to one of the emergency preparedness and response regions established by the state department of health consists of:~~
 - a. At least two public health units serving a minimum population of fifteen thousand; or
 - b. A minimum of three public health units.
2. The joint powers agreement requires that the participating public health units:
 - a. ~~Share various administrative functions and public health services in accordance with subsection 3~~Assess the health of the population;
 - b. Identify workplan activities that meet the needs of the region;
 - c. Comply with requirements adopted by the health council adopts by rule; and
 - e.d. Meet department maintenance of effort funding requirements, which must be calculated based on each unit's dollar or mill levy public health unit contribution in the most recent calendar year 2007.; and
 - e. Share core public health activities and measure outcomes in accordance with subsection 3.
3. The joint powers agreement requires:
 - a. ~~A regional public health network to share the following public health services:~~
 - (1) ~~Emergency preparedness and response;~~
 - (2) ~~Environmental health services; and~~
 - (3) ~~A regional public health network health officer, although this paragraph does not prohibit a public health unit from appointing a local health officer. Evidence that network activities align with prevailing health status and community needs;~~
 - b. ~~A regional public health network to select and share at least three administrative functions and at least three public health services, as provided under this subdivision:~~
 - (1) "Administrative functions" are:
 - (a) ~~Financial accounting, billing, and accounts receivable;~~
 - (b) ~~Community assessment and planning;~~

- (e) ~~Contract compliance;~~
 - (d) ~~Public health service improvement planning;~~
 - (e) ~~Human resource management;~~
 - (f) ~~Technology support;~~
 - (g) ~~Budgeting;~~
 - (h) ~~Workforce development;~~
 - (i) ~~Public information;~~
 - (j) ~~Grant writing;~~
 - (k) ~~Inventory management, including vaccines; and~~
 - (l) ~~Any other functions approved by the state health officer.~~
- (2) "Public health services" are:
- (a) ~~School health;~~
 - (b) ~~Nutrition;~~
 - (c) ~~Family planning;~~
 - (d) ~~Injury prevention;~~
 - (e) ~~Violence prevention;~~
 - (f) ~~Tobacco prevention and cessation;~~
 - (g) ~~Oral health;~~
 - (h) ~~Cancer prevention;~~
 - (i) ~~Maternal and child health;~~
 - (j) ~~Asthma;~~
 - (k) ~~Diabetes;~~
 - (l) ~~Cardiovascular health;~~
 - (m) ~~Physical activity;~~
 - (n) ~~Immunizations;~~
 - (o) ~~Communicable disease programs;~~
 - (p) ~~Mental health;~~
 - (q) ~~Chronic disease;~~
 - (r) ~~Public health visits; and~~
 - (s) ~~Any other services approved by the state health officer.~~

4. The joint powers agreement provides:

- a. Shared or expanded services, including the core public health activities of:
 - (1) Preventing epidemics and spread of disease;
 - (2) Protecting against environmental hazards;
 - (3) Preventing injuries;
 - (4) Promoting health behaviors;
 - (5) Responding to disasters; and
 - (6) Assuring the quality and accessibility of health services;
- c. Assurance of network performance measurement to demonstrate capacity, process, or health outcomes;
- d. Criteria for the future participation of public health units that were not parties to the original joint powers agreement;
- b-e. An application process by which public health units that were not parties to the original joint powers agreement may become participating districts; and
- e-f. A process by which public health units that were not parties to the original joint powers agreement may appeal a decision to deny an application to participate in the agreement to the state health officer.

5-4. The joint powers agreement provides for the structure of the governing body of the network.

SECTION 10. AMENDMENT. Section 23-35.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-03. Regional public health network - Annual plan.

A regional public health network shall prepare an annual plan regarding the provision of the ~~required and optional public health services~~ core public health activities and shall submit the plan to the state health officer for approval.

SECTION 11. AMENDMENT. Section 23-35.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-04. Regional public health networks - Receipt and use of moneys.

The board of a regional public health network may receive and expend moneys for the provision of ~~administrative functions, public health services,~~ core public health activities and any other lawful activities.

SECTION 12. STATE DEPARTMENT OF HEALTH REPORTS TO THE LEGISLATIVE MANAGEMENT - TRIBAL PUBLIC HEALTH UNIT PILOT PROJECT. During the 2013-14 interim, the state department of health shall report semiannually to the legislative management on the status of the tribal public health unit pilot project, including services provided, resources available, expenditures, and the future sustainability of the pilot project.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the state department of health for the purposes of planning or establishing, or both, a regional public health network, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department may not spend more than \$250,000 for each regional public health network.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2030.

Senate Vote: Yeas 42 Nays 3 Absent 2

House Vote: Yeas 84 Nays 8 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State