

PUBLIC HEALTH UNITS - STATUTORY AUTHORITY TO SHARE SERVICES

North Dakota Century Code (NDCC) Section 23-25-03 provides that the governing body of a city or county may establish a public health unit by creating and appointing a board of health, which must have at least five members. Section 23-35-04 authorizes a governing body to form a multicounty or city-county health district by resolution. A county without a countywide public health unit may contract with a city that has a public health department to provide health services to the county and the cities throughout the county which do not have a public health unit. Section 23-35-05 authorizes two or more health districts to merge into a single health district upon a majority vote of the respective boards of health and of the governing body of each county.

The joint powers agreement statute, NDCC Chapter 54-40.3 (attached), authorizes any political subdivision of this state, which includes health districts, subject to approval by its governing body, to enter into an agreement with any other political subdivision of this state to administer or perform jointly any function the political subdivision is authorized. Therefore public health units may enter into joint powers agreements with other public health units through their governing bodies, which would be a board of health of a health district or a city commission or council or county board of commissioners for a city or county health department.

ATTACH:1

**CHAPTER 54-40.3
JOINT POWERS AGREEMENTS**

54-40.3-01. Joint powers agreements - General authority.

1. Any county, city, township, city park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into an agreement with any other political subdivision of this state for the cooperative or joint administration of any power or function that is authorized by law or assigned to one or more of them. Any political subdivision of this state may enter into a joint powers agreement with a political subdivision of another state or political subdivision of a Canadian province if the power or function to be jointly administered is a power or function authorized by the laws of this state for a political subdivision of this state and is authorized by the laws of the other state or province. A joint powers agreement may provide for:
 - a. The purpose of the agreement or the power or function to be exercised or carried out.
 - b. The duration of the agreement and the permissible method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of any property upon the partial or complete termination.
 - c. The precise organization, composition, and nature of any separate administrative or legal entity, including an administrator or a joint board, committee, or joint service council or network, responsible for administering the cooperative or joint undertaking. Two or more political subdivisions which enter into a number of joint powers agreements may provide a master administrative structure for the joint administration of any number of those agreements, rather than creating separate administrative structures for each agreement. However, no essential legislative powers, taxing authority, or eminent domain power may be delegated by an agreement to a separate administrative or legal entity.
 - d. The manner in which the parties to the agreement will finance the cooperative or joint undertaking and establish and maintain a budget for that undertaking. The parties to the agreement may expend funds pursuant to the agreement, use unexpended balances of their respective current funds, enter into a lease-option to buy and contract for deed agreements between themselves and with private parties, accumulate funds from year to year for the provision of services and facilities, and otherwise share or contribute property in accordance with the agreement in cooperatively or jointly exercising or carrying out the power or function. The agreement may include the provision of personnel, equipment, or property of one or more of the parties to the agreement that may be used instead of other financial support.
 - e. The manner of acquiring, holding, or disposing of real and personal property used in the cooperative or joint undertaking.
 - f. The acceptance of gifts, grants, or other assistance and the manner in which those gifts, grants, or assistance may be used for the purposes set forth in the agreement.
 - g. The process to apply for federal or state aid, or funds from other public and private sources, to the parties for furthering the purposes of the agreement.
 - h. The manner of responding for any liability that might be incurred through performance of the agreement and insuring against that liability.

- i. Any other necessary and proper matters agreed upon by the parties to the agreement.
2. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement in the manner provided in subsection 1 with any agency, board, or institution of the state for the undertaking of any power or function which any of the parties is permitted by law to undertake. Before an agreement entered into pursuant to this subsection is effective, the respective governing body or officer of the state agency, board, or institution must approve the agreement and the attorney general must determine that the agreement is legally sufficient.
3. An agreement made pursuant to this chapter does not relieve any political subdivision or the state of any obligation or responsibility imposed by law except to the extent of actual and timely performance by a separate administrative or legal entity created by the agreement. This actual and timely performance satisfies the obligation or responsibility of the political subdivision.

54-40.3-02. Clarification of constitutional authority and effect of other statutes - Construction.

1. The specificity of this chapter, chapter 54-40, or any other law may not be construed to limit the general authority of a political subdivision to enter into agreements pursuant to section 10 of article VII of the Constitution of North Dakota, except for specific limitations on that authority, and subject to specific procedural requirements, imposed by this chapter, any other law, or a home rule charter.
2. This chapter does not dispense with the procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

54-40.3-03. Political subdivisions encouraged to file agreements with advisory commission on intergovernmental relations. A political subdivision entering into a joint powers agreement pursuant to this chapter or any other law is encouraged to file one copy of the agreement and explanatory material with the advisory commission on intergovernmental relations, to assist the commission in providing information for other political subdivisions exploring cooperative arrangements.