

Enrolled
Senate Bill 253

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CHAPTER

AN ACT

Relating to local public health authorities; creating new provisions; amending ORS 431.003, 431.045, 431.382, 431.418 and 431.443; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 431.045 is added to and made a part of ORS 431.001 to 431.550.

SECTION 2. ORS 431.045 is amended to read:

431.045. (1) The Director of the Oregon Health Authority shall appoint a Public Health Officer who shall be responsible for the medical and paramedical aspects of the health programs within the Oregon Health Authority. The Public Health Officer must be a physician licensed [*by the Oregon Medical Board*] **under ORS chapter 677** who:

(a) Is certified by the American Board of Preventive Medicine or the board of a primary care clinical specialty such as internal medicine, family medicine or pediatrics; and

(b) Has at least two years of experience working for a local, state or federal public health authority.

(2) The Public Health Officer:

(a) Is responsible for the duties imposed by 42 U.S.C. 300ff-133(g) and 300ff-136[. *The officer*];

(b) **May appoint a local health officer for a county that has transferred the responsibility of the local public health authority in the county to the Oregon Health Authority under ORS 431.382; and**

(c) May adopt rules to carry out the officer's responsibilities under this subsection.

SECTION 3. ORS 431.382 is amended to read:

431.382. (1) If the Oregon Health Authority does not receive state moneys in an amount that equals or exceeds the estimate that the Oregon Health Authority submits to the Legislative Fiscal Office under ORS 431.380 (2), the governing body of the county in which a local public health authority operates **or the governing body of a local public health authority** may adopt an ordinance **or resolution** transferring the responsibility for fulfilling the local public health authority's duties under ORS 431.001 to 431.550 and 431.990 and the other public health laws of this state to the Oregon Health Authority. **An ordinance or resolution adopted under this section must specify the disparity in moneys received as described in this subsection.**

(2) The Oregon Health Authority shall prescribe the form and manner of informing the Oregon Health Authority that the local public health authority has made a transfer under this section.

(3) A transfer under this section may not take effect until 180 days after the date on which an ordinance **or resolution** mandating the transfer is adopted **unless the Oregon Health Authority agrees to an earlier effective date.**

(4) The local public health authority that makes a transfer under this section is not eligible to receive any moneys pursuant to ORS 431.380, and the Oregon Health Authority may use the moneys to provide or to contract for the provision of public health programs and public health activities within the local public health authority's jurisdiction.

(5) If a local public health authority makes a transfer under this section, the Oregon Health Authority:

(a) Is not obligated to provide or to contract for the provision of public health programs and public health activities within the local public health authority's jurisdiction; **and**

(b) **Has the authority of a local public health authority and local public health administrator within the former local public health authority's jurisdiction.**

(6)(a) **The governing body of a county or local public health authority that has transferred the responsibility for fulfilling the local public health authority's duties to the Oregon Health Authority under subsection (1) of this section may request that the Oregon Health Authority transfer the responsibilities back to the local public health authority.**

(b) **Upon the receipt of a request made under this subsection, the Oregon Health Authority and the governing body of the county or local public health authority that submitted the request shall enter into an agreement that provides a schedule for, and includes any other information necessary to effectuate, the transfer of responsibilities to the local public health authority. Upon completion by the Oregon Health Authority and the governing body of the terms of the agreement described in this paragraph, the governing body may repeal the ordinance or resolution adopted under subsection (1) of this section.**

(c) **Unless the criteria established under this paragraph are met, and the Oregon Health Authority agrees to an earlier date pursuant to subsection (3) of this section, the governing body of a county or local public health authority described in this subsection may not request that the Oregon Health Authority transfer responsibilities back to the local public health authority sooner than four years from the date described in subsection (3) of this section. The Oregon Health Authority shall establish by rule criteria described in this paragraph.**

(d) **A request made under this subsection must include the rationale for the request to transfer responsibilities back to the local public health authority.**

(e) **Nothing in this subsection is intended to alter or terminate before the specified term an agreement or contract that the Oregon Health Authority entered into during the period when the Oregon Health Authority was fulfilling the responsibilities of the local public health authority.**

(7)(a) **The governing body of a county or local public health authority that adopts an ordinance or resolution pursuant to subsection (1) of this section shall enter into a written agreement with the Oregon Health Authority regarding the transfer.**

(b) **If the governing body of a county or local public health authority makes a request under subsection (6) of this section, the governing body shall enter into a written agreement with the Oregon Health Authority regarding the transfer back to the local public health authority. The agreement must include a description of the reason or reasons that the governing body made the request under subsection (6) of this section.**

(c) **The Oregon Health Authority may determine the form and manner of the records described in this subsection.**

SECTION 4. ORS 431.418 is amended to read:

431.418. (1) **Except when a local public health authority has transferred its responsibility to the Oregon Health Authority under ORS 431.382, a [each] local public health authority shall appoint a qualified local public health administrator to supervise the activities of the local public health authority. In making an appointment under this subsection, the local public health authority**

shall consider standards for selection of local public health administrators prescribed by the Oregon Health Authority.

(2)(a) *[When the local public health administrator is a physician licensed by the Oregon Medical Board, the local public health administrator shall serve as the local health officer for the local public health authority. When the local public health administrator is not a physician licensed by the Oregon Medical Board, the local public health administrator shall employ or otherwise contract for services with a local health officer who is a physician licensed by the Oregon Medical Board to perform the specific medical responsibilities requiring the services of a physician.]* **When the local public health administrator is a physician licensed under ORS chapter 677, the local public health administrator may serve as the local health officer for the local public health authority.**

(b) When the local public health administrator does not serve as the local health officer, the local public health administrator shall employ or otherwise contract for services with a local health officer who is a physician licensed under ORS chapter 677 to perform the specific medical responsibilities requiring the services of a physician.

(c) A physician employed or whose services are contracted for under this subsection is responsible to the local public health administrator for the medical and paramedical aspects of the public health programs administered by the local public health administrator.

(3) The local public health administrator shall:

(a) Serve as the executive secretary of the local public health authority, act as the administrator of the local health department and supervise the officers and employees appointed under paragraph (b) of this subsection.

(b) Appoint, subject to the approval of the local public health authority, administrators, medical officers, public health nurses, environmental health specialists and such employees necessary to carry out the duties of the local public health administrator under ORS 431.001 to 431.550 and 431.990 and any other public health law of this state.

(c) Provide the local public health authority at appropriate intervals information concerning the activities of the local health department and submit an annual budget for the approval of the governing body of the county or, for a health district formed under ORS 431.443, the governing bodies of the counties that formed the health district.

(d) Act as the agent of the Oregon Health Authority in enforcing state public health laws and rules of the authority, including such sanitary inspection of hospitals and related institutions as may be requested by the authority.

(e) Perform any other duty required by law.

(4) A local public health administrator shall serve until removed by the appointing local public health authority. A local public health administrator may not engage in an occupation that conflicts with the local public health administrator's official duties and shall devote sufficient time to fulfilling the requirements of subsection (3) of this section. However, if the governing body of a local public health authority is not established under ORS 431.443 (3), the local public health authority may, with the approval of the Director of the Oregon Health Authority, require the local public health administrator to work less than full-time.

(5) A local public health administrator shall receive a salary fixed by the appointing *[board]* **authority** and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.

SECTION 5. ORS 431.003 is amended to read:

431.003. As used in ORS 431.001 to 431.550 and 431.990:

(1) "Foundational capability" means the knowledge, skill or ability that is necessary to carry out a public health activity.

(2) "Foundational program" means a public health program that is necessary to assess, protect or improve the health of the residents of this state.

(3) "Governing body of a local public health authority" means:

(a) The governing body of a county;

(b) A board described in ORS 431.443 (2);

(c) A board established under ORS 431.443 (3); or
(d) The board of an intergovernmental entity created by an agreement pursuant to ORS 190.010 (5) for the purpose of providing public health services.

(4) "Local health department" means the agency established by the local public health authority that is responsible for administering public health programs and public health activities within the local public health authority's jurisdiction.

(5) "Local health officer" means:

(a) A local public health administrator appointed under ORS 431.418 **who is a physician licensed under ORS chapter 677**; [or]

(b) [If the local public health administrator appointed under ORS 431.418 is not] A physician licensed [by the Oregon Medical Board, the physician] **under ORS chapter 677** who is employed by or who enters a contract with a local public health administrator under ORS 431.418; **or**

(c) **A physician licensed under ORS chapter 677 who is appointed by the Public Health Officer under ORS 431.045.**

(6) "Local public health administrator" means an individual appointed under ORS 431.418 to supervise the public health programs and public health activities of a local health department.

(7) "Local public health authority" means:

(a) A county government;

(b) A health district formed under ORS 431.443; or

(c) An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010 (5).

SECTION 6. ORS 431.443 is amended to read:

431.443. (1) Two or more contiguous counties may combine for the purpose of forming a health district when the governing body of each of the counties concerned adopt resolutions signifying their intention to form the health district.

(2) The governing bodies of the counties forming the health district may meet together, elect a chairperson and transact business as a district board of health whenever a majority of the members of the governing bodies from each of the participating counties are present at a meeting.

(3) In lieu of the procedure described in subsection (2) of this section, the governing bodies of the counties forming the health district may, by a two-thirds vote of the members from each participating county, establish and, except as provided in paragraph (f) of this subsection, appoint a district board of health consisting of the following members:

(a) One member from each participating county governing body selected by the county governing body to which the member belongs.

(b) One member from a school administrative unit within the health district.

(c) One member from the administrative staff of a city within the health district.

(d) Two physicians who have been licensed to practice medicine [*in this state by the Oregon Medical Board*] **under ORS chapter 677** and who are residents of the health district.

(e) One dentist who has been licensed to practice dentistry [*in this state by the Oregon Board of Dentistry*] **under ORS chapter 679** and who is a resident of the health district.

(f) One person who is a resident of the health district and who is to be appointed by the members serving under paragraphs (a) to (c) of this subsection.

(4) The term of office of the members referred to in subsection (3)(a) to (f) of this section shall be four years, with terms expiring on February 1, except that the first appointments made under this subsection shall be for terms of one, two, three or four years, as designated by a two-thirds vote of the members from each participating county.

(5) The governing bodies of the counties comprising the health district may appoint a public health advisory board for terms of four years, with terms expiring on February 1, except that the first appointments made under this subsection shall be for terms of one, two, three or four years, as designated by the governing bodies. The advisory board shall meet regularly to advise the district board of health on matters of public health. The advisory board shall consist of:

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters.

SECTION 7. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by Senate April 18, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State