

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1094  
Committee Substitute Favorable 5/14/03

Short Title: Local Health Departments.

(Public)

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Sponsors:

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Referred to:

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April 10, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 130A-39 reads as rewritten:

"§ 130A-39. Powers and duties of a local board of health.

(a) A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.

(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Health Services or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in G.S. 130A-247(1), and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c). A local board of health may adopt rules governing animal operations, as defined by G.S. 143-215.10B.

(b1) For purposes of subsection (b) of this section, a showing by a local board of health that a more stringent rule is required to protect the public health may be based on published scientific studies, testimony from experts in health-related professions, or documentation of gaps in State regulatory programs that may threaten public health. These studies and testimony must be related to the general subject matter of the rule but need not be based on county-specific considerations.

(c) The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.

1 (d) Not less than 10 days before the adoption, amendment or repeal of any local  
2 board of health rule, the proposed rule shall be made available at the office of each  
3 county clerk within the board's jurisdiction, and a notice shall be published in a  
4 newspaper having general circulation within the area of the board's jurisdiction. The  
5 notice shall contain a statement of the substance of the proposed rule or a description of  
6 the subjects and issues involved, the proposed effective date of the rule and a statement  
7 that copies of the proposed rule are available at the local health department. A local  
8 board of health rule shall become effective upon adoption unless a later effective date is  
9 specified in the rule.

10 (e) Copies of all rules shall be filed with the secretary of the local board of  
11 health.

12 (f) A local board of health may, in its rules, adopt by reference any code,  
13 standard, rule or regulation which has been adopted by any agency of this State, another  
14 state, any agency of the United States or by a generally recognized association. Copies  
15 of any material adopted by reference shall be filed with the rules.

16 (g) A local board of health may impose a fee for services to be rendered by a  
17 local health department, except where the imposition of a fee is prohibited by statute or  
18 where an employee of the local health department is performing the services as an agent  
19 of the State. Notwithstanding any other provisions of law, a local board of health may  
20 impose cost-related fees for services performed pursuant to Article 11 of this Chapter,  
21 "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this  
22 Chapter, "Public Swimming Pools", and for services performed pursuant to Part 11,  
23 Article 8 of this Chapter, "Tattooing". Fees shall be based upon a plan recommended by  
24 the local health director and approved by the local board of health and the appropriate  
25 county board or boards of commissioners. The fees collected under the authority of this  
26 subsection are to be deposited to the account of the local health department so that they  
27 may be expended for public health purposes in accordance with the provisions of the  
28 Local Government Budget and Fiscal Control Act."

29 **SECTION 2.** G.S. 130A-39(g) reads as rewritten:

30 "(g) A local board of health may impose a fee for services to be rendered by a  
31 local health department, except where the imposition of a fee is prohibited by statute or  
32 where an employee of the local health department is performing the services as an agent  
33 of the State. Notwithstanding any other provisions of law, a local board of health may  
34 impose cost-related fees for services performed pursuant to Article 11 of this Chapter,  
35 "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this  
36 Chapter, "Public Swimming Pools", ~~and~~ for services performed pursuant to Part 11,  
37 Article 8 of this Chapter, ~~"Tattooing"~~ "Tattooing", and for health inspections of animal  
38 waste management systems, as defined in G.S. 143-215.10B. Fees shall be based upon  
39 a plan recommended by the local health director and approved by the local board of  
40 health and the appropriate county board or boards of commissioners. The fees collected  
41 under the authority of this subsection are to be deposited to the account of the local  
42 health department so that they may be expended for public health purposes in  
43 accordance with the provisions of the Local Government Budget and Fiscal Control  
44 Act."

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**SECTION 3.** This act is effective when it becomes law.