

LOCAL BOARD OF HEALTH

331.302 County legislation.

1. The board shall exercise a power or perform a duty only by the passage of a motion, a resolution, an amendment, or an ordinance.

2. For a violation of an ordinance a county shall not provide a penalty in excess of the maximum fine and term of imprisonment for a simple misdemeanor under section 903.1, subsection 1, paragraph "a". The criminal penalty surcharge required by section 911.1 shall be added to a county fine and is not a part of the county's penalty.

3. The subject matter of an ordinance or amendment shall be generally described in its title.

4. An amendment to an ordinance or to a code of ordinances shall specifically repeal the ordinance or code, or the section, subsection, paragraph, or subpart to be amended, and shall set forth the ordinance, code, section, subsection, paragraph, or subpart as amended.

5. a. A county may by ordinance adopt by reference any portion of the Code of Iowa in effect at the time of the adoption in the manner provided in section 380.8 for adoption of a proposed code of ordinances containing a proposed new ordinance or amendment, subject to the following limitations:

(1) The ordinance shall describe the subject matter and identify the portion of the Code of Iowa adopted by chapter, section, and subsection or other subpart, as applicable.

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed the maximum fine and term of imprisonment for a simple misdemeanor under section 903.1, subsection 1, paragraph "a".

(3) Amendments or other changes to those portions of the Code of Iowa which have been adopted by reference shall serve as an automatic modification of the applicable ordinance.

b. An ordinance which adopts by reference any portion of the Code of Iowa may provide that violations of the ordinance are county infractions and subject to the limitations of section 331.307.

6. a. A proposed ordinance or amendment shall be considered and voted on for passage at two meetings of the board prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than a majority of the supervisors.

b. However, if a summary of the proposed ordinance or amendment is published as provided in section 331.305 prior to its first consideration and copies are available at the time of publication at the office of the auditor, the ordinance or amendment shall be considered and voted on for passage at one meeting prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than a majority of the supervisors.

7. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the supervisors. Each supervisor's vote on an ordinance, amendment, or resolution shall be recorded.

8. A resolution becomes effective upon passage and an ordinance or amendment becomes a law when a summary of the ordinance or the complete text of the ordinance is published, unless a subsequent effective date is provided within the measure. As used in this subsection, "summary" shall mean a narrative description of the terms and conditions of an ordinance setting forth the main points of the ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the ordinance. The description shall include the title of the ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the ordinance may be inspected, when the ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

9. The auditor shall promptly record each measure, publish a summary of all ordinances or a complete text of the ordinances and amendments as provided in section 331.305, authenticate all measures except motions with signature and certification as to time and manner of publication, if any, and maintain for public use copies of all effective ordinances and codes. A copy of the complete text of an ordinance or amendment shall also be available for distribution to the public at the office of the county auditor. The auditor's certification is presumptive evidence of the facts stated therein.

10. a. At least once every five years, the board shall compile a code of ordinances containing all of the county ordinances in effect.

(1) If a proposed code of ordinances contains only existing ordinances edited and compiled without change in substance, the board may adopt the code by ordinance.

(2) If a proposed code of ordinances contains a proposed new ordinance or amendment, the board shall hold a public hearing on the proposed code before adoption. The auditor shall publish notice of the hearing as provided in section 331.305. Copies of the proposed code of ordinances shall be available at the auditor's office and the notice shall so state. Within thirty days after the hearing, the board may adopt the proposed code of ordinances which becomes law upon publication of the ordinance adopting it. If the board substantially amends the proposed code of ordinances after a hearing, notice and hearing shall be repeated.

b. Ordinances and amendments which become effective after adoption of a code of ordinances may be compiled as a supplement to the code, and upon adoption of the supplement by resolution, become part of the code of ordinances.

c. An adopted code of ordinances is presumptive evidence of the passage, publication, and content of the ordinances therein as of the date of the auditor's certification of the ordinance adopting the code or supplement.

11. The compensation paid to a newspaper for a publication required by this section shall not exceed the fee provided in section 618.11. The compensation paid to a newspaper for publication of the complete text of an ordinance shall not exceed three-fourths of the fee provided in section 618.11.

12. The board may adopt the provisions of a statewide or nationally recognized standard code or portions of any such code by an ordinance which identifies the code by subject matter, source, and date, and incorporates the provisions either by reference or by setting them forth in full. The code or portion shall be adopted only after notice and hearing in the manner provided in subsection 10.

13. Immediately after the effective date of a measure establishing a zoning district, building lines, or fire limits, the auditor shall certify the measure and a plat showing the district, lines, or limits, to the recorder. The recorder shall record the measure and plat in the miscellaneous record or other book provided for special records, and shall index the record.

14. A measure voted upon is not invalid because a supervisor has a conflict of interest, unless the vote of the supervisor was decisive to passage of the measure. If a majority or unanimous vote of the board is required by statute, the majority or vote shall be computed on the basis of the number of supervisors not disqualified by reason of conflict of interest. However, a majority of all supervisors is required for a quorum. For the purposes of this subsection, the statement of a supervisor that the supervisor declines to vote by reason of conflict of interest is conclusive and shall be entered of record.

15. A valid measure adopted by a county prior to July 1, 1981, remains valid unless the measure is irreconcilable with a state law.

16. A county shall not provide a civil penalty in excess of seven hundred fifty dollars for the violation of an ordinance which is classified as a county infraction or if the infraction is a repeat offense, a civil penalty not to exceed one thousand dollars for each repeat offense. A county infraction is not punishable by imprisonment.

1. [C31, 35, §5903-c9; C39, §5903.09; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §330.11; S81, §331.302(1); 81 Acts, ch 117, §301]

2. [C97, §1349; C24, 27, 31, 35, 39, §5587, 7180; C46, §361.7, 444.19; C50, 54, 58, §358A.26, 361.7, 444.19; C62, 66, 71, 73, 75, §332.30, 358A.26, 444.19; C77, 79, 81, §332.30, 332.51, 358A.26; S81, §331.302(2); 81 Acts, ch 117, §301]

3 - 5. [S81, §331.302(3 - 5); 81 Acts, ch 117, §301]

6. [C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §329.9; S81, §331.302(6); 81 Acts, ch 117, §301]

7 - 10. [S81, §331.302(7 - 10); 81 Acts, ch 117, §301]

11. [C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §358A.25; S81, §331.302(11); 81 Acts, ch 117, §301]

12 - 14. [S81, §331.302(12 - 14); 81 Acts, ch 117, §301]

84 Acts, ch 1219, §30; 86 Acts, ch 1202, §3; 91 Acts, ch 145, §1, 2; 96 Acts, ch 1098, §1; 98 Acts, ch 1144, §1; 99 Acts, ch 153, §7, 8; 2000 Acts, ch 1203, §17, 18; 2003 Acts, ch 178, §21; 2004 Acts, ch 1111, §1; 2009 Acts, ch 21, §3, 4

Referred to in §331.251, 331.304A, 335.6, 368.26, 455B.146, 455B.175, 455B.192

[P] See also Iowa Constitution, Art. III, §39A

455B.172 Jurisdiction of department and local boards.

1. The department is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. The department shall carry out the responsibilities of the state related to private water supplies and private sewage disposal systems for the protection of the environment and the public health and safety of the citizens of the state.

3. Each county board of health shall adopt standards for private water supplies and private sewage disposal facilities. These standards shall be at least as stringent but consistent with the standards adopted by the commission. If a county board of health has not adopted standards for private water supplies and private sewage disposal facilities, the standards adopted by the commission shall be applied and enforced within the county by the county board of health.

4. Each county board of health shall regulate the private water supply and private sewage disposal facilities located within the county board's jurisdiction, including the enforcement of standards adopted pursuant to this section.

5. a. The department shall maintain jurisdiction over and regulate the direct discharge to a water of the state. The department shall retain concurrent authority to enforce state standards for private water supply and private sewage disposal facilities within a county, and exercise departmental authority if the county board of health fails to fulfill board responsibilities pursuant to this section.

b. The department shall by rule adopt standards for the commercial cleaning of private sewage disposal facilities, including but not limited to septic tanks, and for the disposal of waste from the facilities. The standards shall not be in conflict with the state building code adopted pursuant to section 103A.7. A person shall not commercially clean such facilities or dispose of waste from such facilities unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. The department may contract for the delegation of the authority for inspection of land application sites, record reviews, and equipment inspections to a county board of health. In the event of entering into such a contract, the department shall retain concurrent authority over such activities. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. A license application shall include registration applications for each vehicle used by the applicant for purposes of collecting septage from private sewage disposal facilities and each vehicle used by the applicant for purposes of applying septage to land. Septic disposal management plans shall be submitted to the department and approved annually as a condition of licensing and shall also be filed annually with the county board of health in the county where a proposed septage application site is located. The septic disposal management plan shall include, but not be limited to, the sites of septage application, the anticipated volume of septage applied to each site, the area of each septage application site, the type of application to be used at each site, the volume of septage expected to be collected from private sewage disposal facilities, and a list of registered vehicles collecting septage from private sewage disposal facilities and applying septage to land. The annual license or license renewal fee for a person commercially cleaning private sewage disposal facilities shall be established by the department based on the volume of septage that is applied to land. A septic management fund is created in the state treasury under the control of the department. Annual license and license renewal fees collected pursuant to this section shall be deposited in the septic management fund and are appropriated to the department for purposes of contracting with county boards of health to conduct land application site inspections, record reviews, and septic cleaning equipment inspections. A person violating this section or the rules adopted pursuant to this section as determined by the department is subject to a civil penalty of not more than two hundred fifty dollars. The department shall adopt rules related to, but not limited to, recordkeeping requirements, application procedures and limitations, contamination issues, loss of septage, failure to file a septic disposal management plan, application by vehicles that are not properly registered, wrongful application, and violations

of a septic disposal management plan. Each day that a violation continues constitutes a separate offense. The penalty shall be assessed for the duration of time commencing with the time the violation begins and ending with the time the violation is corrected. The septic disposal management plan may be examined to determine the duration of the violation. Moneys collected by the department from the imposition of civil penalties shall be deposited in the general fund of the state. Moneys collected by a county board of health from the imposition of civil penalties shall be deposited in the general fund of the county.

6. a. The department shall by rule adopt standards for the commercial cleaning of toilet units and for the disposal of waste from toilet units. Waste from toilet units shall be disposed of at a wastewater treatment facility and shall not be applied to land. The department may contract for the delegation of the authority for inspection of record reviews and equipment inspections for such units to a county board of health. In the event of entering into such a contract, the department shall retain concurrent authority over such activities.

b. A person shall not commercially clean toilet units or dispose of waste from such units unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. A license application shall include registration applications for each vehicle used by the applicant for purposes of collecting waste from toilet units and each vehicle used by the applicant for purposes of transporting waste from toilet units to a wastewater treatment facility. The annual license or license renewal fee for a person commercially cleaning toilet units shall be established by the department based on the number of trucks or vehicles used by the licensee for purposes of commercial cleaning of toilet units and for the disposal of waste from the toilet units. For purposes of this subsection, "vehicle" includes a trailer.

c. A toilet unit fund is created in the state treasury under the control of the department. Annual license and license renewal fees collected pursuant to this subsection shall be deposited in the toilet unit fund and are appropriated to the department for purposes of contracting with county boards of health to conduct record reviews and toilet unit cleaning equipment inspections.

d. A person violating this section or the rules adopted pursuant to this section as determined by the department is subject to a civil penalty of not more than five hundred dollars. Each day that a violation continues constitutes a separate offense. The penalty shall be assessed for the duration of time commencing with the time the violation begins and ending with the time the violation is corrected. Moneys collected by the department from the imposition of civil penalties shall be deposited in the general fund of the state. Moneys collected by a county board of health from the imposition of civil penalties shall be deposited in the general fund of the county.

7. a. The department is the state agency to regulate the construction, reconstruction and abandonment of all of the following water wells:

- (1) Those used as part of a public water supply system as defined in section 455B.171.
- (2) Those used for the withdrawal of water for which a permit is required pursuant to section 455B.268, subsection 1.
- (3) Those used for the purpose of monitoring groundwater quantity and quality required or installed pursuant to directions or regulations of the department.

b. A local board of health is the agency to regulate the construction, reconstruction and abandonment of water wells not otherwise regulated by the department. The local board of health shall not adopt standards relative to the construction, reconstruction and abandonment of wells less stringent than those adopted by the department.

8. The department is the state agency to regulate the registration or certification of water well contractors pursuant to section 455B.187 or section 455B.190A.

9. Pursuant to chapter 28E, the department may delegate its authority for regulation of the construction, reconstruction and abandonment of water wells specified in subsection 7 or the registration of water well contractors specified in subsection 8 to boards of health

or other agencies which have adequate authority and ability to administer and enforce the requirements established by law or rule.

10. Any county ordinance related to sewage sludge which is in effect on March 1, 1997, shall not be preempted by any provision of section 455B.171, 455B.174, 455B.183, or 455B.304.

11. *a.* If a building where a person resides, congregates, or is employed is served by a private sewage disposal system, the sewage disposal system serving the building shall be inspected prior to any transfer of ownership of the building. The requirements of this subsection shall be applied to all types of ownership transfer including at the time a seller-financed real estate contract is signed. The county recorder shall not record a deed or any other property transfer or conveyance document until either a certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the department or, in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer has executed and submitted a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Any type of on-site treatment unit or private sewage disposal system must be inspected according to rules developed by the department. For the purposes of this subsection, "transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, "transfer" does not include any of the following:

(1) A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

(2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, a transfer by a mortgagee who has acquired real property as a result of a deed in lieu of foreclosure or has acquired real property under chapter 654 or 655A, or a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A.

(3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) A transfer between joint tenants or tenants in common.

(5) A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

(6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

(7) A transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.

(8) A transfer of property with a system that was installed not more than two years prior to the date of the transfer.

(9) A deed arising from a partition proceeding.

(10) A tax sale deed issued by the county treasurer.

(11) A transfer for which consideration is five hundred dollars or less.

(12) A deed between a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company as defined in section 428A.2, subsection 15, and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or in the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deed is given for no actual consideration other than for shares or for debt securities of the family corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

b. At the time of inspection, any septic tank existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of as provided for by rule. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence.

c. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, and within a reasonable time period as determined by the county board of health or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

d. Inspections shall be conducted by an inspector certified by the department.

e. Pursuant to chapter 17A, the department shall adopt certification requirements for inspectors including training, testing, and fees, and shall establish uniform statewide inspection criteria and an inspection form. The inspector certification training shall include use of the criteria and form. The department shall maintain a list of certified inspectors.

f. County personnel are eligible to become certified inspectors. A county may set an inspection fee for inspections conducted by certified county personnel. A county shall allow any department certified inspector to provide inspection services under this subsection within the county's jurisdiction.

g. Following an inspection, the inspection form and any attachments shall be provided to the county board of health and the department for enforcement of any follow-up mandatory system improvement and to the department for record.

h. An inspection is valid for a period of two years for any ownership transfers during that period.

i. This subsection preempts any city or county ordinance related to the inspection of private sewage disposal systems in association with the transfer of ownership of a building.

[C66, 71, §455B.3; C73, §455B.31; C75, 77, 79, 81, §135.20, 455B.31; 82 Acts, ch 1199, §9] C83, §455B.172

83 Acts, ch 137, §3; 84 Acts, ch 1121, §3; 85 Acts, ch 176, §2; 87 Acts, ch 225, §112, 113; 90 Acts, ch 1243, §1; 91 Acts, ch 224, §4; 97 Acts, ch 137, §3; 2004 Acts, ch 1086, §74; 2004 Acts, ch 1167, §11; 2005 Acts, ch 153, §2, 3; 2006 Acts, ch 1010, §172, 177; 2008 Acts, ch 1033, §1, 2; 2009 Acts, ch 175, §22, 25; 2010 Acts, ch 1061, §85; 2010 Acts, ch 1120, §1 – 5; 2011 Acts, ch 25, §51

Referred to in §358.16, 358.22, 384.38, 455B.172A, 455B.188, 558.69

[SP] 2010 amendment striking a requirement relating to documentation on title abstracts for property containing private sewage systems, applies retroactively to July 1, 2009; 2013 Acts, ch 25, §1

[SP] 2013 amendment to 2010 Acts, ch 1120, takes effect April 5, 2013, and applies retroactively to July 1, 2010; 2013 Acts, ch 25, §2, 3

[T] Section not amended; footnotes added

CHAPTER 77
LOCAL BOARDS OF HEALTH
[Prior to 7/29/87, Health Department[470] Ch 77]

641—77.1(137) Purpose. The local board of health shall have jurisdiction over public health matters within its designated geographic area in accordance with Iowa Code chapter 137. The local board of health shall promote and protect the health of the residents and shall carry out the powers of local boards as specified in Iowa Code sections 137.103 and 137.104 and all applicable Iowa Code chapters.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.2(137) Definitions. For the purpose of these rules, the following definitions apply:

“Core public health functions” means the functions of assessment, policy development, and assurance.

1. Assessment: Regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development: Development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and in accordance with state public health policy.

3. Assurance: Ensuring by encouragement, regulation, or direct action that programs and interventions that maintain and improve health are carried out.

“County health department” refers to the personnel and property under the jurisdiction of a county board.

“Department” means the Iowa department of public health.

“District” means any two or more geographically contiguous counties.

“District board” means a board of health representing at least two geographically contiguous counties formed with the approval of the department in accordance with Iowa Code chapter 137, or any district board of health in existence prior to July 1, 2010.

“District health department” refers to the personnel and property under the jurisdiction of a district board.

“Environmental health services” means services focused on the environment to support population-based health services.

“Essential public health services” means those activities carried out by public health that fulfill the core functions.

“Iowa public health standards” means the governmental public health standards adopted by rule by the state board of health.

“Local board of health” means a city, county, or district board of health.

“Personal health services” means services focused on the care of individuals.

“Population-based health services” means services focused on the health status of population groups and their environments.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.3(137) Local boards of health—roles and responsibilities. Public health is responsible for safeguarding the community’s health. This goal is pursued through three core functions: assessment, policy development and assurance.

77.3(1) Assessment: Regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs, personal health services, and epidemiologic and other studies of health problems. A local board of health may perform the following essential public health services:

a. Monitor health status to identify community health problems;

b. Diagnose and investigate health problems and health hazards in the community; and

c. Evaluate effectiveness, accessibility, and quality of personal, population-based, and environmental health services.

77.3(2) Policy development: Exercise responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

a. A local board of health may perform the following essential public health services:

- (1) Develop policies and plans that support individual and community health efforts; and
- (2) Research new insights and innovative solutions to health problems and health threats.

b. A local board of health shall perform the following essential public health services:

(1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;

(2) Make and enforce reasonable rules and regulations not inconsistent with the law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health; and

(3) Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

77.3(3) Assurance: Assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging action by other entities (private or public sector), by requiring such action through regulation, or by providing services directly. Each local board of health must involve key policymakers and the general public in determining a set of high-priority personal and population-based health services. A local board of health may perform the following essential public health services:

a. Link people to needed personal health services; provide such personal, population-based and environmental health services as deemed necessary for the promotion and protection of the health of the public; and charge reasonable fees for personal health services;

b. Ensure the competence of the public health, environmental health, and personal health care workforce;

c. Inform, educate, and empower people about health issues;

d. Mobilize community partnerships to identify and solve health problems;

e. Issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems;

f. Engage in joint operations by:

(1) Contracting with colleges and universities, the department, other public, private, and nonprofit agencies, and individuals; or

(2) Forming a district health department to provide personal and population-based health services; and

g. Enforce, by written agreement with the council of any city within its jurisdiction, appropriate ordinances of the city relating to public health.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.4(137) Local boards of health—Iowa public health standards. Local boards of health may:

1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.

2. Demonstrate a commitment to comply with the Iowa public health standards.

3. Request at least annually reports from organizations that provide public health services within the jurisdiction.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.5(137) Organization of local boards of health.

77.5(1) Qualifications. Members of a local board of health should have experience or education related to the core public health functions, essential public health services, public health, environmental health services, personal health services, population-based services, or community-based initiatives.

77.5(2) Officers of local boards of health. Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

a. The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.

b. In case of a vacancy of the office of chairperson, a successor, who shall serve the remainder of the term, shall be elected at the next meeting of the board.

77.5(3) Meetings of local boards of health. The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and such meetings shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

a. Each local board of health shall meet at least six times per year.

b. Special meetings of a local board of health may be called, as needed, by the chairperson or by any three board members. The local board of health shall provide at least 24 hours' notice of special meetings, except in case of emergency.

c. A majority of the members of a local board of health shall be considered a quorum, and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest, and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.6(137) Operation of local boards of health. Local boards of health shall submit to the department the following information:

77.6(1) Names, addresses, E-mail addresses and telephone numbers of members of the local board of health, within one month after their appointment.

77.6(2) Names of the chairperson and any other officers elected by the local board of health, within one month after their election.

77.6(3) A copy of the minutes of each regular and special meeting of the local board of health, within two weeks of their being approved. The minutes shall include at least:

a. The date and place of the meeting;

b. A list of members present; and

c. A report of any official board actions.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.7(137) Expenses of local board of health members.

77.7(1) The following may be considered necessary expenses of local board of health members:

a. Travel in private car on local board of health business at the same rate as provided for a public officer or employee in Iowa Code section 70A.9.

b. Lodging and meal expenses including sales tax on lodging and meals.

c. Expense of public transportation when traveling on local board of health business.

d. Miscellaneous expenses related to performance of duties as approved by the local board of health.

e. Training and education expenses.

77.7(2) This rule shall not be construed as requiring the payment of reimbursement to any person or as prohibiting local boards of health from imposing additional restrictions or administrative requirements on expenses of their members.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.8(137) District boards of health. The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

77.8(1) A request to form a district board of health shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district.

77.8(2) A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

a. A written narrative that explains how the formation of a district board of health will increase organizational capacity and capability to provide population-based and personal health services compared with operating as local boards of health.

b. A written narrative that details the infrastructure capability of the proposed district board of health to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.

c. The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section 135.105 and the total number of members on the district board of health.

d. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.

e. A service delivery plan to include each component of the public health standards. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.

f. The budget and fiscal plan for the proposed district health department. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.

g. A table of organization.

h. A personnel system description, including identification of the district health department treasurer and district health department auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.

i. The location of the district health department offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.

j. An inventory of the property and equipment in the custody of each county health department and a description as to whether such property and equipment shall remain in the custody of the county health department or shall be transferred to the district health department to become property of the district health department. Property and equipment include any item which costs more than \$5,000.

k. An information technology (IT) plan that details the formation of a centralized IT department able to serve the needs of the proposed district health department.

l. A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.9(137) Approval of district board of health formation.

77.9(1) Upon receipt of the application form and all information contained in rule 641—77.8(137), the department shall review such information and shall determine, within 30 days, whether the required elements have been presented by the proposed district.

77.9(2) The department shall present its findings to the state board of health at the board's next regularly scheduled meeting, at which time the state board of health may approve formation of the district board of health.

77.9(3) The state board of health shall immediately provide notice of approval of district board of health formation, including effective dates, to the county board of health of each county in the district and to the board of supervisors of each county in the district.

77.9(4) Upon receipt of the notice of approval of district board of health formation, each appointing authority shall, prior to the effective date of district board of health formation, appoint district board of health members as specified in Iowa Code section 137.105.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.10(137) Denial of district board of health formation. The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority

to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.

77.10(1) The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district board of health formation within 30 days of the decision.

77.10(2) The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

77.10(3) The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.11(137) Adding to a district board of health. A county may be added to an existing district board of health by submission and approval of a request, as specified in Iowa Code sections 137.106 and 137.107.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

641—77.12(137) Withdrawal from a district board of health. A county may voluntarily withdraw from a district board of health by submitting a request for withdrawal to the department for approval. The request shall include a time line and plan to reestablish a county board of health or to join a different district board of health to provide the core public health functions and essential public health services to the county's geographic area.

77.12(1) If the request for withdrawal of the applicant county from the district board of health is approved by the state board of health, an effective date shall be set for the action, and notification shall be sent to the district board of health and the board of supervisors of the applicant county.

77.12(2) The ownership of property and equipment shall follow the guidelines submitted in the original request to form the district board of health.

77.12(3) The remaining counties in the district shall submit an application including the information specified in rule 641—77.8(137) to the department for review as provided in Iowa Code section 137.107.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code chapter 137.

[Filed 10/10/67; amended 1/22/68]

[Filed 3/18/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]

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[Filed 3/18/98, Notice 1/14/98—published 4/8/98, effective 5/13/98]

[Filed ARC 9773B (Notice ARC 9632B, IAB 7/27/11), IAB 10/5/11, effective 11/9/11]

CHAPTER 137

LOCAL BOARDS OF HEALTH

Referred to in §346A.1

[P] Former chapter 137 repealed by 2010 Acts, ch 1036, §22

137.101	Title and purpose.	137.109	Organizational structure of district board.
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137.101 Title and purpose.

This chapter shall be known and may be cited as the “*Local Public Health Governance Act*”. The purpose of this chapter is to define the structure, powers, and duties of local boards of health. This chapter also provides an optional process for counties to merge to form a district board of health in order to increase efficiencies and enhance the delivery and availability of public health services.

2010 Acts, ch 1036, §1

137.102 Definitions.

As used in this chapter unless the context otherwise requires:

1. “*City board*” means a city board of health in existence prior to July 1, 2010.
2. “*City health department*” refers to the personnel and property under the jurisdiction of a city board in existence prior to July 1, 2010.
3. “*Council*” means a city council.
4. “*County board*” means a county board of health.
5. “*County health department*” refers to the personnel and property under the jurisdiction of a county board.
6. “*Director*” means the director of public health.
7. “*District*” means any two or more geographically contiguous counties.
8. “*District board*” means a board of health representing at least two geographically contiguous counties formed with approval of the state department in accordance with this chapter, or any district board of health in existence prior to July 1, 2010.
9. “*District health department*” refers to the personnel and property under the jurisdiction of a district board.
10. “*Iowa public health standards*” means Iowa public health standards as defined in section 135A.2.
11. “*Local board of health*” means a city, county, or district board of health.
12. “*Officers*” means a local board of health chairperson, vice chairperson, and secretary, and other officers which may be named at the discretion of the local board of health.
13. “*State board*” means the state board of health.
14. “*State department*” means the Iowa department of public health.

2010 Acts, ch 1036, §2

Referred to in §135L.1

137.103 Local boards of health — jurisdiction.

1. A city board shall have jurisdiction over public health matters within the city.
2. A county board shall have jurisdiction over public health matters within the county.

3. A district board shall have jurisdiction over public health matters within the district.
2010 Acts, ch 1036, §3

137.104 Local boards of health — powers and duties.

Local boards of health shall have the following powers and duties:

1. A local board of health shall:
 - a. Enforce state health laws and the rules and lawful orders of the state department.
 - b. Make and enforce such reasonable rules and regulations not inconsistent with law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health.
 - (1) Rules of a city board shall become effective upon approval by the council and publication in a newspaper having general circulation in the city.
 - (2) Rules of a county board shall become effective upon approval by the county board of supervisors by a motion or resolution as defined in section 331.101, subsection 13, and publication in a newspaper having general circulation in the county.
 - (3) Rules of a district board shall become effective upon approval by the district board and publication in a newspaper having general circulation in the district.
 - (4) Before approving any rule or regulation the local board of health shall hold a public hearing on the proposed rule. Any citizen may appear and be heard at the public hearing. A notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation shall be published in a newspaper having general circulation as provided in section 331.305 in the area served by the local board of health.
 - c. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of chapter 8A, subchapter IV, or any civil service provision adopted under chapter 400.
 - d. Provide the names of all local board of health members and officers to the state department.
 - e. Provide minutes of local board of health meetings and reports of the local board of health's operations and activities to the state department as may be required by the director, by rule, or by contract.
2. A local board of health may:
 - a. Provide such population-based and personal health services as may be deemed necessary for the promotion and protection of the health of the public and charge reasonable fees for personal health services. A person shall not be denied necessary services within the limits of available resources because of inability to pay the cost of such services.
 - b. Provide such environmental health services as may be deemed necessary for the protection and improvement of the public health and issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems.
 - c. Engage in joint operations and contract with colleges and universities, the state department, other public, private, and nonprofit agencies, and individuals or form a district health department to provide personal and population-based public health services.
 - d. By written agreement with the council of any city within its jurisdiction, enforce appropriate ordinances of the city relating to public health.

2010 Acts, ch 1036, §4

Referred to in §137.115

137.105 Local boards of health — membership and meetings.

1. *Membership, terms, compensation, and vacancies.*
 - a. All members of a city board shall be appointed by the council.
 - b. All members of a county board shall be appointed by the county board of supervisors.
 - c. All members of a district board shall be appointed by the county board of supervisors from each county represented by the district. Each county board of supervisors shall appoint at least one but no more than three members to the district board, and each county board of supervisors shall appoint the same number of members to the district board. There shall be

no more than one board of supervisors member from any participating county on the district board.

d. Local boards of health shall consist of at least five members. At least one member shall be licensed as a physician under chapter 148.

e. A local board of health member shall serve for a term of three years. A member is eligible for reappointment.

f. A local board of health member shall serve without compensation, but may be reimbursed for necessary expenses in accordance with rules established by the state board or the applicable jurisdiction.

g. A local board of health member vacancy due to death, resignation, or other cause shall be filled as soon as possible after the vacancy exists for the unexpired term of the original appointment.

2. *Meetings.* A majority of the members of a local board of health shall be considered a quorum and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

2010 Acts, ch 1036, §5

Referred to in §137.106, 137.108, 331.321

137.106 District boards of health — request to form.

The county boards of any two or more geographically contiguous counties may at any time submit a request to form a district board to the state department. The formation request shall be in writing, shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district board, and shall include but not be limited to the following required elements:

1. A written narrative that explains how the formation of a district board will increase organizational capacity and capability to provide population-based and personal public health services compared with operating as individual county boards.

2. The composition of the district board, including the number of members each county shall appoint pursuant to section 137.105 and the total number of members on the district board.

3. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district board and of the elements included in the formation plan.

4. The service delivery plan.

5. The budget and fiscal plan for the proposed district board. The budget plan shall include an estimate of proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district board.

6. A table of organization.

7. A personnel system description, including identification of the district treasurer and district auditor and a section which addresses the employment issues contained in section 137.110.

8. The location of the district board offices and workforce throughout the jurisdiction.

9. An inventory of the property and equipment in the custody of each county board and a description as to whether such property and equipment shall remain in the custody of the county or shall be transferred to the district board to become property of the district board.

10. A timeline for the adoption of district board rules and regulations.

11. Other criteria as established by rule of the state department.

2010 Acts, ch 1036, §6

Referred to in §137.107, 137.110, 137.113, 137.114, 137.115

137.107 Request reviewed by state department.

The state department shall review requests submitted pursuant to section 137.106. The state department, upon finding that all required elements are present, shall present findings

to the state board. The state board may approve the formation of a district board and if the formation is approved, shall notify the county boards from whom the request was received.

2010 Acts, ch 1036, §7
 Referred to in §137.113, 137.114

137.108 Initial appointment of district board of health.

Upon receipt of notice of approval as a district board, district board members shall be appointed as specified in section 137.105.

2010 Acts, ch 1036, §8

137.109 Organizational structure of district board.

A district board is a governing body for purposes of chapter 670 and a district health department is a municipality for purposes of chapter 670. All meetings of a district board shall comply with the requirements of chapter 21 and all records of a district board and a district health department shall be maintained in accordance with chapter 22.

2010 Acts, ch 1036, §9

137.110 District personnel.

1. A district board may employ persons as necessary for the efficient discharge of its duties. A district board shall have all the duties and powers in employing such persons as a county board of supervisors is granted pursuant to section 331.324, with the exception of the authority to provide for support of the civil service commission for deputy sheriffs as specified in section 331.324, subsection 1, paragraph "k". A district board may employ persons who were employed at the time of the formation of the district board by the counties represented by the district board, or may employ persons who were not employed by such counties. The county boards involved shall specify in the request submitted pursuant to section 137.106 whether the individual counties or the district board will be responsible for payment of unemployment compensation for any county employees employed by the county board at the time of formation of the district board but not employed by the district board following formation.

2. If the district board employs persons who were employed by the counties represented by the district board at the time of formation of the district board, the district board shall recognize the term of service of the former county employees for purposes of all employee benefits offered by the district board to such employees and such employees shall not forfeit accrued vacation, accrued sick leave, or longevity by becoming district board employees.

3. Persons who were covered by county employee life insurance, accident insurance, and health insurance plans prior to becoming district board employees pursuant to this chapter shall be permitted to apply prior to becoming district board employees for life, accident, and health insurance plans that are available to district board employees so that those persons do not suffer a lapse of insurance coverage as a result of becoming district board employees.

4. The district board may employ or contract with legal counsel to enforce this chapter and district board rules, represent and defend the district board and its officers and employees, provide legal advice to the district board, and perform any other legal duties required by law or assigned by the district board. The district board may employ or contract with the county attorney of a county within its jurisdiction.

2010 Acts, ch 1036, §10
 Referred to in §137.106

137.111 District treasurer and auditor.

Upon establishment of a district board, the district board shall designate a treasurer of a county within its jurisdiction to serve as treasurer of the district health department, and shall designate the auditor of the same county to serve as auditor of the district health department. The treasurer's and the auditor's official bonds shall extend to cover their respective duties performed on behalf of the district health department. A county treasurer shall not serve in the capacity of district health department treasurer without consent from the county and agreement from the treasurer to perform this function, and a county auditor shall not serve

in the capacity of district health department auditor without consent from the county and agreement from the auditor to perform this function.

2010 Acts, ch 1036, §11

137.112 District public health fund — budget.

1. The district treasurer shall establish a district public health fund from which disbursements may be made in the manner specified for disbursements by law for the disbursement of county funds.

2. All moneys received by a district board or district health department for local public health purposes from federal appropriations, state appropriations, local appropriations, fees, gifts, grants, bequests, or other sources shall be deposited in the district public health fund. Expenditures shall be made from the fund on order of the district board for the purpose of carrying out its duties. No more than twenty percent of the unexpended balance remaining in the fund at the end of each fiscal year shall be maintained in the district public health fund. The remainder of the unexpended balance shall revert to the general funds of the member counties in the manner determined by the district board.

3. The district board shall adopt and certify an annual budget in accordance with section 24.17 relating to certification of budgets and section 24.27 relating to protesting budgets.

4. This section does not apply to any district board of health or district health department in existence prior to July 1, 2010.

2010 Acts, ch 1036, §12; 2012 Acts, ch 1113, §17, 20, 21

[SP] Subsection 4 takes effect May 2, 2012, and applies retroactively to July 1, 2010; 2012 Acts, ch 1113, §20, 21

137.113 Adding to district.

A county may be added to an existing district board by submission and approval of a request, as specified in sections 137.106 and 137.107.

2010 Acts, ch 1036, §13

137.114 Withdrawal from district.

A county may withdraw from an existing district board upon submission of a request for withdrawal to and approval by the state department. The request shall include a plan to reform its county board or join a different district board, information specified in section 137.106, and approval of the request by the district board and, at the recommendation of the state department, the state board. Any county choosing to withdraw from the district board shall commit to the continuity of services in its county by reestablishing its county board or joining a different district board. The remaining counties in the district shall submit an application including the information specified in section 137.106 to the state department for review as provided in section 137.107.

2010 Acts, ch 1036, §14

137.115 Dissolution of county boards.

Upon appointment of a district board, the county boards involved shall be dissolved and their powers and duties specified in section 137.104 transferred to the district board. All property and equipment in the custody of the county board shall either remain the property of the county or shall become the property of the district board, as so provided in the district board formation request submitted pursuant to section 137.106.

2010 Acts, ch 1036, §15

137.116 Emergency request for funds.

A local board of health may, during a public health disaster as defined in section 135.140 or in preparation for or response to such disaster, request additional appropriations which may upon approval of the director be allotted from the funds reserved for that purpose to the extent that funds are appropriated and available. Upon termination of the disaster response, the local board of health shall report its expenditures of emergency funds to the director.

2010 Acts, ch 1036, §16

137.117 Penalties — criminal and civil.

1. Any person who violates any provision of this chapter or the rules of a local board of health or any lawful order of the board, its officers, or authorized agents is guilty of a simple misdemeanor. Each additional day of neglect or failure to comply with such provision, rule, or lawful order after notice of violation by the local board of health shall constitute a separate offense.

2. A local board of health may impose a civil penalty not to exceed seven hundred fifty dollars for each violation of this chapter or the rules of the local board of health or any lawful order of the board, its officers, or authorized agents. If the violation is a repeat offense, a civil penalty not to exceed one thousand dollars may be imposed. The local board of health shall impose and enforce such penalties in the manner provided in section 331.307 for county infractions.

2010 Acts, ch 1036, §17

137.118 Individual choice of treatment.

Nothing in this chapter shall be construed to impede, limit, or restrict the right of free choice by an individual to the health care or treatment that the individual may select.

2010 Acts, ch 1036, §18

137.119 Adoption of rules.

The state board of health shall adopt rules to implement this chapter. The department is vested with discretionary authority to interpret the provisions of this chapter.

2010 Acts, ch 1036, §19