

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 690
SENATE BILL 709

AN ACT TO ALLOW THE CONSOLIDATION OF HUMAN SERVICES BY COUNTIES, TO MAKE PROVISIONS RELATIVE TO THE STATE AND FEDERAL FUNDING STREAMS FOR CONSOLIDATED HUMAN SERVICES FUNCTIONS, TO PROVIDE THAT THE MEMBERSHIP OF A CONSOLIDATED HUMAN SERVICES BOARD SHALL BE APPOINTED SOLELY BY THE BOARD OF COUNTY COMMISSIONERS, AND TO CHANGE THE STATUS OF COUNTY EMPLOYEES OF A CONSOLIDATED COUNTY HUMAN SERVICES AGENCY WITH REGARD TO THEIR COVERAGE UNDER THE STATE PERSONNEL ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 1A. Consolidated County Human Services.

"§ 143B-139.7. Consolidated county human services funding.

(a) The Secretary of the Department of Human Resources shall adopt rules and policies to provide that:

- (1) Any dedicated funding streams for local public health services, for social services, and for mental health, developmental disabilities, and substance abuse services may flow to a consolidated county human services agency and the consolidated human services board in the same manner as that for funding nonconsolidated county human services, unless a different manner of allocation is otherwise required by law.
- (2) The fiscal accountability and reporting requirements pertaining to local health boards, social services boards, and area mental health authority boards apply to a consolidated human services board.

(b) The Secretary of the Department of Human Resources may adopt any other rule or policy required to facilitate the provision of human services by a consolidated county human services agency or a consolidated human services board.

(c) For the purposes of this section, 'consolidated county human services agency' means a county human services agency created pursuant to G.S. 153A-77(b). 'Consolidated human services board' means a county human services board established pursuant to G.S. 153A-77(b)."

Sec. 2. Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.6. Consolidated county human services funding.

(a) The Secretary of the Department of Environment, Health, and Natural Resources shall adopt rules and policies to provide that:

- (1) Any dedicated funding streams for local public health services may flow to a consolidated county human services agency and the consolidated human services board in the same manner as that for funding nonconsolidated county human services, unless a different manner of allocation is otherwise required by law.
- (2) The fiscal accountability and reporting requirements pertaining to local health boards apply to a consolidated human services board.

(b) The Secretary of the Department of Environment, Health, and Natural Resources may adopt any other rule or policy required to facilitate the provision of local public health services by a consolidated county human services agency or a consolidated human services board.

(c) For the purposes of this section, 'consolidated county human services agency' means a county human services agency created pursuant to G.S. 153A-77(b). 'Consolidated human services board' means a county human services board established pursuant to G.S. 153A-77(b)."

Sec. 3. G.S. 153A-77 reads as rewritten:

"§ 153A-77. Authority of boards of commissioners in certain counties over commissions, boards, agencies, etc.

(a) In the exercise of its jurisdiction over commissions, boards and agencies, the board of county commissioners may assume direct control of any activities theretofore conducted by or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the board of county commissioners all powers, responsibilities and duties of any such commission, board or agency. This ~~section~~ subsection shall apply to the board of health, the social services board, area mental health, ~~mental retardation, developmental disabilities,~~ and substance abuse area board and any other commission, board or agency appointed by the board of county commissioners ~~and/or or~~ acting under and pursuant to authority of the board of county commissioners of said county. The board of county commissioners may exercise the power and authority herein conferred only after a public hearing held by said board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said county.

The board of county commissioners may also appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of county commissioners of said county.

(b) In the exercise of its jurisdiction over commissions, boards, and agencies, the board of county commissioners of a county having a county manager pursuant to G.S. 153A-81 may:

- (1) Consolidate the provision of human services in the county under the direct control of a human services director appointed and supervised

by the county manager in accordance with subsection (e) of this section;

- (2) Create a consolidated human services board having the powers conferred by subsection (c) of this section;
- (3) Create a consolidated county human services agency having the authority to carry out the functions of the local health department, the county department of social services, and the area mental health, developmental disabilities, and substance abuse services authority; and
- (4) Assign other county human services functions to be performed by the consolidated human services agency under the direction of the human services director, with policy-making authority granted to the consolidated human services board as determined by the board of county commissioners.

(c) A consolidated human services board appointed by the board of county commissioners shall serve as the policy-making, rule-making, and administrative board of the consolidated human services agency. The consolidated human services board shall be composed of no more than 25 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include:

- (1) Eight persons who are consumers of human services, public advocates, or family members of clients of the consolidated human services agency, including: one person with mental illness, one person with a developmental disability, one person in recovery from substance abuse, one family member of a person with mental illness, one family member of a person with a developmental disability, one family member of a person with a substance abuse problem, and two consumers of other human services.
- (2) Eight persons who are professionals, each with qualifications in one of these categories: one psychologist, one pharmacist, one engineer, one dentist, one optometrist, one veterinarian, one social worker, and one registered nurse.
- (3) Two physicians licensed to practice medicine in this State, one of whom shall be a psychiatrist.
- (4) One member of the board of county commissioners.
- (5) Other persons, including members of the general public representing various occupations.

The board of county commissioners may elect to appoint a member of the consolidated human services board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

All members of the consolidated human services board shall be residents of the county. The members of the board shall serve four-year terms. No member may serve more than two consecutive four-year terms. The county commissioner member shall serve only as long as the member is a county commissioner.

The initial board shall be appointed by the board of county commissioners upon the recommendation of a nominating committee comprised of members of the preconsolidation board of health, social services board, and area mental health, developmental disabilities, and substance abuse services board. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a four-year term. After the subsequent establishment of the board, its board shall be appointed by the board of county commissioners from nominees presented by the human services board. Vacancies shall be filled for any unexpired portion of a term.

A chairperson shall be elected annually by the members of the consolidated human services board. A majority of the members shall constitute a quorum. A member may be removed from office by the county board of commissioners for (i) commission of a felony or other crime involving moral turpitude; (ii) violation of a State law governing conflict of interest; (iii) violation of a written policy adopted by the county board of commissioners; (iv) habitual failure to attend meetings; (v) conduct that tends to bring the office into disrepute; or (vi) failure to maintain qualifications for appointment required under this subsection. A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners. The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

(d) The consolidated human services board shall have authority to:

- (1) Set fees for departmental services based upon recommendations of the human services director. Fees set under this subdivision are subject to the same restrictions on amount and scope that would apply if the fees were set by a county board of health, a county board of social services, or a mental health, developmental disabilities, and substance abuse area authority.
- (2) Assure compliance with laws related to State and federal programs.
- (3) Recommend creation of local human services programs.
- (4) Adopt local health regulations and participate in enforcement appeals of local regulations.
- (5) Perform regulatory health functions required by State law.
- (6) Act as coordinator or agent of the State to the extent required by State or federal law.
- (7) Plan and recommend a consolidated human services budget.
- (8) Conduct audits and reviews of human services programs, including quality assurance activities, as required by State and federal law or as may otherwise be necessary periodically.
- (9) Advise local officials through the county manager.
- (10) Perform public relations and advocacy functions.
- (11) Protect the public health to the extent required by law.
- (12) Perform comprehensive mental health services planning.

- (13) Develop dispute resolution procedures for human services contractors and clients and public advocates, subject to applicable State and federal dispute resolution procedures for human services programs, when applicable.

Except as otherwise provided, the consolidated human services board shall have the powers and duties conferred by law upon a board of health, a social services board, and an area mental health, developmental disabilities, and substance abuse services board.

Local employees who serve as staff of a consolidated county human services agency are subject to county personnel policies and ordinances only and are not subject to the provisions of the State Personnel Act.

(e) The human services director of a consolidated county human services agency shall be appointed and dismissed by the county manager with the advice and consent of the consolidated human services board. The human services director shall report directly to the county manager. The human services director shall:

- (1) Appoint staff of the consolidated human services agency with the county manager's approval.
- (2) Administer State human services programs.
- (3) Administer human services programs of the local board of county commissioners.
- (4) Act as secretary and staff to the consolidated human services board under the direction of the county manager.
- (5) Plan the budget of the consolidated human services agency.
- (6) Advise the board of county commissioners through the county manager.
- (7) Perform regulatory functions of investigation and enforcement of State and local health regulations, as required by State law.
- (8) Act as an agent of and liaison to the State, to the extent required by law.

Except as otherwise provided by law, the human services director or the director's designee shall have the same powers and duties as a social services director, a local health director, and a director of an area mental health, developmental disabilities, and substance abuse services authority.

(f) This section applies to counties with a population in excess of 425,000."

Sec. 4. G.S. 7A-289.24 reads as rewritten:

"§ 7A-289.24. Who may petition.

A petition to terminate the parental rights of either or both parents to his, her, or their minor child may only be filed by:

- (1) Either parent seeking termination of the right of the other parent; or
- (2) Any person who has been judicially appointed as the guardian of the person of the child; or
- (3) Any county department of social ~~services~~ or ~~services~~, consolidated county human services agency, or licensed child-placing agency to whom custody of the child has been given by a court of competent jurisdiction; or

- (4) Any county department of social ~~services or services~~, consolidated county human services agency, or licensed child-placing agency to which the child has been surrendered for adoption by one of the parents or by the guardian of the person of such child, pursuant to G.S. 48-9(a)(1); or
- (5) Any person with whom the child has resided for a continuous period of two years or more next preceding the filing of the petition; or
- (6) Any guardian ad litem appointed to represent the minor child pursuant to G.S. 7A-586, who has not been relieved of this responsibility and who has served in this capacity for at least one continuous year; or
- (7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the General Statutes."

Sec. 5. G.S. 108A-1 reads as rewritten:

"§ 108A-1. Creation.

Every county shall have a board of social services or a consolidated human services board created pursuant to G.S. 153A-77(b) which shall establish county policies for the programs established by this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Human Resources. Provided, however, county policies for the program of medical assistance shall be established in conformity with the rules and regulations of the Department of Human Resources."

Sec. 6. G.S. 108A-2 reads as rewritten:

"§ 108A-2. Size.

The county board of social services ~~in each of a~~ county shall consist of three members, except that the board of commissioners of any county may increase such number to five members. The decision to increase the size to five members or to reduce a five-member board to three shall be reported immediately in writing by the chairman of the board of commissioners to the Department of Human Resources."

Sec. 7. G.S. 108A-3 reads as rewritten:

"§ 108A-3. Method of appointment; residential qualifications; fee or compensation for ~~services~~ services; consolidated human services board appointments.

(a) Three-Member ~~Board~~: Board. — The board of commissioners shall appoint one member who may be a county commissioner or a citizen selected by the board; the Social Services Commission shall appoint one member; and the two members so appointed shall select the third member. In the event the two members so appointed are unable to agree upon selection of the third member, the senior regular resident superior court judge of the county shall make the selection.

(b) Five-Member ~~Board~~: Board. — The procedure set forth in subsection (a) shall be followed, except that both the board of commissioners and the Social Services Commission shall appoint two members each, and the four so appointed shall select the fifth member. If the four are unable to agree upon the fifth member, the senior regular superior court judge of the county shall make the selection.

(c) Provided further that each member so appointed under subsection (a) and subsection (b) of this section by the Social Services Commission and by the county

board of commissioners or the senior regular resident superior court judge of the county, shall be bona fide residents of the county from which they are appointed to serve, and will receive as their fee or compensation for their services rendered from the Department of Human Resources directly or indirectly only the fees and compensation as provided by G.S. 108A-8.

(d) Consolidated Human Services Board. – The board of county commissioners shall be the sole appointing authority for members of a consolidated human services board and shall appoint those members in accordance with G.S. 153A-77(c)."

Sec. 8. G.S. 108A-7 reads as rewritten:

"§ 108A-7. Meetings.

The board of social services of ~~each~~ a county shall meet at least once per month, or more often if a meeting is called by the chairman. Such board shall elect a chairman from its members at its July meeting each year, and the chairman shall serve a term of one year or until a new chairman is elected by the board. A consolidated county human services board shall meet in accordance with the provisions of G.S. 153A-77."

Sec. 9. Article 1 of Chapter 108A of the General Statutes is amended by adding a new Part to read:

"Part 2A. Consolidated Human Services.

"§ 108A-15.1. Consolidated human services board; human services director.

(a) Except as otherwise provided by this section and subject to any limitations that may be imposed by the board of county commissioners under G.S. 153A-77, a consolidated human services board created pursuant to G.S. 153A-77(b) shall have the responsibility and authority to carry out the programs established in this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Human Resources in the same manner as a county social services board.

(b) In addition to the powers conferred by G.S. 153A-77(d), a consolidated human services board shall have all the powers and duties of a county board of social services as provided by G.S. 108A-9, except that the consolidated human services board may not:

- (1) Appoint the human services director.
- (2) Transmit or present the budget for social services programs.

(c) In addition to the powers conferred by G.S. 153A-77(e), a human services director shall have all the powers and duties of a director of social services provided by G.S. 108A-14, except that the human services director may:

- (1) Serve as the executive officer of the consolidated human services board only to the extent and in the manner authorized by the county manager.
- (2) Appoint staff of the consolidated human services agency only upon the approval of the county manager."

Sec. 10. G.S. 122C-116 reads as rewritten:

"§ 122C-116. Status of area ~~authority.~~ authority; status of consolidated human services agency.

(a) An area authority is a local political subdivision of the State except that a single county area authority is considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.

(b) A consolidated human services agency is a department of the county."

Sec. 11. G.S. 122C-123 reads as rewritten:

"§ 122C-123. Other agency responsibility.

Notwithstanding the provisions of G.S. 122C-112(a)(10), G.S. 122C-117(a)(1), ~~and G.S. 122C-131, G.S. 122C-127, and G.S. 122C-131,~~ other agencies of the Department, other State agencies, and other local agencies shall continue responsibility for services they provide for persons with developmental disabilities."

Sec. 12. Article 4 of Chapter 122C of the General Statutes is amended by adding a new Part to read:

"Part 2A. Consolidated Human Services.

"§ 122C-127. Consolidated human services board; human services director.

(a) Except as otherwise provided by this section and subject to any limitations that may be imposed by the board of county commissioners under G.S. 153A-77, a consolidated human services agency shall have the responsibility and authority set forth in G.S. 122C-117(a) to carry out the programs established in this Chapter in conformity with the rules and regulations of the Department and under the supervision of the Secretary in the same manner as an area authority. In addition to the powers conferred by G.S. 153A-77(d), a consolidated human services board shall have all the powers and duties of the governing unit of an area authority as provided by G.S. 122C-117(b), except that the consolidated human services board may not:

- (1) Appoint the human services director.
- (2) Transmit or present the budget for social services programs.
- (3) Enter into contracts, including contracts to provide services to governmental or private entities, unless specifically authorized to do so by the board of county commissioners in accordance with county contracting policies and procedures.

(b) In addition to the powers conferred by G.S. 153A-77(e), a human services director shall have all the powers and duties of an area director as provided by G.S. 122C-121, except that the human services director may:

- (1) Serve as the executive officer of the consolidated human services board only to the extent and in the manner authorized by the county manager.
- (2) Appoint staff of the consolidated human services agency only upon the approval of the county manager.

The human services director is not an employee of the area board, but serves as an employee of the county under the direct supervision of the county manager."

Sec. 13. G.S. 130A-34 reads as rewritten:

"§ 130A-34. Provision of local public health services.

(a) A county shall provide public health services.

(b) A county shall operate a county health department, establish a consolidated human services agency pursuant to G.S. 153A-77, participate in a district health

~~department~~ department, or contract with the State for the provision of public health services."

Sec. 14. Article 1 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 1A. Consolidated Human Services Agency.

"§ 130A-43. Consolidated human services agency; board; director.

(a) Except as otherwise provided by this section and subject to any limitations that may be imposed by the board of county commissioners under G.S. 153A-77, a consolidated human services agency created pursuant to G.S. 153A-77 shall have the responsibility to carry out the duties of a local health department and the authority to administer the local public health programs established in this Chapter in the same manner as a local health department.

(b) In addition to the powers conferred by G.S. 153A-77(d), a consolidated human services board shall have all the powers and duties of a local board of health as provided by G.S. 130A-39, except that the consolidated human services board may not:

- (1) Appoint the human services director.
- (2) Transmit or present the budget for local health programs.

(c) In addition to the powers conferred by G.S. 153A-77(e), a human services director shall have all the powers and duties of a local health director provided by G.S. 130A-41, except that the human services director may:

- (1) Serve as the executive officer of the consolidated human services agency only to the extent and in the manner authorized by the county manager.
- (2) Appoint staff of the consolidated human services agency only upon the approval of the county manager."

Sec. 15. G.S. 126-5(a) reads as rewritten:

"(a) The provisions of this Chapter shall apply to:

- (1) All State employees not herein exempt, and
- (2) To all employees of ~~area~~ the following local entities:
 - a. Area mental health, ~~mental retardation,~~ developmental disabilities, and substance abuse authorities, and to employees of local authorities.
 - b. Local social services ~~departments,~~ public departments.
 - c. Local public health ~~departments,~~ and local departments.
 - d. Local emergency management agencies that receive federal grant-in-aid funds; and the provision of this Chapter may apply to such other county funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

- (3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

Sec. 16. Any county which consolidates human services pursuant to G.S. 153A-77(b) shall report by January 1, 1998, and annually thereafter, to the Chairs of the House Appropriations Subcommittees on Human Resources and Natural and Economic Resources and the Chairs of the Senate Appropriations Committees on Human Resources and Natural and Economic Resources, to the Joint Legislative Commission on Governmental Operations, and to the Fiscal Research Division regarding the county's implementation of consolidated human services, including:

- (1) The effectiveness of the county's human services delivery under the consolidated system.
- (2) The level of consumer satisfaction with consolidated human services as indicated by individuals and advocacy groups.
- (3) The county's maintenance of efforts with respect to mental health services and other human services.
- (4) The amount of administrative savings, if any, realized as a result of the consolidation.
- (5) The county's success concerning reinvestment of savings, excluding administrative savings, realized as a result of the human services consolidation with an estimate of the amount saved and the impact of those savings on human services programs and service delivery.

Sec. 17. This act becomes effective July 1, 1996. Section 16 of this act expires January 1, 2001.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives