

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1363
Second Edition Engrossed 5/21/07

Short Title: Local Boards of Health/Inspection Fees. (Public)

Sponsors: Representatives Goodwin, Justice (Primary Sponsors); Cotham, England, Hall, Weiss, and Wray.

Referred to: Health, if favorable, Finance.

April 10, 2007

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE LOCAL BOARDS OF HEALTH TO IMPOSE FEES FOR
THE REGULATION OF FOOD AND LODGING FACILITIES.

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).

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

(d) Not less than 10 days before the adoption, amendment or repeal of any local board of health rule, the proposed rule shall be made available at the office of each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement

1 that copies of the proposed rule are available at the local health department. A local
2 board of health rule shall become effective upon adoption unless a later effective date is
3 specified in the rule.

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

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

10 (g) A local board of health may impose a fee for services to be rendered by a
11 local health department, except where the imposition of a fee is prohibited by statute or
12 where an employee of the local health department is performing the services as an agent
13 of the State. Notwithstanding any other provisions of law, a local board of health may
14 impose cost-related fees for services performed pursuant to Article 11 of this Chapter,
15 "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this
16 Chapter, "Public Swimming Pools", for services performed pursuant to Part 11, Article
17 8 of this Chapter, "Tattooing", for services performed pursuant to Article 8, Part 6 of
18 this Chapter, "Regulation of Food and Lodging Facilities," and for services performed
19 pursuant to G.S. 87-97. Fees shall be based upon a plan recommended by the local
20 health director and approved by the local board of health and the appropriate county
21 board or boards of commissioners. The fees collected under the authority of this
22 subsection are to be deposited to the account of the local health department so that they
23 may be expended for public health purposes in accordance with the provisions of the
24 Local Government Budget and Fiscal Control Act."

25 **SECTION 2.** This act becomes effective July 1, 2007, and applies to
26 services performed on or after that date.