

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1111

Introduced by Clements, 2; Ballard, 21; Bosn, 25; Hardin, 48.

Read first time January 10, 2024

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to local public health departments; to amend
2 sections 71-1612 and 71-1630, Reissue Revised Statutes of Nebraska;
3 to require city-county health departments to obtain the approval of
4 the Department of Health and Human Services in issuing directed
5 health measures in the case of a national or multi-state pandemic;
6 to harmonize provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1612, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-1612 The board of health shall have and exercise, subject to the
4 statutes, the executive power and authority and shall assume the
5 responsibility concerning public health and remedial care and treatment
6 of the indigent sick people, now or hereafter vested by statutes or
7 regulations in each and every governmental subdivision within the health
8 district, and shall have the title, control and management of the
9 property owned by such governmental subdivisions and used exclusively for
10 such health activities. All the functions now performed by any physician,
11 except the coroner's physician and the insanity board's physician, or
12 nurse employed by any governmental subdivision within the district, and
13 any and all inspectors of foods, drinks, and the sanitary condition of
14 property, vest in the health district which may be created by the
15 provisions of sections 71-1601 to 71-1625. The management and control of
16 all hospitals, buildings and personal property used exclusively in the
17 medical care and treatment of the indigent sick people, and the
18 segregation of those persons afflicted with infectious and contagious
19 diseases, shall be in the said health district. The health district shall
20 have the power and it shall be its duty to adopt measures, subject to
21 approval by the Department of Health and Human Services, for the control
22 and eradication of preventable or communicable diseases, the inculcation
23 of modern scientific methods of hygiene and sanitation, and the education
24 of the public in matters relating to public health.

25 Sec. 2. Section 71-1630, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-1630 (1) When a health department has been established by the
28 county board of a county and approved by the Department of Health and
29 Human Services as a county health department, the county board of such
30 county shall appoint a board of health which shall consist of the
31 following members: (a) One member of the county board; (b) one dentist;

1 (c) one physician; and (d) six public-spirited men or women interested in
2 the health of the community. The physician and dentist shall each serve
3 an initial term of three years. Three public-spirited men or women shall
4 each serve an initial term of three years, and three public-spirited men
5 or women shall each serve an initial term of two years. After the initial
6 terms of office expire, each new appointment shall be for a term of three
7 years. Appointments to fill any vacancies shall be for the unexpired term
8 of the member whose term is being filled by such appointment. A county
9 association or society of dentists or physicians or its managing board
10 may submit each year to the county board a list of three persons of
11 recognized ability in such profession. If such a list is submitted, the
12 county board, in making an appointment for such profession, shall
13 consider the names on the list and may appoint one of the persons so
14 named.

15 (2) When a district health department has been established by a
16 joint resolution of the county boards of each county in a district health
17 department, the county boards of such district shall meet and establish a
18 district board of health with due consideration for a fair and equitable
19 representation from the entire area to be served. The district board of
20 health shall consist of the following members: (a) One member of each
21 county board in the district, (b) at least one physician, (c) at least
22 one dentist, and (d) one or more public-spirited men or women interested
23 in the health of the community from each county in the district. One-
24 third of the members shall be appointed for terms of one year, one-third
25 for terms of two years, and one-third for terms of three years. After
26 their terms of office expire, each new appointment shall be for a term of
27 three years. Appointments to fill any vacancies shall be for the
28 unexpired terms. A county association or society of dentists or
29 physicians or its managing board may submit each year to the county
30 boards a list of three persons of recognized ability in such profession.
31 If such a list is submitted, the county boards, in making an appointment

1 for such profession, shall consider the names on the list and may appoint
2 one of the persons so named.

3 (3) Except as provided in subsection (4) of this section, when the
4 county board of any county and the city council of any city located in
5 such county have executed an agreement, approved by the Department of
6 Health and Human Services, for maintaining a city-county health
7 department, the city and county shall establish a city-county board of
8 health. It shall consist of the following members selected by a majority
9 vote of the city council and the county board, with due consideration to
10 be given in an endeavor to secure a fair and equitable representation
11 from the entire area to be served: (a) One representative of the county
12 board, (b) one representative from the city council, (c) one physician,
13 (d) one dentist, and (e) five public-spirited men or women, not employed
14 in the health industry or in the health professions, who are interested
15 in the health of the community. One-third of its members shall be
16 appointed for terms of one year, one-third for terms of two years, and
17 one-third for terms of three years. After their terms of office expire,
18 each new appointment shall be for a period of three years. A county
19 association or society of dentists or physicians or its managing board
20 may submit each year to the city council and the county board a list of
21 three persons of recognized ability in such profession. If such a list is
22 submitted, the city council and the county board, in making an
23 appointment for such profession, shall consider the names on the list and
24 may appoint one of the persons so named.

25 (4)(a) When the county board of any county having a population of
26 more than two hundred thousand inhabitants and the city council of any
27 city located in such county have executed an agreement, approved by the
28 Department of Health and Human Services, for maintaining a city-county
29 health department on or after January 1, 1997, the city and county shall
30 establish a city-county board of health. The board shall consist of the
31 following members to be appointed by the mayor with the consent of the

1 city council and county board: One representative of the county board,
2 one representative from the city council, one physician, one dentist, and
3 five public-spirited persons who are interested in the health of the
4 community. Three of the members shall be appointed for terms of one year,
5 three for terms of two years, and three for terms of three years. After
6 the initial terms of office expire, each successor member shall be
7 appointed for a term of three years. The physician and dentist members
8 shall be appointed as provided in this subdivision. The mayor shall
9 invite the local county association or society of dentists or physicians
10 or its managing board to timely submit to the mayor a list of three
11 persons of recognized ability in the profession. A list is timely
12 submitted if it is submitted within sixty days after the mayor's
13 invitation. If the list is not timely submitted, the mayor may consider
14 the list timely submitted at any time prior to making an appointment,
15 otherwise the mayor shall appoint a person of recognized ability in the
16 profession. If the list is timely submitted, the mayor shall consider the
17 names on the list and shall either appoint one of the persons on the list
18 or invite a list of three new names using the process provided in this
19 subdivision.

20 (b) The board of health shall, immediately after appointment, meet
21 and organize by the election of one of its own members as president and
22 one as vice president. The board members may elect such other officers as
23 they deem necessary and may adopt and promulgate rules for the guidance
24 of the board which are not inconsistent with law or the agreement
25 creating the board. If any board member resigns or ceases to meet the
26 requirements for eligibility on the board, or if there is any other
27 vacancy on the board, the mayor shall appoint another representative to
28 serve for the member's unexpired term subject to consent by a majority
29 vote of both the city council and the county board. Any appointment to
30 fill a vacancy on the board shall be for the unexpired term of the member
31 whose vacancy is being filled.

1 (c) The board of health shall have the following duties:

2 (i) Assessment of community health status and available resources
3 for health matters, including collecting and analyzing relevant data and
4 annually reporting and making recommendations on improving public health
5 matters to the mayor, city council, and county board;

6 (ii) Policy development for proposals before the board of health,
7 the city council, and the county board to support and improve public
8 health, including appointing, with the approval of the mayor, city
9 council, and county board, advisory committees to the board of health to
10 facilitate community development functions and coalition building related
11 to public health and adopting and approving official health department
12 policies consistent with applicable law and approved by the affirmative
13 vote of not less than five board members at a regular meeting of the
14 board in the following areas:

15 (A) Community health services and health promotion and outreach,
16 specifically including policies related to the following:

17 (I) Client services and fees;

18 (II) Standing orders, supervision, screening, and emergency and
19 referral protocols and procedures;

20 (III) Monitoring and reporting; and

21 (IV) Communicable disease investigation, immunization, vaccination,
22 testing, and prevention measures, including measures to arrest the
23 progress of communicable diseases, except that in the case of a national
24 or multi-state pandemic, as determined by the Centers for Disease Control
25 and Prevention of the United States Public Health Service of the United
26 States Department of Health and Human Services, such actions by the board
27 shall be subject to approval by the Department of Health and Human
28 Services;

29 (B) Environmental health, specifically including policies related to
30 the following:

31 (I) Permitting, inspection, and enforcement;

1 (II) Monitoring, sampling, and reporting;
2 (III) Technical assistance and plan review; and
3 (IV) Prevention measures, except that in the case of a national or
4 multi-state pandemic, as determined by the Centers for Disease Control
5 and Prevention of the United States Public Health Service of the United
6 States Department of Health and Human Services, such policies relating to
7 prevention measures shall be subject to approval by the Department of
8 Health and Human Services;

9 (C) Investigating and controlling diseases and injury, specifically
10 including policies related to the following:

- 11 (I) Permitting, inspection, and enforcement;
- 12 (II) Monitoring, sampling, and reporting;
- 13 (III) Technical assistance and plan review; and
- 14 (IV) Prevention measures; and

15 (D) Other health matters as may be requested by the city council or
16 county board; and

17 (iii) Assurance that needed services are available through public or
18 private sources in the community, including:

19 (A) Acting in an advisory capacity to review and recommend changes
20 to ordinances, resolutions, and resource allocations before the city
21 council or county board related to health matters;

22 (B) Annually reviewing and recommending changes in the proposed
23 budget for resource allocations related to the health department as
24 provided in the city-county agreement; and

25 (C) Monitoring and reviewing the enforcement of laws and regulations
26 of the board of health, city council, and county board related to public
27 health in the community.

28 (d) The mayor of the city shall appoint, with the approval of the
29 board of health, city council, and county board, the health director of
30 the health department. The health director shall be a member of the
31 unclassified service of the city under the direction and supervision of

1 the mayor. The health director shall be well-trained in public health
2 work, but he or she need not be a graduate of an accredited medical
3 school. If the health director is not a graduate of an accredited medical
4 school, the health director shall be assisted at least part time by at
5 least one medical consultant who is a licensed physician. The mayor shall
6 submit the health department budget to the city council and county board.
7 The mayor shall also provide budget information to the board of health
8 with sufficient time to allow such board to consider such information.
9 The mayor may enter into contracts and accept grants on behalf of the
10 health department. The mayor may terminate the health director with
11 approval of a majority vote of the city council, the county board, and
12 the board of health. The health director shall:

13 (i) Provide administrative supervision of the health department;

14 (ii) Make all necessary sanitary and health investigations and
15 inspections;

16 (iii) Investigate the existence of any contagious or infectious
17 disease and adopt measures to arrest the progress of the disease, except
18 that in the case of a national or multi-state pandemic, as determined by
19 the Centers for Disease Control and Prevention of the United States
20 Public Health Service of the United States Department of Health and Human
21 Services, such investigation shall be subject to approval by the
22 Department of Health and Human Services;

23 (iv) Distribute free, as the local needs may require, all vaccines,
24 drugs, serums, and other preparations obtained from the Department of
25 Health and Human Services or otherwise provided for public health
26 purposes;

27 (v) Give professional advice and information to school authorities
28 and other public agencies on all matters pertaining to sanitation and
29 public health;

30 (vi) Inform the board of health when the city council or county
31 board is considering proposals related to health matters or has otherwise

1 requested recommendations from the board of health;

2 (vii) Inform the board of health of developments in the field of
3 public health and of any need for updating or adding to or deleting from
4 the programs of the health department; and

5 (viii) Perform duties and functions as otherwise provided by law.

6 (e) The board of health may:

7 (i) Enact rules and regulations, subsequent to public hearing held
8 after due public notice of such hearing by publication at least once in a
9 newspaper having general circulation in the county at least ten days
10 prior to such hearing, and enforce the same for the protection of public
11 health and the prevention of communicable diseases within its
12 jurisdiction, subject to the review and approval of such rules and
13 regulations by the Department of Health and Human Services; and

14 (ii) Investigate the existence of any contagious or infectious
15 disease within its jurisdiction, and adopt measures with the approval of
16 the Department of Health and Human Services, to arrest the progress of
17 the same.

18 Sec. 3. Original sections 71-1612 and 71-1630, Reissue Revised
19 Statutes of Nebraska, are repealed.