

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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**SENATE BILL 1538**  
**State & Local Government Committee Substitute Adopted 5/2/07**

Short Title: County Commr. Authority/Boards & Agencies.

(Public)

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Sponsors:

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Referred to:

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March 28, 2007

A BILL TO BE ENTITLED

1 AN ACT TO APPLY STATEWIDE BOARDS OF COUNTY COMMISSIONERS  
2 AUTHORITY OVER COMMISSIONS, BOARDS, AND AGENCIES.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 153A-77 reads as rewritten:

5 "**§ 153A-77. Authority of boards of commissioners ~~in certain counties over~~**  
6 **commissions, boards, agencies, etc.**

7 (a) In the exercise of its jurisdiction over commissions, boards and agencies, the  
8 board of county commissioners may assume direct control of any activities theretofore  
9 conducted by or through any commission, board or agency by the adoption of a  
10 resolution assuming and conferring upon the board of county commissioners all powers,  
11 responsibilities and duties of any such commission, board or agency. This subsection  
12 shall apply to the board of health, the social services board, area mental health,  
13 developmental disabilities, and substance abuse area board and any other commission,  
14 board or agency appointed by the board of county commissioners or acting under and  
15 pursuant to authority of the board of county commissioners of said county. A board of  
16 county commissioners exercising the power and authority under this subsection may,  
17 notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through  
18 the imposition of civil penalties. If a public health rule adopted by a board of county  
19 commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its  
20 violation a misdemeanor shall not be applicable to that public health rule unless the rule  
21 states that a violation of the rule is a misdemeanor. The board of county commissioners  
22 may exercise the power and authority herein conferred only after a public hearing held  
23 by said board pursuant to 30 days' notice of said public hearing given in a newspaper  
24 having general circulation in said county.

25 The board of county commissioners may also appoint advisory boards, committees,  
26 councils and agencies composed of qualified and interested county residents to study,  
27 interpret and develop community support and cooperation in activities conducted by or  
28 under the authority of the board of county commissioners of said county.  
29

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

- 4 (1) Consolidate the provision of human services in the county under the  
5 direct control of a human services director appointed and supervised  
6 by the county manager in accordance with subsection (e) of this  
7 section;
- 8 (2) Create a consolidated human services board having the powers  
9 conferred by subsection (c) of this section;
- 10 (3) Create a consolidated county human services agency having the  
11 authority to carry out the functions of the local health department, the  
12 county department of social services, and the area mental health,  
13 developmental disabilities, and substance abuse services authority; and
- 14 (4) Assign other county human services functions to be performed by the  
15 consolidated human services agency under the direction of the human  
16 services director, with policy-making authority granted to the  
17 consolidated human services board as determined by the board of  
18 county commissioners.

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

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

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

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

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

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

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

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

- 28 (1) Set fees for departmental services based upon recommendations of the  
29 human services director. Fees set under this subdivision are subject to  
30 the same restrictions on amount and scope that would apply if the fees  
31 were set by a county board of health, a county board of social services,  
32 or a mental health, developmental disabilities, and substance abuse  
33 area authority.
- 34 (2) Assure compliance with laws related to State and federal programs.
- 35 (3) Recommend creation of local human services programs.
- 36 (4) Adopt local health regulations and participate in enforcement appeals  
37 of local regulations.
- 38 (5) Perform regulatory health functions required by State law.
- 39 (6) Act as coordinator or agent of the State to the extent required by State  
40 or federal law.
- 41 (7) Plan and recommend a consolidated human services budget.
- 42 (8) Conduct audits and reviews of human services programs, including  
43 quality assurance activities, as required by State and federal law or as  
44 may otherwise be necessary periodically.

- 1 (9) Advise local officials through the county manager.
- 2 (10) Perform public relations and advocacy functions.
- 3 (11) Protect the public health to the extent required by law.
- 4 (12) Perform comprehensive mental health services planning.
- 5 (13) Develop dispute resolution procedures for human services contractors
- 6 and clients and public advocates, subject to applicable State and
- 7 federal dispute resolution procedures for human services programs,
- 8 when applicable.

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

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

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

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

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

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

38 **SECTION 2.** This act is effective when it becomes law.