REQUEST FOR BOARD ACTION

ITEM NO. 13.

DATE OF MEETING: April 18, 2011

REQUESTED BY: Board of Commissioners

SHORT TITLE: Resolution and Discussion of Legislation Pertaining to Appointments and Administration of Boards, Authorities, Committees and Commissions

BACKGROUND: Two bills have been introduced in the General Assembly impacting Commissioner appointments to boards, committees, authorities, and so forth; and the administration of human service functions. House Bill 437 was introduced on behalf of New Hanover County, and it provides for more oversight, and accountability for, the work of boards, commissions, authorities or committees the New Hanover Commissioners fund or appoint. The Commissioners have discussed the potential for have this authority over Pender County board-committee appointments as well, which would require amending the bill, or introducing other legislation. Senate Bill 433 provides for the Board of Commissioners of any county to assume direct control for human service functions, and provides for administration of such through the County Manager, or through a consolidated human services board. The Commissioners discussed these items at the April 4 meeting as asked to continue the discussion at the April 18 meeting.

SPECIFIC ACTION REQUESTED: To discuss issues related to these bills and their potential benefit to Pender County; and to consider a resolution for application of the legislation to Pender County *(or other action as determined by the Board).*

COUNTY MANAGER'S RECOMMENDATION

The Board should consult with the Attorney regarding legal issues/implications related to the legislation and application to Pender County specifically. Staff will coordinate with the Attorney and legislative delegation to facilitate the Board's decisions with respect to application of these bills to Pender County.

RB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Board hereby requests *(state action as determined by the Board)*. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED_____UNANIMOUS

YEA VOTES: Brown___ Tate ___ Rivenbark ___ Ward ___Williams ___

_____ _____
George R. Brown, Chairman Date

_____ _____
ATTEST Date

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

HOUSE BILL 437

Short Title:	NH County Commissioners Accountability Act.	(Local)
Sponsors:	Representative McComas (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Government.	

March 24, 2011

A BILL TO BE ENTITLED

AN ACT HOLDING THE NEW HANOVER COUNTY BOARD OF COMMISSIONERS ACCOUNTABLE FOR THE WORK OF GOVERNMENTAL AND QUASI-GOVERNMENTAL AUTHORITIES, BOARDS, COMMITTEES, AND COMMISSIONS APPOINTED BY THE COMMISSION OR RECEIVING COUNTY FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. It is the duty of the New Hanover County Board of Commissioners (Board) to provide oversight of, and to be accountable for, the activities of the authorities, boards, committees, and commissions acting under the Board's control or authority. To that end, the Board shall monitor the activities of each of the following authorities, boards, committees, or commissions in order (i) to evaluate whether continued county funding is warranted in each case, as appropriate, and (ii) to determine whether the Board's appointees are carrying out their respective responsibilities in the best interest of New Hanover County:

(1) Adult Care Home Community Advisory Committee.
(2) Airlie Gardens Foundation Board of Directors.
(3) Airport Authority.
(4) Alcoholic Beverage Control.
(5) Board of Elections.
(6) Board of Examiners of Electricians.
(7) Board of Fire Commissioners.
(8) Board of Health.
(9) Board of Mechanical Examiners.
(10) Board of Social Services.
(11) Cape Fear Community College Board of Trustees.
(12) Cape Fear Museum Advisory Board.
(13) Cape Fear Public Transportation Authority.
(14) Cape Fear Public Utility Authority.
(15) Commission for Women.
(16) Cooperative Extension Advisory Council.
(17) Criminal Justice Partnership Advisory Board.
(18) Industrial Facilities and Pollution Control Financing Authority.
(19) Inspections Department Advisory Council.
(20) Jury Commission.
(21) Juvenile Crime Prevention Council.

(22) Library Advisory Board.
(23) Lower Cape Fear Water and Sewer Authority.
(24) New Hanover Regional Medical Center Board of Trustees.
(25) Nursing Home Community Advisory Board.
(26) Parks and Recreation Advisory Board.
(27) Planning Board.
(28) Plumbing Board of Examiners.
(29) Port, Waterway & Beach Commission.
(30) Risk Management Advisory Committee.
(31) Solid Waste Advisory Board.
(32) Southeastern Economic Development Commission.
(33) Special Board of Equalization and Review.
(34) Tourism Development Authority.
(35) Youth Empowerment Services Advisory Board.
(36) Zoning Board of Adjustment.
(37) Any other authority, board, committee, or commission created by the New Hanover County Board of Commissioners.

SECTION 2. Notwithstanding any provision of law to the contrary, the members of the entities listed in Section 1 of this act who are appointed by the Board serve at the pleasure of the Board and may be removed by the Board immediately at any time upon the unanimous vote of the members of the Board.

SECTION 3. By December 1, 2011, the New Hanover County Board of Commissioners shall conduct a review of each entity listed in Section 1 of this act to determine (i) whether continued County funding is warranted in each case, as appropriate, and (ii) if the Board's appointees are carrying out their respective responsibilities in the best interest of New Hanover County.

SECTION 4. The Wilmington City Council (Council) is encouraged to review the authorities, boards, committees, and commissions under its control and authority in the same manner as provided in this act for New Hanover County. Upon adoption of a resolution by the Council to conform to the provisions of this act, and to conduct the required review by December 1, 2011, the Council shall have the same powers as the County under this act relative to the authorities, boards, committees, commissions, and other entities under the Council's control or authority; and further, its appointees will be subject to removal as provided by Section 2 of this act.

SECTION 5. The governing board of any other incorporated municipality within New Hanover County that adopts a resolution in the same manner as provided by Section 4 of this act shall likewise have the same powers as the County under this act relative to the authorities, boards, committees, commissions, and other entities under the governing board's control or authority; and further, its appointees will be subject to removal as provided by Section 2 of this act.

SECTION 6. This act applies only to New Hanover County, to the City of Wilmington, and to any other incorporated municipality in New Hanover County.

SECTION 7. This act is effective when it becomes law.

Pender County Appointed Boards/Committees/Commissions

Alcoholic and Beverage Control Board

Board of Adjustment

Board of Equalization and Review

Board of Health

Cape Fear Council of Governments

Cape Fear Community College

Cape Fear River Program

Cape Fear Rural Transportation Planning Organization (RPO)

Council on Community Affairs

Criminal Justice Partnership

Fire Commission

Four County Community Services

Home & Community Care Block Grant Advisory Board

Hampstead Kiwanis Park Board

Industrial Facilities and Pollution Control

Jury Commission

Juvenile Crime Prevention Council

Library Advisory Board

Lower Cape Fear Water and Sewer Authority

Nursing/Adult Care Homes Advisory Committee

Parks and Recreation Advisory Board

Partnership for Children (Smart Start)

Pender EMS and Rescue

Pender Housing Initiative

Planning Board

Pender Memorial Hospital Board

Pender Municipal Association

Priority One Committee

Regional Aging Advisory Committee

Social Services Board

Southeastern Center for Mental Health

Southeastern Economic Development Commission

Topsail Island Shoreline Protection Commission

Tourism Development Authority

Voluntary Agricultural District Board

Wallace Airport Commission

Wilmington Area Metropolitan Planning Organization (MPO)

Wilmington Industrial Development

Work First Planning Committee

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S

Edition 2 4-11-11

SENATE BILL 433*
Health Care Committee Substitute Adopted 4/6/11

Short Title: Local Human Services Administration. (Public)

Sponsors:

Referred to:

March 29, 2011

A BILL TO BE ENTITLED

AN ACT CONCERNING ADMINISTRATION OF HUMAN SERVICES IN COUNTIES THAT HAVE ELECTED TO CONSOLIDATE THOSE SERVICES DIRECTLY EITHER UNDER THE COUNTY OR UNDER A CONSOLIDATED HUMAN SERVICE BOARD, AND TO MAKE THAT STATUTE STATEWIDE IN APPLICABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. 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 subsection shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board and any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said county. A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. 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 <u>or by the consolidated human services board under subdivision (2) of this subsection,</u> 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.~~ Act, unless the county board of commissioners elects to subject the local employees to the provisions of that 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.~~ board, unless the county board of commissioners elects to have the human services director appointed and dismissed by the consolidated human services board. The human services director shall report directly to the county ~~manager.~~ manager, unless the county board of commissioners elects to have the human services director appointed and supervised by the consolidated human services board. The human services director shall:

(1) Appoint staff of the consolidated human services agency with the county manager's ~~approval.~~ approval, unless the county board of commissioners elects to have the human services director appointed and supervised by the consolidated human services board.

(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.~~"

SECTION 2. G.S. 153A-76 reads as rewritten:

"**§ 153A-76. Board of commissioners to organize county government.**

The board of commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

(1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.
(2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.
(3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.
(4) The board may not change the composition or manner of selection of a local board of education, ~~the board of health, the board of social services,~~ the board of elections, or the board of alcoholic beverage control."

SECTION 3. 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) All employees of the following local entities:
a. Area mental health, developmental disabilities, and substance abuse authorities.
b. Local social services departments.
c. County health departments and district health departments.
d. Local emergency management agencies that receive federal grant-in-aid 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."

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S

Edition 1

SENATE BILL 433*

Short Title:	Local Human Services Administration.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	Health Care.	

March 29, 2011

A BILL TO BE ENTITLED

AN ACT CONCERNING ADMINISTRATION OF HUMAN SERVICES IN COUNTIES THAT HAVE ELECTED TO CONSOLIDATE THOSE SERVICES DIRECTLY EITHER UNDER THE COUNTY OR UNDER A CONSOLIDATED HUMAN SERVICE BOARD, AND TO MAKE THAT STATUTE STATEWIDE IN APPLICABILITY.

The General Assembly of North Carolina enacts:

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(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 subsection shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board and any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said county. A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. 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.

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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.

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(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.

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

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