

HOUSE No. 5179

The Commonwealth of Massachusetts



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To the Honorable House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment House Bill No. 5104, “An Act Relative to Accelerating Home Improvements to the Local and Regional Public Health System to Address Disparities in the Delivery of Public Health Services.”

This legislation directs the Department of Public Health (DPH) to establish, and requires all local boards of health to comply with, a comprehensive set of foundational public health standards as a part of DPH’s state action for public health excellence program. These standards must incorporate recommendations made by the Special Commission on Local and Regional Public Health in its 2019 report, and must cover an enumerated list of functions, including inspections, epidemiology, and communicable disease investigation and reporting; workforce education, training, and credentialing; and data collection. Subject to appropriation, DPH is directed to provide funds to all boards of health to implement and comply with the new standards. Annually, in advance of the Governor’s budget recommendation, DPH must submit a report estimating the cost of the state program for the upcoming fiscal year to the Executive Office for Administration and Finance and the House and Senate Committees on Ways and Means. This bill also revives and continues the Special Commission on Local and Regional Public Health through December 31, 2023.

I strongly support the aim of this bill, which is to provide high-quality, coordinated and more uniform public health services across the Commonwealth, supported by targeted state investments. However, this legislation requires all local boards of health to comply with the new foundational standards that will be set by DPH, whether or not state funding is provided. While the bill clearly contemplates the provision of state support for boards to implement these standards, such funding is not guaranteed. Particularly when considered over the long-term, this aspect of the bill is likely to give rise to the sorts of budgeting and funding disputes that G. L. c. 29, § 27C seeks to prevent by prohibiting unfunded local mandates. This issue will be compounded by the fact that, while the bill contemplates increased state funding to support improved services, it makes no provision to ensure that cities and towns maintain current levels of municipal funding for public health services as a condition of receiving DPH funding support.

To remedy these concerns, I am returning the bill with a local option provision that will permit cities and towns to opt in to meeting these foundational public health standards and, as a condition of DPH funding support to achieve these standards, require those cities and towns to maintain municipal funding for public health programs at a level not less than actual expenditures in the year preceding the opt in decision. I am also proposing minor adjustments to the dates on which the bill requires the Special Commission and DPH to implement certain provisions of the bill.

I remain concerned that changing the funding structure for local boards of health will produce only limited improvement in effectiveness if the Legislature also does not reconsider the variety and breadth of governance structures that are present in our local boards of health. The experience of COVID-19 over the past two and a half years has highlighted the challenges that the current structure presents to delivering an effective and coordinated, statewide public health response. I urge the Legislature to prioritize that issue in the next legislative session.

For these reasons, I recommend that H.5104 be amended by striking out subsections (b) to (f), inclusive, of section 27D of chapter 111 of the General Laws, as inserted by Section 1 of the bill, and inserting in place thereof the following 5 subsections:-

(b) The department, in consultation with municipalities and other stakeholders, shall establish a state action for public health excellence program to: (i) offer more uniform access for every resident of the commonwealth to foundational public health services; provided, that foundational public health services shall further racial and health equity, including for historically underrepresented communities; (ii) assist boards of health to adopt practices to improve the efficiency and effectiveness of the delivery of foundational public health services; (iii) develop a set of standards for foundational public health services across the commonwealth; and (iv) promote adequate resources for boards of health that shall include, but shall not be limited to:

(A) supporting boards of health to meet the standards established pursuant to subsection (c) to improve the municipal and regional health systems;

(B) increasing cross-jurisdictional sharing of public health programs to strengthen the service delivery capabilities of the municipal and regional public health systems;

(C) improving planning and system accountability of the municipal and regional public health systems, including, but not limited to, statewide data collection and reporting systems;

(D) establishing workforce credentialing standards, including, but not limited to, education and training standards for municipal and regional public health officials and staff; and

(E) expanding access to professional development, training and technical assistance for municipal and regional public health officials and staff.

(c) The standards for local foundational public health services developed pursuant to clause (iii) of subsection (b) shall include, but not be limited to, the standards for: (i) inspections, epidemiology and communicable disease investigation and reporting, permitting and other local public health responsibilities as required by law or under regulations of the department or the department of environmental protection; (ii) workforce education, training and credentialing standards; and (iii) contributing required data. The standards shall consider national standards and shall be developed in consultation with local boards of health, public health organizations, academic experts in the field of public health and members of the special commission on local and regional public health established in chapter 3 of the resolves of 2016.

(d)(i) Boards of health may opt in to receive funding from the department to support implementation and compliance with the standards developed pursuant to subsections (b) and (c). Boards of health that opt in shall implement and comply with those standards, individually or through cross-jurisdictional sharing of public health programs in the form of comprehensive public health districts, formal shared services or other arrangements for sharing public health programs. Boards of health may opt in to receive funding by demonstrating that the requirements of this subsection have been adopted by proper municipal authority as specified in subsection (m).

(ii) Annually, not later than August 31, boards of health that opt in under clause (i) shall submit a report to the department including information demonstrating compliance during the preceding fiscal year with the standards pursuant to subsections (b) and (c).

(e) Subject to appropriation, the department and the department of environmental protection shall, according to each agency's jurisdiction and authority, provide comprehensive core public health educational and training opportunities and technical assistance to municipal and regional public health officials and staff to support them in obtaining credentials and foundational capabilities established by the standards developed pursuant to subsections (b) and

(c); provided, that said educational and training opportunities and technical assistance shall be offered in diverse geographic locations throughout the commonwealth or online. The department and the department of environmental protection shall provide such training and technical assistance opportunities free of charge. The department and the department of environmental protection may contract with other state agencies or external entities to provide said educational and training and technical assistance.

(f)(1) Subject to appropriation, the department shall provide funds to boards of health that opt in under clause (i) of subsection (d) to implement and comply with the standards developed pursuant to subsections (b) and (c), including through cross-jurisdictional sharing of public health programs in the form of comprehensive public health districts, formal shared services and other arrangements for sharing public health programs.

As a condition of continuing eligibility for such funds, a municipality taking the action required by subsection (m) for a board of health to opt in under clause (i) of subsection (d) must maintain municipal funding for public health programs at a level not less than actual expenditures in the year preceding that action.

(2) The funds shall only be provided to boards of health that opt in under clause (i) of subsection (d) and may be used to provide:

(i) grants and technical assistance to municipalities that demonstrate limited operational capacity to meet local public health responsibilities as required by law or regulations;

(ii) competitive grants to increase the efficiency and effectiveness of the delivery of public health programs across 3 or more municipalities through:

(A) expanding shared services arrangements to include more municipalities;

(B) expanding shared services arrangements to provide a more comprehensive and equitable set of public health programs or sustainable business model; or

(C) supporting new cross-jurisdictional sharing arrangements; provided however, that grants provided pursuant to this clause shall supplement and shall not replace existing state, local, private or federal funding to boards of health and regional health districts; provided further, that boards of health shall apply for funds pursuant to this clause in a manner determined by the department; provided further, that the application shall include, but not be limited to: (1) a description of how the applicant will increase the efficiency and effectiveness in the delivery of public health programs; (2) certification that, at the time of the application, the applicant meets or will use funding to meet workforce standards as determined by the department; (3) certification that the applicant shall submit written documentation on the implementation of systems to increase efficiency in providing local public health programs, including data, to the department in a manner to be prescribed by the department; and (4) a plan for the long-term

sustainability of strengthening local public health programs; provided further, that the department shall adopt rules, regulations or guidelines for the administration and enforcement of this clause, including, but not limited to, establishing applicant selection criteria, funding priorities, application forms and procedures, grant distribution and other requirements; and provided further, that not less than 33 per cent of the grants awarded shall be distributed to municipalities with a median household income below the median income of the commonwealth;

(iii) annual non-competitive funding to ensure that residents are provided with foundational public health services that meet or exceed the standards set pursuant to this section; provided, however, that funds provided pursuant to this clause shall be distributed based on the level of implementation of the standards established in this section and using a formula based on population, level of cross-jurisdictional sharing and sociodemographic data; provided further, that, to receive funding pursuant to this clause, a board of health shall demonstrate progress or implementation of the standards in an annual report to the department and to the department of environmental protection; provided further, that the report shall not require data that is otherwise reported to the department under subsection (d); and provided further, that data demonstrating implementation and compliance with the standards shall be submitted in a form prescribed by the department.

And that the bill be further amended by inserting in section 27D of chapter 111 of the General Laws, as inserted by Section 1 of the bill, the following subsection:-

(m) A board of health may demonstrate local acceptance of the requirements of clause (i) of subsection (d) by providing a certified record of a vote (i) of the city council upon recommendation of the mayor in a city; (ii) of the city council upon recommendation of the city manager in a city having a Plan D or Plan E charter; (iii) of the chief executive officer, as defined in section 7 of chapter 4 of the General Laws, in a town; (iv) of the county commissioners in a county; and (v) by vote of the governing board, commission or committee in a district or other political subdivision of the commonwealth. For any board of health comprising more than 1 political subdivision of the commonwealth, this section shall be effective upon the acceptance by all constituent municipalities participating in the board of health in the manner provided in the shared service agreement governing that board of health.

And that the bill be further amended by striking out in subsection (b) of Section 2 of the bill the words “June 1” and inserting in place thereof the following words:- December 31.

And that the bill be further amended by striking out in Section 3 of the bill the words “not later than 30 days following the effective date of this act” and inserting in place thereof the following words:- at least once.

And that the bill be further amended by striking out in the first sentence of Section 4 of the bill the words “shall be implemented and complied with by” and inserting in place thereof the following words:- shall become effective in.

And that the bill be further amended by striking out in the second sentence of Section 4 of the bill the figure “60” and inserting in place thereof the following figure:- 90.

Respectfully submitted,

Charles D. Baker,
Governor