

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1028**

Introduced by Clements, 2; Hughes, 24; Lowe, 37; Sanders, 45.

Read first time January 05, 2024

Committee:

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; to harmonize provisions; and to repeal the original  
6 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 subject to approval by the Department  
24 of Health and Human Services;

25 (B) Environmental health, specifically including policies related to  
26 the following:

27 (I) Permitting, inspection, and enforcement;

28 (II) Monitoring, sampling, and reporting;

29 (III) Technical assistance and plan review; and

30 (IV) Prevention measures subject to approval by the Department of  
31 Health and Human Services;

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

3 (I) Permitting, inspection, and enforcement;

4 (II) Monitoring, sampling, and reporting;

5 (III) Technical assistance and plan review; and

6 (IV) Prevention measures; and

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

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

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

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

17 (C) Monitoring and reviewing the enforcement of laws and regulations  
18 of the board of health, city council, and county board related to public  
19 health in the community.

20 (d) The mayor of the city shall appoint, with the approval of the  
21 board of health, city council, and county board, the health director of  
22 the health department. The health director shall be a member of the  
23 unclassified service of the city under the direction and supervision of  
24 the mayor. The health director shall be well-trained in public health  
25 work, but he or she need not be a graduate of an accredited medical  
26 school. If the health director is not a graduate of an accredited medical  
27 school, the health director shall be assisted at least part time by at  
28 least one medical consultant who is a licensed physician. The mayor shall  
29 submit the health department budget to the city council and county board.  
30 The mayor shall also provide budget information to the board of health  
31 with sufficient time to allow such board to consider such information.

1 The mayor may enter into contracts and accept grants on behalf of the  
2 health department. The mayor may terminate the health director with  
3 approval of a majority vote of the city council, the county board, and  
4 the board of health. The health director shall:

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

6 (ii) Make all necessary sanitary and health investigations and  
7 inspections;

8 (iii) Investigate the existence of any contagious or infectious  
9 disease and adopt measures to arrest the progress of the disease, subject  
10 to approval by the Department of Health and Human Services;

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

15 (v) Give professional advice and information to school authorities  
16 and other public agencies on all matters pertaining to sanitation and  
17 public health;

18 (vi) Inform the board of health when the city council or county  
19 board is considering proposals related to health matters or has otherwise  
20 requested recommendations from the board of health;

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

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

25 (e) The board of health may:

26 (i) Enact rules and regulations, subsequent to public hearing held  
27 after due public notice of such hearing by publication at least once in a  
28 newspaper having general circulation in the county at least ten days  
29 prior to such hearing, and enforce the same for the protection of public  
30 health and the prevention of communicable diseases within its  
31 jurisdiction, subject to the review and approval of such rules and



1 regulations by the Department of Health and Human Services; and  
2 (ii) Investigate the existence of any contagious or infectious  
3 disease and adopt measures, with the approval of the Department of Health  
4 and Human Services, to arrest the progress of the same.

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