

## No. 2004-172

## AN ACT

## HB 2980

Amending the act of August 24, 1951 (P.L.1304, No.315), entitled, as amended, "An act to improve local health administration throughout the Commonwealth by authorizing the creation, establishment and administration of single-county or joint-county departments of health in all counties; exempting certain municipalities from the jurisdiction of single-county or joint-county departments of health; permitting the dissolution of departments or boards of health in certain municipalities; authorizing State grants to counties which establish departments of health and to certain municipalities if they meet prescribed requirements; conferring powers and duties upon the State Department of Health in connection with the creation, establishment and administration of single-county or joint-county departments of health and administration of the health laws in parts of certain municipalities not subject to the jurisdiction of single-county or joint-county departments of health, and the administration of State grants; and repealing an act which confers health powers upon counties of the first class," further defining "municipality"; further providing for authorization of county departments of health, for dissolution of and withdrawal from county departments of health and for establishment of county departments of health; and providing for municipalities with intergovernmental cooperation agreements.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "municipality" in section 3(h) of the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, is amended to read:

Section 3. Definitions.—The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

(h) "Municipality." Any city, borough, incorporated town, **[and]** township of the first class *and township of the second class*.

\* \* \*

Section 2. Section 5 of the act is amended to read:

Section 5. **[Creation] Authorization** of County Departments of Health.—

(a) In all counties, except counties of the first class, single-county departments of health or joint-county departments of health may be **[created] authorized** by resolution or by referendum, or by a combination of these methods, as provided in this section. In the **[creation] authorization** of joint-county departments of health, each of the participating counties shall be adjacent to at least one of the other participating counties.

Whether a county department of health is **[created] authorized** by resolution or by referendum or by a combination of these methods, the county commissioners shall, before enacting a resolution or before submitting the question at an election, request a certificate of approval from the State Secretary of Health, who shall issue such a certificate forthwith if the

proposed county department of health conforms to the county health administration plan as last revised. If the proposed county department of health does not conform to the county health administration plan as last revised, the State Secretary of Health shall make a special investigation in accordance with the criteria stated in section 4 of this act and, on the basis of the special investigation he shall approve or disapprove the **[creation] establishment** of the proposed county department of health. He shall send a certificate of approval or written notice of disapproval to the county commissioners within thirty (30) days after he has received the request for a certificate of approval.

(b) The county commissioners of any county may, by resolution, **[create] authorize the establishment of** a single-county department of health. The county commissioners of two or more counties may, by a separate resolution in each county, **[create] authorize the establishment of** a joint-county department of health. In either case, the approval of the State Secretary of Health shall be first obtained as provided in subsection (a) of this section.

(c) Any county may, by referendum, **[create] authorize the establishment of** a single-county department of health. Two or more counties may, by a separate referendum in each county, **[create] authorize the establishment of** a joint-county department of health. The referendum procedure in each county shall be as follows:

A petition requesting the **[creation] establishment** of a single-county department of health or joint-county department of health shall be signed by qualified electors of the county equal in number to at least one per cent (1%) of the highest total vote cast for any county office at the last municipal election. The petition shall be in the form required for nomination petitions by the election laws of the Commonwealth, except that the **[said]** petition shall be circulated for not more than six (6) months prior to the last filing day, which shall be ninety (90) days before the general or municipal election at which it is desired to submit the question. The petition shall be filed with the county board of elections, and the validity of the petition and any objections thereto shall be determined in accordance with the election laws of the Commonwealth.

After the validity of the petitions in all the counties affected has been determined, the county commissioners shall request a certificate of approval from the State Secretary of Health. If the approval of the State Secretary of Health is obtained as provided in subsection (a) of this section, the county commissioners shall cause the question to be submitted at the next general or municipal election, whichever is sooner, so long as such election is to occur at least thirty (30) days after the receipt of a certificate of approval. The question shall be submitted on the ballot or on voting machines in the manner provided by the election laws of the Commonwealth, and shall be in substantially the following forms:

- (1) For the **[creation] establishment** of a

single-county department of health:  
 Shall ..... County **[create] *establish***  
 a county department of health?  
 Yes.....  
 No.....

(2) For the **[creation] *establishment*** of  
 a joint-county department of  
 health: Shall ..... County join with  
 ..... County (Counties) in the **[creation]**  
***establishment*** of a joint-county department  
 of health?  
 Yes.....  
 No.....

The election on this question shall be governed in all respects by the election laws of the Commonwealth insofar as they are applicable. For the **[creation] *establishment*** of a single-county department of health or joint-county department of health, a majority of all votes cast in each county upon the question must be in favor thereof.

Nothing in this subsection shall ***be construed to*** preclude the county commissioners at any time from **[creating] *authorizing the establishment of*** a single-county department of health, or from joining in the **[creation] *establishment*** of a joint-county department of health, by resolution in accordance with subsections (b) and (d) of this section.

(d) Two or more counties may **[create] *authorize the establishment of*** a joint-county department of health by a combination of the methods provided in subsections (b) and (c) of this section; that is, one or more of such counties may join in the **[creation] *establishment*** of a joint-county department of health by resolution, and the remaining counties may join in the **[creation] *establishment*** of a joint-county department of health by referendum in accordance with the provisions of subsection (c) of this section.

(e) Immediately upon the **[creation] *authorization of the establishment*** of a single-county department of health or joint-county department of health, the county commissioners shall give written notice **[of such creation] *thereof*** to the State Secretary of Health. In the case of a joint-county department of health, the notice may be given by the county commissioners of any participating county.

Section 3. Section 5.1 of the act, amended September 19, 1961 (P.L.1474, No.624), is amended to read:

Section 5.1. Dissolution of and Withdrawal From County Departments of Health.—

(a) **[When a]** A single-county department of health **[is created it]** may be dissolved by a referendum conducted in accordance with the procedure set forth in subsection (c) hereof **or by a majority vote of the governing body.**

(b) **[When a joint-county department of health is created, any county being a member thereof]** Any county that is a member of a joint-county department of health may withdraw from the department by conducting a referendum conducted in accordance with the procedure set forth in subsection (c) hereof **or by a majority vote of the governing body.**

(c) A petition requesting the dissolution or withdrawal shall be signed by qualified electors of the county equal in number to at least ten per centum (10%) of the highest total vote cast for any county office at the last municipal election. The petition shall be in the form required for nomination petitions by the election laws of the Commonwealth, except that the said petition shall be circulated no earlier than five years following the date of establishment of **[said]** the county health department or joint-county health department nor earlier than five years following another referendum on the same question, and shall be circulated for not more than six (6) months prior to the last filing day which shall be ninety (90) days before the general or municipal election at which it is desired to submit the question. The petition shall be filed with the county board of elections and the validity of the petition and any objections thereto shall be determined in accordance with the election laws of the Commonwealth.

After the validity of the petitions in all the counties affected has been determined, the county commissioners shall cause the question to be submitted at the next general or municipal election, whichever is sooner, so long as such election is to occur at least thirty (30) days after the validity has been determined. The question shall be submitted on the ballot or on voting machines in the manner provided by the election laws of the Commonwealth and shall be in substantially the following forms:

(1) For the continuance or dissolution of a single-county department of health—

Shall ..... County  
continue its county department of health?  
Yes .....  
No .....

(2) For the continuance in or withdrawal from a joint-county department of health—

Shall ..... County  
continue to be a member of the joint-county  
department of health?  
Yes .....  
No .....

The election on this question shall be governed in all respects by the election laws of the Commonwealth insofar as they are applicable. For the dissolution of a single-county department of health or withdrawal from a joint-county department of health, a majority of all votes cast in each county upon the question must be against the continuance of **[such] the** department or against the continuance of membership in **[such] the** department, as the case may be.

(d) When in the case of a single-county department the voters elect to dissolve the department, or in the case of a joint-county department the voters elect to withdraw, no new department of health may be **[created] established** by resolution nor may the commissioners resolve to join with another county or other counties to **[create] establish** a joint department within five years of **[such] the** dissolution.

Section 4. Section 9 of the act is amended to read:

Section 9. Establishment of County Departments of Health.—(a) As soon as possible after the **[creation] authorization of the establishment** of a county department of health by any of the methods provided in section 5 of this act, the county commissioners or, in the case of a joint-county department of health the joint-county health commission, shall appoint a board of health in accordance with section 7 of this act, and the board of health shall appoint a health director in accordance with section 8 of this act. Thereafter, the county commissioners or the joint-county health commission, the board of health and the health director shall, as expeditiously as possible, take all steps necessary to prepare the department for the exercise of its powers and duties.

(b) The State Secretary of Health shall **(b) determine when [each] a proposed** county department of health **[created under this act]** is ready to exercise its powers and duties. The State Secretary of Health shall find that a county department of health is ready to exercise its powers and duties only when (1) local funds have been appropriated, (2) the organization of the county department of health has been completed, (3) personnel have been employed in accordance with the regulations of the State Department of Health, (4) required facilities and equipment have been obtained, and (5) necessary rules and regulations have been prepared by the board of health to the extent that the county department of health will be able to achieve the purposes of this act. Upon making such a finding, the State Secretary of Health shall immediately transmit a certificate of his finding to the county commissioners or, in the case of a joint-county department of health, to the joint-county health commission.

(c) Within five days after receipt of **[such] the** certificate, the county commissioners or the joint-county health commission, as the case may be, shall give written notice of the finding of the State Secretary of Health to the executives or executive bodies of all the cities, boroughs, incorporated towns, and townships within the territorial limits of the county or counties which have **[created] approved the establishment of** the county department of

health. All notices shall be given on the same day. Thirty (30) days after **[such]** *the* notice has been given, the county department of health shall be considered to be established and shall begin the exercise of its powers and duties.

Section 5. The act is amended by adding a section to read:

***Section 14.1. Municipalities with Intergovernmental Cooperation Agreements.—When a municipality is located within two or more counties, the governing body of that municipality may by ordinance enter into an agreement pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) to have a single-county department of health provide services and exercise duties and responsibilities for the entire municipality.***

Section 6. This act shall take effect in 60 days.

APPROVED—The 29th day of November, A.D. 2004.

EDWARD G. RENDELL