Background

In the face of declining resources and increasing demand for services, many local health departments (LHDs) are exploring innovative ways to improve efficiency, meet accreditations standards, and reduce costs by sharing service delivery and other functions with other LHDs, agencies, and entities.

One method for such cross-jurisdictional collaboration is the utilization of state interlocal agreement acts. These acts permit localities to enter into agreements with other entities to provide health and other services, and govern the terms of those agreements. Many permit the creation of new entities to accomplish public health goals.

The goal of these acts is, as stated for example by Florida’s Interlocal Cooperation Act, “to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord the best geographic, economic, population, and other factors influencing the needs and development of local communities.” Fla. Stat. § 163.01.

In 2012, with the extremely helpful assistance of pro bono attorneys from the firm of McDermott Will & Emery LLP and the Iowa Health System, the Network conducted a survey of intergovernmental cooperation laws currently in effect in all 50 states. The results of that survey are provided below.

Please be advised that this table should be used only as a guide. While we do not know it to contain any errors, we do know that it is incomplete. We also caution that in many cases other laws and regulations may be used to share services and personnel between organizations and such actions may be permissible even without explicit enabling legislation. We strongly suggest that interested persons and entities contact us for assistance in this complicated area of law.
North Carolina Intergovernmental Cooperation Agreements Summary
As of September 2013

<table>
<thead>
<tr>
<th>Name/Title and citation of relevant law(s)</th>
<th>Specific to public health? (Y/N)</th>
<th>Can entities enter into agreements? (Y/N); If Yes: Describe activities Describe requirements</th>
<th>Can new entity be created? (Y/N); If Yes: Is new entity limited in duration? (Y/N) Can new entity issue bonds? (Y/N) Does new entity have taxing authority? (Y/N) Describe powers of new entity</th>
<th>Is outside approval required? If Yes, explain.</th>
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<tbody>
<tr>
<td>Interlocal Cooperation Statute N.C. Gen. Stat. § 160A-460 et seq.</td>
<td>No</td>
<td>The Interlocal Cooperation Statute authorizes a “unit of local government” to enter into agreements with other units of local government (either in North Carolina, or any other state to the extent permitted by the laws of such other state) in order to execute any “undertaking.” “Undertaking” means the joint exercise by two or more units of local government, or the contractual exercise by one unit for one or more other units, of any power, function, public enterprise, right, privilege, or immunity of local government. (See N.C. Gen. Stat. § 160A-460 (1)). Any contract or agreement establishing an undertaking shall specify: (1) The purpose or purposes of the contract or agreement; (2) The duration of the agreement; (3) If a joint agency is established, its composition, organization, and nature, together with the powers conferred on it; (4) The manner of appointing the personnel necessary to the execution of the undertaking; (5) The method of financing the undertaking, including the apportionment of costs and revenues; (6) The formula for ownership of real property involved in the undertaking, and procedures for the disposition of such property when the contract or agreement expires or is terminated; (7) Methods for amending the contract or agreement; (8) Methods for terminating the contract or agreement; (9) Any other necessary or proper matter. (N.C. Gen. Stat. § 160A-464)</td>
<td>Yes. A new “joint agency” may be created. (See N.C. Gen. Stat.. § 160A-462). The relevant provision is silent as to limits on the duration of a new joint agency. However, the statute does explicitly provide that agreements among two or more units of local government regarding expenses and revenues “may be of reasonable duration not to exceed 99 years.” Thus, effectively, the duration is limited to 99 years. (See N.C. Gen. Stat. § 160A-466). No. The statute does not explicitly authorize a new joint agency to issue bonds. No. The statute does not explicitly authorize a new joint agency to exercise taxing authority. The units of local government participating in a new joint agency may confer on the joint agency “any power, duty, right, or function needed for the execution of the undertaking.” However, the legal title to all real property necessary to the undertaking shall be held by the participating units individually or jointly as tenants in common. While not explicitly addressed, this provision could be interpreted to include the ability to issue bonds and exercise taxing authority. (See N.C. Gen. Stat. § 160A-462(a)).</td>
<td>The contracts or agreements relating to the execution of an undertaking shall be ratified by resolution of the governing board of each unit, as reflected in its minutes. (See N.C. Gen. Stat. § 160A-461). However, the Interlocal Cooperation Statute is silent as to any other approvals required.</td>
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The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at William Mitchell College of Law.

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1 N.C. Gen. Stat. § 160A-460 (2) “Unit” or “unit of local government” means a county, city, consolidated city-county, local board of education, sanitary district, facility authority created under Part 4 of this Article, or other local political subdivision, authority, or agency of local government.