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CHAPTER 333

OREGON HEALTH AUTHORITY

PUBLIC HEALTH DIVISION

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RULES:

333-014-0590, 333-014-0600, 333-014-0610

AMEND: 333-014-0590

NOTICE FILED DATE: 11/07/2022

RULE SUMMARY: Amend 333-014-0590: Adds adoption of a resolution by a governing body of a county in which a local public health authority operates or the governing body of a local public health authority as a means for requesting transfer of local public health authority responsibilities to the Authority. Requires that the ordinance or resolution adopted by the governing body must specify the disparity in moneys received as compared to the estimate that the Authority submitted to the Legislative Fiscal Office under ORS 431.380(2). Allows the Authority to agree to an effective date for a transfer to the Authority earlier than 180 days after the date of adoption of the ordinance or resolution. Removes language related to request to transfer back local public health authority (moved to 333-014-0600 and 333-014-0610).

CHANGES TO RULE:

333-014-0590

Request to Transfer Local Public Health Authority

(1) If the Authority does not receive state monies in an amount that equals or exceeds the estimate that the Authority submitted to the Legislative Fiscal Office under ORS 431.380(2), the governing body of the county in which a local public health authority operates or the governing body of a local public health authority may adopt an ordinance or resolution transferring to the Authority the responsibility for fulfilling the local public health authority's duties under ORS 431.001 to 431.550 and 431.990 and the other public health laws of this state. The ordinance or resolution must specify the disparity in moneys received as described in this section. ¶

(2) An ordinance or resolution adopted under section (1) of this rule must transfer all local public health authority duties under ORS 431.001 to 431.550 and 431.990 and under other public health laws of this state. ¶

(3) Within two business days from the date the ordinance or resolution was adopted under section (1) of this rule, the local public health authority must inform the state Public Health Director in writing and provide a copy of the ordinance or resolution. ¶

(4) The transfer of duties from a local public health authority to the Authority takes effect no sooner than 180 days after the date the ordinance ~~was adopted~~ or resolution was adopted, unless the Authority agrees to an earlier

effective date. ¶

(5) A local public health authority must continue to comply, until the date of transfer, with any contract or agreement it has with the Authority that concerns any of the services or activities required by a local public health authority under these rules or under any other public health law of this state including but not limited to the FAA, or other agreements, unless:¶

(a) The Authority authorizes a termination of a contract or agreement at an earlier date; or ¶

(b) The contract or agreement is terminated in accordance with the terms of the contract or agreement. ¶

(6) The local public health authority must provide notice to the Authority, in accordance with the termination provisions of any contract or agreement for local public health services or activities prior to the final transfer of responsibility from the local public health authority to the Authority. ¶

~~(7) If a local public health authority revokes an ordinance adopted under section (1) of this rule the Authority will work with the local public health authority on a transition plan for the transfer of responsibilities back to the local~~
Nothing in this rule is intended to require the Authority to: ¶

(a) Provide funding for public health authority, services on a schedule agreed upon by the Authority and the local public health authority. Nothing in this section is intended to require the Authority to provide funding to the activities within the jurisdiction that transferred its local public health authority at the same level that had been previously provided to the local public health authority prior to the transfer, nor of responsibilities to the Authority. ¶

(b) Terminate any contract or agreement that is in place for the provision of local public health services or activities within the local public health authority's jurisdiction before the agreed upon term of the contract or agreement. ¶

(c) Establish an office or facilities for the provision of local public health services or activities within the jurisdiction of the body that transferred local public health authority.

Statutory/Other Authority: ORS 413.042, 431.149

Statutes/Other Implemented: ORS 431.382

RULE SUMMARY: Adopt 333-014-0600: Specifies the process for a governing body of a county or the governing body of the entity that previously transferred its local public health authority responsibilities to the Authority to request a transfer of local public health authority responsibilities back to the local public health authority, if four years or more since date of transfer to the Authority. Provides a process for a governing body to request, and the Authority to provide, information that will help in understanding requirements and resources related to transferring back local public health authority.

CHANGES TO RULE:

333-014-0600

Request to Return Local Public Health Authority Four Years or More Since Date of Transfer

(1) This rule applies to a county or other entity that transferred local public health authority responsibilities to the Authority under ORS 431.382, and it has been four years or more since the date of transfer. For purposes of this rule "date of transfer" means 180 days from the date the ordinance or resolution to transfer was adopted or an earlier date agreed to by the Authority in writing. ¶

(2) The governing body of a county or the governing body of the entity that previously transferred local public health authority responsibilities to the Authority under ORS 431.382 may submit a written request to the Authority to resume acting as the local public health authority. ¶

(3) Prior to submitting a request under section (2) of this rule, the governing body may request from the Authority, and the Authority will provide: ¶

(a) A non-binding estimate of the funding available for public health services and activities to the county or other entity if authority is transferred back to the county or other entity. ¶

(b) A draft Financial Assistance Agreement including a scope of work for required and optional local public health authority programs. ¶

(c) A draft Intergovernmental Agreement for Environmental Health Services. ¶

(4) A request to resume acting as the local public health authority under this rule must: ¶

(a) Include a copy of a formal action by the governing body authorizing that a request be made to the Authority to resume acting as the local public health authority. ¶

(b) Include the reason or reasons the request is being made. ¶

(5) The Authority may request additional information from a requestor as necessary to clarify the request. ¶

(6) After review of a request under section (2) of this rule and after determining that all the necessary information has been submitted the Authority will work with requestor on the agreement described in section (7) of this rule. ¶

(7) If the Authority is transferring local public health authority responsibilities back to the requestor, the Authority and the requestor will enter into a written agreement that includes but is not limited to: ¶

(a) A schedule to effectuate the transfer of responsibilities to the local public health authority, including a schedule for entering into an intergovernmental agreement between the Authority and governing body for public health funding. ¶

(b) A plan for communicating with residents within the local public health authority's jurisdiction, health care providers and other organizations identified by the Authority or the requesting governing body that the authority is being transferred back to the requesting local public health authority. ¶

(c) A transfer of any physical equipment or files from the Authority to the local public health authority. ¶

(8) Upon execution of the agreement described in section (7) of this rule by both parties the requesting governing body must take the actions necessary to repeal the ordinance or resolution adopted under ORS 431.382(1). ¶

(9) Nothing in this rule is intended to require the Authority to provide funding to the local public health authority at the same level that had been previously provided to the local public health authority prior to the transfer of responsibilities to the Authority, nor is this rule intended to require the termination of any contract or agreement to which the Authority is a party, that is in place for the provision of public health services or activities within the jurisdiction that transferred its local public health authority, before the agreed upon term of the contract or agreement.

Statutory/Other Authority: ORS 413.042, 431.149

Statutes/Other Implemented: ORS 431.382

RULE SUMMARY: Adopt 333-014-0610: Specifies the process for a governing body of a county or the governing body of the entity that previously transferred its local public health authority responsibilities to the Authority to request a transfer of local public health authority responsibilities back to the local public health authority, if less than four years since date of transfer to the Authority. Provides a process for a governing body to request, and the Authority to provide, information that will help in understanding requirements and resources related to transferring back local public health authority. Includes criteria for the Authority to consider when determining approval or denial of the request to transfer.

CHANGES TO RULE:

333-014-0610

Request to Return Local Public Health Authority Less than Four Years from the Date of Transfer

(1) This rule applies to a county or other entity that transferred local public health authority responsibilities to the Authority under ORS 431.382, and it has been less than four years since the date of transfer. For purposes of this rule "date of transfer" means 180 days from the date the ordinance or resolution to transfer was adopted or an earlier date agreed to by the Authority in writing.¶

(2) The governing body of a county or the governing body of the entity that previously transferred local public health authority responsibilities to the Authority under ORS 431.382 may submit a written request to the Authority to resume acting as the local public health authority.¶

(3) Prior to submitting a request under section (2) of this rule, the governing body may request from the Authority, and the Authority will provide:¶

(a) A non-binding estimate of the funding available for public health services and activities to the county or other entity, if authority is transferred back to the county or other entity.¶

(b) A draft Financial Assistance Agreement including scope of work for required and optional local public health authority programs.¶

(c) A draft Intergovernmental Agreement for Environmental Health Services.¶

(4) A request to transfer local public health responsibilities back to the local public health authority under this rule must include:¶

(a) A copy of a formal action by the governing body authorizing that the request to transfer authority from the Authority back to the local public health authority be made.¶

(b) The reason or reasons the request is being made.¶

(c) An explanation of what has changed within the jurisdiction of the governing body with regard to the ability to provide local public health services from the time the decision was made to transfer local public health responsibilities back to the Authority, to the present, and how the community will benefit from the responsibilities being transferred back earlier than four years from the original transfer.¶

(d) A financing plan for fulfilling local public health authority responsibilities described in OAR 333-014-0550.¶

(e) A staffing plan for fulfilling local public health authority responsibilities, including the responsibilities described in OAR 333-014-0550 and OAR 333-014-0580.¶

(f) A description of how the local public health authority will implement requirements for public health programs and environmental health services to be funded through agreements with the Authority.¶

(g) A description of any contracts that are likely to be executed to support the fulfilment of local public health authority responsibilities, if the requestor is not intending to provide services or undertake activities directly.¶

(h) If known, information about who will be appointed the local public health administrator and if the local public health authority will be requesting approval for a part-time local public health administrator under OAR 333-014-0520.¶

(i) The location or locations where public health services will be provided by the local public health authority and hours of operation.¶

(5) The Authority may request additional information from a requestor as necessary to clarify the request.¶

(6) After review of a request under section (2) of this rule and after determining that all the information required under this rule has been submitted and is complete, the Authority will:¶

(a) Determine whether it should transfer authority back to the local public health authority taking into consideration the following:¶

(A) Whether the requestor has sufficient staff or is committed and able to hire sufficient staff to undertake the

statutory and governance duties required of a local public health authority.[¶]

(B) The extent to which the requestor is willing and able to commit local funding to provide public health activities and functions, rather than relying solely on state or federal funds if state and federal funds are not available at a sufficient level to meet public health needs.[¶]

(C) The extent to which the requestor demonstrates its ability to implement public health programs and activities to be funded under the Financial Assistance Agreement and Environmental Health Services Intergovernmental Agreement.[¶]

(b) Provide the requesting governing body with a determination, in writing, whether it agrees to the transfer. If the request is denied, the written determination will include the Authority's rationale for the denial, based on the consideration of the factors listed in subsection (a) of this section.[¶]

(7) If the Authority agrees to transfer local public health authority responsibilities back to the requestor, the Authority and the requestor will enter into a written agreement that includes but is not limited to:[¶]

(a) A schedule to effectuate the transfer of responsibilities to the local public health authority, including a schedule for entering into an intergovernmental agreement between the Authority and governing body for public health funding.[¶]

(b) A plan for communicating with residents within the local public health authority's jurisdiction, health care providers and other organizations identified by the Authority or the requesting governing body that the authority is being transferred back to the requesting local public health authority.[¶]

(c) A transfer of any physical equipment or files from the Authority to the local public health authority.[¶]

(8) Upon execution of the agreement described in section (7) of this rule by both parties the requesting governing body must take the actions necessary to repeal the ordinance or resolution adopted under ORS 431.382(1).[¶]

(9) Nothing in this rule is intended to:[¶]

(a) Require the Authority to provide funding to the local public health authority at the same level that had been previously provided to the local public health authority prior to the transfer of responsibilities to the Authority, nor is this rule intended to require the termination of any contract or agreement to which the Authority is a party, that is in place for the provision of public health services or activities within the jurisdiction that transferred its local public health authority, before the agreed upon term of the contract or agreement.[¶]

(b) Prohibit a governing body from submitting another request if a request to transfer is denied.

Statutory/Other Authority: ORS 413.042, 431.149

Statutes/Other Implemented: ORS 431.382