

Enrolled
House Bill 2310

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

CHAPTER

AN ACT

Relating to the provision of public health services; creating new provisions; amending ORS 431.115, 431.122, 431.123, 431.132, 431.148, 431.380, 431.382 and 431.417 and section 115, chapter 736, Oregon Laws 2015; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

**SCHEDULE FOR PHASING IN FOUNDATIONAL
CAPABILITIES AND FOUNDATIONAL PROGRAMS**

SECTION 1. Section 115, chapter 736, Oregon Laws 2015, is amended to read:

Sec. 115. *[(1) On or before June 30, 2016, the Oregon Health Authority shall first submit the formula adopted under ORS 431.380, as amended by section 28 of this 2015 Act, to the Legislative Fiscal Office.]*

[(2)] (1) [On or before January 1, 2017,] The Oregon Health Authority shall:

*(a) Adopt the initial statewide public health modernization assessment and develop the initial statewide public health modernization plan as required by [section 4 of this 2015 Act] **ORS 431.115**; and*

*(b) Subject to [subsections (3) and (4)] **subsection (2)** of this section, establish a schedule by which local public health authorities, as defined in [section 2 of this 2015 Act] **ORS 431.003**, shall [first] submit local plans for applying the foundational capabilities established under [section 9 of this 2015 Act] **ORS 431.131** and implementing the foundational programs established under [section 17 of this 2015 Act] **ORS 431.141** as required by ORS [431.385] **431.417**.*

[(3) The schedule established under subsection (2)(b) of this section:]

[(a) May impose different dates for different local public health authorities; and]

[(b) Must require that all local public health authorities first submit local plans no later than December 31, 2023.]

(2) The schedule established under subsection (1)(b) of this section must require that all local public health authorities first submit local plans implementing ORS 431.131 and 431.141 on or before December 31, 2023.

[(4) The Oregon Health Authority shall collaborate with each local public health authority in prescribing a date by which that local public health authority must first submit local plans as described in subsection (2)(b) of this section.]

[(5) Notwithstanding the amendments to ORS 431.415, 431.416 and 431.385 by sections 25 to 27 of this 2015 Act, a local public health authority is required to submit a local plan to the authority as re-

quired by ORS 431.385 as in effect immediately before the effective date of this 2015 Act until the local public health authority first submits a local plan pursuant to the schedule established under subsection (2)(b) of this section.]

(3) In consultation with local public health authorities, the Oregon Health Authority may modify the schedule established under subsection (1)(b) of this section to require local public health authorities to apply foundational capabilities and implement foundational programs over a period of time, provided that all local public health authorities submit local plans for applying all foundational capabilities and implementing all foundational programs no later than December 31, 2023.

ACCOUNTABILITY METRICS

SECTION 2. ORS 431.115 is amended to read:

431.115. (1) For the purpose of fulfilling its duties under ORS 431.110 (2), (3) and (4), the Oregon Health Authority shall:

- (a) Adopt and update as necessary a statewide public health modernization assessment;
- (b) In consideration of the statewide public health modernization assessment, develop and modify as necessary a statewide public health modernization plan;
- (c) Implement the statewide public health modernization plan;
- (d) Subject to the provisions of ORS 431.380, develop and modify as necessary plans for the distribution of funds to local public health authorities;
- (e) Implement plans for the distribution of funds to local public health authorities;
- (f) Coordinate state and local administration of the foundational programs established under ORS 431.141;
- (g) Approve local plans for applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141 as required by ORS 431.417;

(h) Monitor the progress of local public health authorities in meeting statewide public health goals, including applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141;

(i) For the purpose of making distributions under ORS 431.380, consult with and consider the recommendations of local public health authorities on the total cost to local public health authorities of applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141 [*as identified by local public health authorities in community modernization assessments adopted under ORS 431.413*];

(j) Use accountability metrics to encourage the effective and equitable provision of public health services by local public health authorities;

[*(j)*] **(k)** Use incentives [*adopted under ORS 431.380*] to encourage the effective and equitable provision of public health services by local public health authorities;

[*(k)*] **(L)** Seek funding, including in the form of federal grants, for ORS 431.001 to 431.550 and 431.990; and

[*(L)*] **(m)** Coordinate and collaborate with federal agencies in implementing ORS 431.001 to 431.550 and 431.990.

(2) The Oregon Health Authority shall solicit input from the Conference of Local Health Officials and local public health authorities in:

(a) Establishing the foundational capabilities under ORS 431.131 and the foundational programs under ORS 431.141;

(b) Adopting and updating a statewide public health modernization assessment under subsection (1)(a) of this section;

(c) Developing and modifying a statewide public health modernization plan under subsection (1)(b) of this section; and

(d) Developing and modifying plans for the distribution of funds under subsection (1)(d) of this section.

SECTION 3. ORS 431.123 is amended to read:

431.123. The Oregon Public Health Advisory Board shall:

(1) Make recommendations to the Oregon Health Policy Board on the development of statewide public health policies and goals;

(2) Make recommendations to the Oregon Health Policy Board on how other statewide priorities, such as the provision of early learning services and the delivery of health care services, affect and are affected by statewide public health policies and goals;

(3) Make recommendations to the Oregon Health Policy Board on the establishment of the foundational capabilities under ORS 431.131, the foundational programs under ORS 431.141 and any other public health program or activity under ORS 431.147;

(4) Make recommendations to the Oregon Health Policy Board on the adoption and updating of the statewide public health modernization assessment under ORS 431.115;

(5) Make recommendations to the Oregon Health Policy Board on the development of and any modification to the statewide public health modernization plan developed under ORS 431.115;

(6) Establish accountability metrics for the purpose of evaluating the progress of the Oregon Health Authority and local public health authorities in achieving statewide public health goals;

[(6)] (7) Make recommendations to the Oregon Health Authority and the Oregon Health Policy Board on:

(a) The development of, and any modification to, plans developed under ORS 431.115 for the distribution of funds to local public health authorities **under ORS 431.380**; and

(b) The total cost to local public health authorities of applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141;

(8) Make recommendations to the Oregon Health Policy Board on the use of accountability metrics by the Oregon Health Authority under ORS 431.380 to encourage the effective and equitable provision of public health services by local public health authorities;

[(7)] (9) Make recommendations to the Oregon Health Policy Board on the **incorporation and** use of incentives by the Oregon Health Authority under ORS 431.380 to encourage the effective and equitable provision of public health services by local public health authorities;

[(8)] (10) Provide support to local public health authorities in developing local plans to apply the foundational capabilities established under ORS 431.131 and implement the foundational programs established under ORS 431.141 as required by ORS 431.417;

[(9)] (11) Monitor the progress of local public health authorities in meeting statewide public health goals, including employing the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141;

[(10)] (12) Assist the Oregon Health Authority in seeking funding, including in the form of federal grants, for ORS 431.001 to 431.550 and 431.990; and

[(11)] (13) Assist the Oregon Health Authority in coordinating and collaborating with federal agencies.

FUNDING OF LOCAL PUBLIC HEALTH AUTHORITIES

SECTION 4. ORS 431.380 is amended to read:

431.380. (1) From **state** moneys [*available to*] **that** the Oregon Health Authority **receives** for the purpose of funding the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141, the Oregon Health Authority shall make payments to local public health authorities under this section. The Oregon Health Authority shall each biennium submit to the **Oregon** Public Health Advisory Board and the Legislative Fiscal Office a formula that

provides for the equitable distribution of moneys. *[As a part of the formula, the Oregon Health Authority shall:]* **The Oregon Health Authority shall incorporate into the formula:**

[(a) Establish a baseline amount to be invested in local public health activities and services by the state;]

(a) A method for distributing to local public health authorities a base amount of state moneys received by the Oregon Health Authority pursuant to this subsection, taking into consideration the population of each local public health authority, the burden of disease borne by communities located within the jurisdiction of each local public health authority, the overall health status of communities located within the jurisdiction of each local public health authority and the ability of each local public health authority to invest in local public health activities and services;

(b) [Establish] A method for awarding matching funds to a local public health authority that invests in local public health activities and services above the *[baseline]* **base amount** *[established by the Oregon Health Authority for that local public health authority]* **distributed in accordance with paragraph (a) of this subsection;** and

(c) [Provide] **A method** for the use of incentives as described in subsection *[(4)]* **(3)** of this section.

(2) The Oregon Health Authority shall submit the formula adopted under subsection (1) of this section *[must be submitted]* to the **Oregon** Public Health Advisory Board and the Legislative Fiscal Office no later than June 30 of each even-numbered year. **At the same time that the Oregon Health Authority submits the formula, the Oregon Health Authority shall submit to the Oregon Public Health Advisory Board and the Legislative Fiscal Office an estimate of the amount of state moneys necessary to fund in part or in whole the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141.**

[(3) In establishing a baseline amount for the purpose of awarding matching funds under subsection (1)(b) of this section, the Oregon Health Authority shall consider the population of each local public health authority, the burden of disease borne by communities located within the jurisdiction of each local public health authority, the overall health status of communities located within the jurisdiction of each local public health authority and the ability of each local public health authority to invest in local public health activities and services.]

[(4)] **(3)** The Oregon Health Authority shall adopt by rule incentives *[to encourage]* **and a process for identifying, updating and applying accountability metrics, for the purpose of encouraging** the effective and equitable provision of public health services by local public health authorities.

[(5) Nothing in this section prohibits the Oregon Health Authority from distributing funds to a local public health authority through a competitive contract or grant process or on the basis of need for applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141.]

(4) Nothing in this section prohibits the Oregon Health Authority from distributing state moneys that the Oregon Health Authority receives for the purpose of funding the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141 to local public health authorities on an individual basis as opposed to a statewide basis, or through a competitive grant or contract process or on the basis of need, if the state moneys received are insufficient to adequately fund local public health authorities on a statewide basis.

SECTION 4a. (1) Each biennium, the Oregon Health Authority shall submit to the Legislative Fiscal Office a report on the application of the formula described in ORS 431.380, containing at a minimum:

(a) A statement of the amount of state moneys that the Oregon Health Authority received for the purpose of funding the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141;

(b) A description of how state moneys that the Oregon Health Authority received for the purpose of funding the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141 were distributed to local public health authorities; and

(c) The level of work funded for each foundational capability and each foundational program and the progress of local public health authorities in meeting accountability metrics.

(2) The Oregon Public Health Advisory Board shall, each biennium, make recommendations to the Oregon Health Authority on the priorities for the Oregon Health Authority and on the priorities of local public health authorities for each foundational capability established under ORS 431.131 and each foundational program established under ORS 431.141, based on state moneys that the Oregon Health Authority received for the purpose of funding the foundational capabilities established under ORS 431.131 and the foundational programs established under ORS 431.141.

SECTION 5. ORS 431.382 is amended to read:

431.382. *[If the Oregon Health Authority fails to distribute an amount of moneys to a local public health authority equal to or in excess of the baseline amount established under ORS 431.380 (1)(a), a local public health authority may request to transfer 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 to the Oregon Health Authority. If a local public health authority requests to transfer responsibilities under this section, the moneys available to the local public health authority under ORS 431.380 revert to the Oregon Health Authority. A request to transfer made under this section must be made in the form and manner prescribed by the Oregon Health Authority and takes effect 180 days after the Oregon Health Authority receives the request.]*

(1) If the Oregon Health Authority does not receive state moneys in an amount that equals or exceeds the estimate that the Oregon Health Authority submits to the Legislative Fiscal Office under ORS 431.380 (2), the governing body of the county in which a local public health authority operates may adopt an ordinance transferring 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 to the Oregon Health Authority.

(2) The Oregon Health Authority shall prescribe the form and manner of informing the Oregon Health Authority that the local public health authority has made a transfer under this section.

(3) A transfer under this section may not take effect until 180 days after the date on which an ordinance mandating the transfer is adopted.

(4) The local public health authority that makes a transfer under this section is not eligible to receive any moneys pursuant to ORS 431.380, and the Oregon Health Authority may use the moneys to provide or to contract for the provision of public health programs and public health activities within the local public health authority's jurisdiction.

(5) If a local public health authority makes a transfer under this section, the Oregon Health Authority is not obligated to provide or to contract for the provision of public health programs and public health activities within the local public health authority's jurisdiction.

SECTION 6. ORS 431.417 is amended to read:

431.417. *[(1) Each local public health authority shall submit a local plan for applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141 to the Oregon Health Authority in a form and manner prescribed by the authority.]*

[(2) The Oregon Health Authority may make suggestions to a local public health authority on modifying a plan submitted under this section. Suggestions must be based on emerging best practices for the effective application and implementation of public health programs and activities. A local public health authority may request technical assistance from the Oregon Health Authority on implementing the suggestions.]

(1) The Oregon Health Authority may by rule require each local public health authority to submit a plan, in a form and manner prescribed by the Oregon Health Authority, that describes how the local public health authority will use moneys made available under ORS 431.380.

(2) The Oregon Health Authority may enter into an agreement with each local public health authority that describes the work the local public health authority agrees to perform and the amount of state funding the local public health authority will receive under ORS 431.380.

(3) The Oregon Health Authority may enter into one or more agreements with a local public health authority for purposes of distributing funds, or providing incentives, to the local public health authority that are available through federal grants or other sources. Before entering into an agreement under this section, the Oregon Health Authority shall adopt by rule a process by which a local public health authority must submit the documentation necessary to receive incentives under an agreement authorized by this subsection.

ASSESSMENT AND EPIDEMIOLOGY

SECTION 7. ORS 431.132 is amended to read:

431.132. (1) For the purpose of establishing the foundational capabilities under ORS 431.131, assessment and epidemiology include, but are not limited to, the knowledge, skills and abilities necessary to:

- (a) Identify and respond to disease outbreaks and epidemics;
- (b) Analyze and respond to information related to disease outbreaks and epidemics;
- (c) Conduct and assess surveys about health behaviors and practices;
- (d) Collect and maintain vital records and statistics;
- (e) Process data from a variety of sources, including vital records, health records, hospital data, insurance data and indicators of community or environmental health;
- (f) Analyze key indicators of a community's health;
- (g) Analyze data related to the causes and burdens of disease, injury, disability and death;
- (h) Prioritize and respond to requests for data processed and analyzed as described in this section and communicate the response in a manner that is accurate, statistically valid and usable by the requester;
- (i) Identify how disease, injury, disability and death disproportionately affect certain populations, including populations specific to sex, race, ethnicity and socioeconomic status;
- (j) Conduct a [public health modernization] **community health** assessment and identify priorities arising from that assessment[, as required by ORS 431.115 or 431.413]; and
- (k) Use relevant data to implement, monitor, evaluate and modify state health improvement plans or community health improvement plans.

(2) For purposes of this section, the Oregon Health Authority may adopt rules differentiating between the knowledge, skills and abilities that are necessary for state governance and that are necessary for local governance.

EVIDENCE-BASED BEST PRACTICES

SECTION 8. ORS 431.148 is amended to read:

431.148. The Oregon Health Authority may adopt by rule evidence-based best practices for the purpose of assisting local public health authorities [implement] **in implementing** the foundational programs established under ORS 431.141 and any other public health program or activity established under ORS 431.147. Rules adopted under this section are only for the purpose of assisting local public health authorities and are not mandatory guidelines for the implementation of the programs or activities.

OREGON PUBLIC HEALTH ADVISORY BOARD

SECTION 8a. ORS 431.122 is amended to read:

431.122. (1)(a) The Oregon Public Health Advisory Board is established for the purpose of advising and making recommendations to the Oregon Health Authority and the Oregon Health Policy Board. The Oregon Public Health Advisory Board shall consist of:

(A) [*Thirteen*] **Fourteen** members appointed by the Governor as specified in paragraph (b) of this subsection;

(B) The Public Health Director or the Public Health Director's designee;

(C) If the Public Health Director is not the State Health Officer, the State Health Officer or a physician licensed under ORS chapter 677 acting as the State Health Officer's designee;

(D) If the Public Health Director is the State Health Officer, a representative from the Oregon Health Authority who is familiar with public health programs and public health activities in this state; and

(E) A designee of the Oregon Health Policy Board.

(b) The Governor shall appoint the following individuals to the board:

(A) A state employee who has technical expertise in the field of public health;

(B) A local public health administrator who supervises public health programs and public health activities in Benton, Clackamas, Deschutes, Jackson, Lane, Marion, Multnomah or Washington County;

(C) A local public health administrator who supervises public health programs and public health activities in Coos, Douglas, Josephine, Klamath, Linn, Polk, Umatilla or Yamhill County;

(D) A local public health administrator who supervises public health programs and public health activities in Clatsop, Columbia, Crook, Curry, Hood River, Jefferson, Lincoln, Tillamook, Union or Wasco County;

(E) A local public health administrator who supervises public health programs and public health activities in Baker, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Wallowa or Wheeler County;

(F) A local health officer who is not a local public health administrator;

(G) An individual who represents the Conference of Local Health Officials created under ORS 431.330;

(H) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

[*H*] **(I)** An individual who represents coordinated care organizations;

[*L*] **(J)** An individual who represents health care organizations that are not coordinated care organizations;

[*J*] **(K)** An individual who represents individuals who provide public health services directly to the public;

[*K*] **(L)** An expert in the field of public health who has a background in academia;

[*L*] **(M)** An expert in population health metrics; and

[*M*] **(N)** An at-large member.

(2)(a) The term of office for a board member appointed under this section is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection (1)(a)(B) to (E) of this section are nonvoting ex officio members of the board.

(3) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(4) Official action by the board requires the approval of a majority of the voting members of the board.

- (5) The board shall elect one of its voting members to serve as chairperson.
- (6) The board shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the board.
- (7) The board may adopt rules necessary for the operation of the board.
- (8) The board may establish committees and subcommittees necessary for the operation of the board.
- (9) Voting members of the board are entitled to compensation and expenses as provided in ORS 292.495.

OPERATIVE DATE

SECTION 9. (1) Section 4a of this 2017 Act and the amendments to ORS 431.115, 431.122, 431.123, 431.132, 431.148, 431.380, 431.382 and 431.417 and section 115, chapter 736, Oregon Laws 2015, by sections 1 to 4 and 5 to 8a of this 2017 Act become operative on January 1, 2018.

(2) The Oregon Health Authority and the Oregon Public Health Advisory Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, powers and functions conferred on the authority and the board by section 4a of this 2017 Act and the amendments to ORS 431.115, 431.122, 431.123, 431.132, 431.148, 431.380, 431.382 and 431.417 and section 115, chapter 736, Oregon Laws 2015, by sections 1 to 4 and 5 to 8a of this 2017 Act.

UNIT CAPTIONS

SECTION 10. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

EFFECTIVE DATE

SECTION 11. This 2017 Act takes effect on the 91st day after the date on which the regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House July 5, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate July 6, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State