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April 1, 2013

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *JEFielding*  
Director and Health Officer

SUBJECT: **IMPACT OF "CITY OF LOS ANGELES PUBLIC HEALTH PROTECTION  
ACT"**

This is to provide your Board with further information about the potential impact of the proposed ballot initiative that would require the City of Los Angeles to create a separate public health department.

On January 28, 2013, I notified your Board that the Los Angeles City Clerk had received an initiative petition, entitled the "City of Los Angeles Public Health Protection Act." The attached report provides an analysis of the proposed measure's provisions, the impact that passage of the measure might have on public health services for the City and the County, the fiscal and workforce impact to the County, and the fiscal impact to the City.

If you have any questions or need additional information, please let me know.

JEF:wks

Attachments

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

**“CITY OF LOS ANGELES PUBLIC HEALTH PROTECTION ACT”**  
**ANALYSIS OF IMPACT ON BOTH THE COUNTY AND CITY OF LOS ANGELES**

**Executive Summary**

An initiative petition entitled, the “City of Los Angeles Public Health Protection Act” was approved March 7, 2013, by the Los Angeles City Clerk’s Office for signature gathering. The proposed ballot measure seeks to require the City of Los Angeles to create its own separate public health department and assume all public health responsibilities and obligations within its boundaries. If approved by City of Los Angeles voters, the proposed ballot measure requires the City to establish its own public health department within 120 days and bars the City from contracting with the County for the enforcement of public health laws.

The Los Angeles County Department of Public Health (DPH) provides public health protection and enforcement of public health provisions for 85 of the 88 cities in the County. Passage of the proposed initiative would require the City of Los Angeles to terminate its 1964 public health services contract with the County for these services. This would drastically alter the scope of public health services provided by the County for the City and the County, and would result in a significant loss of revenue, jobs, and workload for the County. The most serious impact to the County will be the reduction in available public health services caused by the loss of revenue and workforce reductions. Initial estimates indicate a reduction of \$107 million in lost fees, grant funds and other revenue sources. The fiscal impact could necessitate the closure of public health clinics, along with reductions in clinical care and prevention services provided for communicable diseases and health promotion. An estimated total number of 960 County positions in DPH could be subject to potential elimination as a result of these reductions.

The establishment of a new City public health department would potentially create a duplicative administrative infrastructure and fragmented or redundant public health services within the County. Although the cities of Long Beach, Pasadena, and Vernon operate separate public health departments, they operate in smaller, more geographically compact areas, and provide a more limited scope of services compared to DPH. By contrast, the size and geography of the City of Los Angeles within the County would likely add delays and complexity in managing cross-jurisdictional disease investigations, and could result in inefficient use of resources for disease surveillance and an overall reduction in emergency preparedness.

The proposed ballot measure is based on the false premises that City of Los Angeles fees are subsidizing public health services in other areas of the County, and that a viable city public health department could be created through fees and grants alone. The proposed ballot initiative would require the commitment of substantial additional City resources, and would likely require the City to contribute general funds to establish and operate its own public health department. To provide an equivalent level of services that the County DPH currently provides to City of Los Angeles residents, the financial cost to the City would exceed \$50 million annually, excluding start-up costs. Moreover, the ballot initiative language’s unrealistic timeframe for creating the city public health department and the potential complete ban on contracting for public health services may further hinder the provision of quality public health services for the City of Los Angeles.

## **Background**

On March 7, 2013, the Los Angeles City Clerk's Office approved a proposed ballot measure for signature gathering for an initiative petition entitled, "City of Los Angeles Public Health Protection Act." The initiative petition seeks to require the City of Los Angeles to create its own separate public health department and assume all public health responsibilities and obligations within its boundaries. If approved by City of Los Angeles voters, this initiative petition would require the City to terminate the 1964 contract between the City and the County, where at the City's request, the County agreed to assume responsibility for protecting the public's health within the City. The initiative requires the City to establish its own public health department within 120 days and bars the City from contracting with the County for the enforcement of public health laws. Proponents of the initiative include Michael Weinstein, president of the AIDS Healthcare Foundation (AHF), Mark Roy McGrath, Dennis Griffin, Marijane Jackson and Gerard Kenslea. It appears that the proponents are attempting to place the initiative on the ballot for the June 2014 City election.

### *Los Angeles County Department of Public Health*

The Los Angeles County Department of Public Health (DPH) provides public health services via contract to 85 of the 88 cities in the County and pursuant to State law to all unincorporated areas, serving a population of approximately 9.4 million people. Three cities within the County -- Long Beach, Pasadena and Vernon<sup>1</sup> -- maintain their own separate public health departments, serving a combined population of approximately 600,000 people.

State law and regulation define the required functions and activities of local public health departments. According to California Code of Regulations, Title 17, local public health departments are required to provide the following public health functions and activities:

- Collection, tabulation and analysis of public health statistics;
- Health education programs;
- Communicable disease control services;
- Maternal and child health services;
- Environmental health and sanitation services;
- Public Health Laboratory services;
- Nutrition services;
- Chronic disease prevention or mitigation services;
- Services directed to the social factors affecting health;
- Occupational health promotion; and
- Public health nursing

Attachment 1 (Mandated Public Health Service Requirements for Local Health Departments) provides more detail on mandated activities for local public health departments. Because DPH programs are well-established and have a nationally recognized high level of experience and expertise, services are performed in a more specialized manner and at greater levels than the basic mandates of State law dictate. For example, DPH utilizes its state-of-the-art electronic communicable disease surveillance system to

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<sup>1</sup> Vernon's health department serves a population of less than 200 residents, businesses and their workers, and mainly provides environmental health services.

capture State-mandated disease reporting from private medical providers and laboratories, which enables DPH to verify and respond to potential disease outbreaks of well known and new threats, including biological, chemical, radiological or nuclear terrorism. Additionally, DPH's Public Health Laboratory is the only public health laboratory in the State to hold ELITE status from the Centers for Disease Control and Prevention, as it regularly provides the most complex laboratory testing services to both public health professionals and private medical providers. Moreover, DPH's 39 programs and 14 health centers provide a comprehensive and intensive approach to fulfilling the mandated services.

### *Los Angeles County and City of Los Angeles Public Health Services*

In 1964, after years of discussion, the City of Los Angeles and County Health Departments were consolidated. The rationale for a countywide public health enforcement model was to reduce duplication and improve efficiency of services for area-wide problems, and the City's desire to transfer the financial responsibility for public health services to the County tax base.<sup>2</sup> This countywide consolidation model is the norm throughout the state -- all other California cities use county-based public health services, except Berkeley and the three aforementioned cities in Los Angeles County.

Research indicates that large health departments are stronger performers in fulfilling the nationally-recognized "essential public health services,"<sup>3</sup> because they benefit from economies of scale as well as a more robust funding base. Nationally, county and combined city-county jurisdictions have been found to be the strongest performers in providing public health services.<sup>4</sup> Smaller health departments across the country are considering consolidation to enable a higher level of service than could be provided by small public health departments.<sup>5,6,7</sup> This consolidation model reflects the national push towards public health department accreditation, with its emphasis on quality improvement and providing essential public health services to the public.

The countywide model also serves DPH's mission, which is to improve health for everyone in Los Angeles County. Countywide efforts such as public information campaigns, policy advocacy, and data analysis and reporting have broad reach across the County, benefiting residents of all of the County's jurisdictions and unincorporated areas.

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<sup>2</sup> Crouch, Winston W. and Dinerman, Beatrice. *Southern California Metropolis: A Study of Government for a Metropolitan Area*. University of California Press, 1963.

<sup>3</sup> The "Essential Public Health Services" describe the public health activities that should be undertaken by all local public health departments. U.S. Centers for Disease Control and Prevention. <http://www.cdc.gov/nphsp/essentialservices.html>. Accessed March 28, 2013.

<sup>4</sup> Mays GP, McHugh MC, Shim K, et al. Institutional and Economic Determinants of Public Health System Performance. *American Journal of Public Health*. 2006; 96(3): 523-531.

<sup>5</sup> Kent State University, College of Public Health – Center for Public Administration and Public Policy. *Consolidating Health Departments in Summit County, Ohio: A One Year Retrospective*. June 29, 2012.

<sup>6</sup> [http://www.naccho.org/topics/infrastructure/accreditation/Map\\_KS.cfm](http://www.naccho.org/topics/infrastructure/accreditation/Map_KS.cfm). Accessed March 20, 2013.

<sup>7</sup> Regionalization: Exploration of an Alternate Organizational Model. <http://www.naccho.org/topics/infrastructure/accreditation/upload/Regionalization-Exploration-for-an-Alternate-Organizational-Model.pdf>. Accessed March 20, 2013.

## **Public Health Service Impact to DPH and Fiscal and Workforce Impact to County**

Passage of the initiative will have a drastic impact on the scope of public health services provided by DPH. The most serious impact to the County will be the reduction in available public health services caused by the loss of revenue and workforce reductions. Initial estimates indicate a reduction of \$107 million in lost fees, grant funds and other revenue sources. The fiscal impact could necessitate the closure of public health clinics in or serving the City of Los Angeles, along with reductions in clinical care and prevention services provided for communicable diseases and health promotion. An estimated total number of 960 County positions in DPH could be subject to potential elimination as a result of these reductions. These estimates are explained below.

### *Fiscal Impact*

DPH has a total budget of \$832 million, made up of \$181 million<sup>8</sup> in Net County Cost (NCC), \$100 million in fees collected for environmental health inspections and Vital Record requests, and \$573 million in grant funding and other revenues. A potential reduction of \$107 million may result from passage of the initiative, including reductions in fees, grant revenue, and the NCC associated with a reduction in clinical and field services, estimated as follows:

• Fees (Environmental Health and Vital Records)	\$38 million
• Grant revenue	\$34 million
• Clinical and field services	\$27 million
• Other	\$8 million
• TOTAL	\$107 million

**Fees:** For DPH Environmental Health, the majority of operational costs are offset by fees imposed on regulated entities, most predominantly retail food facilities. These fees are based on an analysis of the cost of performing the environmental health inspection activities that are mandated by State law. Some DPH Environmental Health activities are funded by grants and others are funded by NCC because there is no responsible party on which to impose a fee. Examples of activities funded by the County include ocean monitoring and beach grading, and responding to complaints about indoor air quality, noise, and unlicensed housing. DPH estimates that \$35 million in fees paid by business owners is attributable to those businesses located within the City of Los Angeles. While DPH would lose this fee revenue, DPH would also lose the corresponding workload. The combined estimate for fee revenue that would be paid to the City of Los Angeles, including Environmental Health and Vital Records fees, is \$38 million.

**Grant Revenue:** The fiscal impact with regard to future grant funding is more difficult to project. DPH receives three kinds of grants: 1) grants that are awarded to the health jurisdiction; 2) grants that DPH received as a result of a competitive solicitation; and 3) grants that are only awarded to counties. For grants that are awarded to the health jurisdiction, DPH anticipates that a City of Los Angeles public health department could receive its per capita share of these grants directly, as Long Beach and Pasadena currently do.

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<sup>8</sup> For purposes of estimating fiscal impact, a Net County Cost of \$137 million was used, which excludes our Maintenance of Effort for Children's Medical Services and HIV/AIDS and the current net support of the Antelope Valley Rehabilitation Center. These programs will continue to serve clients at the County level, as funding is only awarded to the County.

For competitive grants, DPH anticipates that it would retain this funding. However, in some cases, Los Angeles County was awarded funding based on population size, so removing the City from the County's public health jurisdiction could result in smaller awards in the future. For an interim period, DPH may be contractually obligated to continue grant-funded services in the City of Los Angeles until the existing grant period expires. In addition, DPH sometimes subcontracts with Long Beach and Pasadena for awards that it receives competitively; the initiative language prohibiting the City from contracting with the County, although unclear on the nature and extent of the prohibition, may preclude this arrangement. The estimated loss in grant revenue, including grants that would immediately shift to the City of Los Angeles and those that might shift at the end of current grant cycles, is \$34 million.

For grants where the County is the only grant entity, DPH would continue to receive funding and provide these services countywide. Examples include California Children's Services, some Substance Abuse Prevention and Control funding, Ryan White funding, and Health Facilities Inspection.

**Clinical and Field Services (*Public Health Centers*):** DPH operates 14 public health centers throughout the County, which provide medical treatment for tuberculosis and sexually transmitted diseases, triage for communicable disease, and immunizations. Five of these centers are located in the City of Los Angeles (Central; Hollywood Wilshire; North Hollywood; Pacoima; and Ruth Temple). In addition to City residents, these public health centers also serve residents from adjacent areas. Similarly, DPH operates clinics outside of the City that serve City residents. They include Simms-Mann, Glendale, Tucker, Torrance, and the Martin Luther King, Jr. Center for Public Health. Although the MLK clinic is located in an unincorporated area, 67% of its visits in February 2013 were made by patients who reside in the City of Los Angeles. Among all visits to DPH's 14 public health centers, 46% were made by City of Los Angeles residents. In addition to providing clinical treatment services, the public health centers also house field staff that conduct communicable disease investigations and community health promotion activities.

If passage of the ballot initiative results in a substantial reduction in workload and funding for these public health clinics, DPH would consult with the Chief Executive Office (CEO) to recommend to your Board a policy related to clinical services provided to the residents of the City of Los Angeles. One recommendation might be to close public health centers, including those located in the City of Los Angeles and the public health centers located in adjacent areas that primarily serve the City's residents. The potential impact to DPH clinical and field work is estimated to be a reduction of \$27 million and 240 FTE's.

If DPH closes public health clinics, it is unknown at this time what level of clinical public health services the City of Los Angeles will provide within its jurisdiction. As the safety net provider of indigent care for County residents, the County may continue to bear the cost of treatment in the Los Angeles County Department of Health Services' clinics and hospitals for City of Los Angeles residents who otherwise cannot obtain preventative care and treatment for communicable diseases.

**Other:** As DPH's size and revenue decreases, there will be additional indirect and administrative fiscal impacts to DPH's budget, resulting in an estimated reduction of \$8 million.

In addition to the estimated \$107 million impact described above, there will also be a fiscal impact to other County departments. DPH's decreased size and revenue will require less service from, and transfer fewer funds to, other County departments that provide services to DPH. This decrease to other County departments is estimated to be \$5 million.

### *Workforce Impact*

The proposed ballot measure could potentially have far-reaching impacts on the County workforce. In addition to loss of public health centers and field staff described above, the County could lose positions that are funded through fees and grants. The estimated total number of County positions that could potentially be eliminated is 960. There is no guarantee that these employees would be hired by the City, and, if hired, what levels of compensation they would receive. If hired, they would be considered new employees with no seniority. This would have serious ramifications for the County, Los Angeles County Employees Retirement Association (LACERA), and local unions.

In addition to a potential loss of positions, DPH could experience a cascade, as staff with seniority cascade into positions and displace less senior employees. This could be enormously disruptive, as knowledgeable and experienced employees may get displaced by other staff with more seniority but less program-specific experience.

### *Impact on Public Health Infrastructure and Services*

DPH would have to constrict its mission, and could no longer be responsible for the range of services or quality of services provided within the City of Los Angeles. The impact on the health of residents of the City of Los Angeles cannot be predicted from these changes. However, the proposed measure would create redundant public health infrastructure and potential duplication of services at a time when local health departments are moving nationally toward consolidation. Of particular concern is the potential for reduction in emergency preparedness.

The size and geography of the City and the County, as well as the nature of disease patterns and many other public health problems, would make it difficult and inefficient to fully separate City of Los Angeles services from the rest of the County. The City of Los Angeles accounts for 40% of the County population, 12% of the County's geography,<sup>9</sup> has areas that extend throughout the County, and shares boundaries with numerous adjacent cities and unincorporated areas. Disease outbreaks and other public health problems cross these city boundaries. People with communicable diseases may reside in one city while their contacts, who require follow-up from public health staff, reside in another. In addition, patients do not always seek medical care within the city where they reside. Dual clinical, disease control and surveillance systems serving fluid, overlapping populations would increase the amount of public resources required and complicate planning, surveillance and disease prevention and management efforts, as well as emergency preparedness and response.

The County contends with contiguous disease investigation responsibilities with the existing health departments of the smaller, more geographically compact jurisdictions of Pasadena and Long Beach. For example, during foodborne disease outbreak investigations that cross between the County and these jurisdictions, DPH works with the city health departments to manage who leads the investigations and follows up on contact investigations. The scale of cross-jurisdictional coordination required for the City of Los Angeles, however, would add to the complexity in managing disease investigations in such contiguous cases, and could delay investigation activities.

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<sup>9</sup> U.S. Census Bureau. State & County Quick Facts, Land Area in Square Miles, 2010.  
<http://quickfacts.census.gov/qfd/states/06/0644000.html>;  
<http://quickfacts.census.gov/qfd/states/06/06037.html>. Accessed March 27, 2013.

The proposed measure would also result in inefficient use of public health resources in the disease tracking area of HIV disease reporting. DPH conducts highly-specialized surveillance and reporting activities for HIV and AIDS cases to comply with federal and State disease reporting requirements for local health departments, laboratories, counseling and testing sites, and healthcare providers. The cities of Long Beach and Pasadena either receive staffing supported by DPH or a high level of technical support from DPH to handle HIV surveillance within their respective jurisdictions. Due to the size of the City of Los Angeles and the volume of HIV cases within its jurisdiction, the level of reporting would require a substantial amount of staff resources, expertise, and funding. This would likely take the City a considerable amount of time to acquire, and would necessitate ongoing technical assistance from the County. The County would continue to have responsibility for ensuring accurate HIV case reporting as the designated recipient of federal funding for HIV surveillance, care, and prevention under longstanding federal policy. The amount of technical assistance for start-up and ongoing assistance to ensure accuracy and completeness of the data and proper reporting would likely be substantial. Given DPH's already-developed staff expertise and the advantage of centralized coordination, it would likely be inefficient to carry out HIV disease surveillance activities separately from the County for City of Los Angeles residents.

### **Impact to the City**

The proposed measure would likely require the City of Los Angeles to contribute general funds to establish and operate its own public health department. The County has historically contributed general funds to DPH's budget because, as indicated above, grants and fees do not cover the entire cost of providing a high level of public health services to residents. If the City of Los Angeles were to provide an equivalent level of services that DPH currently provides to City of Los Angeles residents, the cost would exceed \$50 million annually. This estimate does not include the start-up costs that would be necessary to implement State mandated local public health department functions. Significant start-up investments would likely be required to establish a level of service required for a modern public health department, such as electronic disease surveillance and laboratory reporting, Health Insurance Portability and Accountability Act compliant information technology, and clinical public health services. Many of the functions of a full service public health department require professional personnel with specialized training and relevant experience. Qualified staff with specialized public health expertise, such as physicians, epidemiologists, microbiologists, and experts in health education and communicable disease prevention and control, are difficult to find.

In addition, the City would need to identify costs and levy fees to establish its own environmental health program. If the City were to adopt a program similar to DPH, there is no guarantee that the fees for businesses within the City would remain the same. In fact, they may increase, as the County is able to achieve economies of scale which may be more difficult for a smaller health department. According to State law, the fees must be based on the actual costs of providing environmental health services and cannot be used to subsidize other departmental functions.

### **Ballot Measure Language**

#### *Services to the City of Los Angeles*

The proposed initiative states that the County has failed to "prioritize the healthcare needs of the residents of the City of Los Angeles..." In fact, many DPH program resources are targeted to the areas of highest need while maintaining a basic level of services for all areas of the County. For several grants, DPH allocates funding to community-based contractors based on public health needs-based formulas, which incorporate indicators such as disease rates and poverty levels to ensure that funds are allocated according



to level of need. The highest burden of many diseases can be found in sections of the City of Los Angeles, with accompanying additional DPH resource allocations.

#### *Establishment of the City Department through Fees*

State law permits a city to impose fees on residents to pay for a city health officer and to assess property taxes on owners for certain enforcement purposes. Los Angeles County does not do so. Instead, the County has historically contributed general funds for the provision of State mandated functions not covered by other sources of grant and fee revenue.

The proposed initiative states that “All costs for the establishment of the Department shall be derived from current fees collected and paid to Los Angeles County as a result of its activities to enforce public health laws in the City of Los Angeles.”

As previously mentioned, the only fees collected by DPH are for a limited set of services and do not cover all of the other mandated duties of a local public health department. DPH Environmental Health fees are set at levels that equal the costs of related environmental health services and administration, as mandated by State law. Fees collected by Vital Records for birth and death certificates are set by the State and, in large part, returned to the State. Only a relatively small portion of DPH’s costs are covered by fees.

The DPH funding base is comprised of local funds, State revenues, grants, and fees. DPH has been able to survive economic downturns without significantly decreasing essential public health services because of this diversified funding base. It is unlikely that a City of Los Angeles public health department could provide a level of services equivalent to DPH’s if sustained only by fees and State and federal grants, unless fees are drastically increased or applied to more services, or if City taxes are increased.

#### *Stability of Public Health Departments*

Lack of significant municipal funding for public health departments adversely impacts the stability of public health protection and services. Unfortunately, Long Beach and Pasadena receive virtually no municipal funding to support their public health departments. Without the investment of municipal funding and as a result of being smaller public health departments, the services provided are more limited in scope than what DPH is able to provide. During the recent economic downturn, all California counties experienced some public health budget deficits and staff reductions as a result of declining federal, State and local revenues. Local public health departments were particularly impacted by declining State Realignment funding ([www.cheac.org](http://www.cheac.org)). However, city public health departments generally experienced more drastic reductions in capacity than county public health departments. Between 2007 and 2012, DPH had a reduction of 290 positions through attrition and not filling vacant staff positions, but had no layoffs due to continued support from your Board and recognition of the importance of preserving vital public health services. The reduction of 290 positions equates to a 6.5% decrease from the baseline number of positions. In fact, DPH actually experienced a net increase of 192 grant-funded FTE’s during this same period due in part to DPH’s expertise, national reputation and experience, to successfully compete for federal, State and philanthropic grants. During the same period, the City of Pasadena experienced staff reductions of approximately 21%. Moreover, between 2011 and 2013, the City of Long Beach experienced an 18% decline in staff.

#### *Potential Prohibition on Contracting with the County*

The proposed measure restricts the City’s administrative authority by barring its ability to contract with the County for any enforcement of public health laws. Many of the funding streams for State and federal public health programs are designated to go to the County. In many instances, DPH contracts with

Pasadena and Long Beach to provide services in their cities. Examples include emergency preparedness funds, children's health insurance outreach and enrollment funds, and substance abuse treatment and prevention funds. If the ballot initiative language requires a complete ban on the City contracting with the County, it would severely impact the City's ability to provide these and other crucial public health services.

### *120 Day Start-Up*

The proposed measure requires the City to establish its own public health department within 120 days after the ordinance is enacted. State law actually determines the timeline for the City's termination of a public health services contract with a County.<sup>10</sup> Even if the proposed initiative's timeframe were legally permissible, it is unrealistic to implement a new city public health department in 120 days given the breadth and complexity of the State mandated service requirements. It is difficult to predict how long it would take the City to establish a fully functioning public health department since it would require establishing new or updated civil service class specifications, identifying and hiring a professional, experienced, and technical workforce, as well as creating or updating a full range of policies and procedures for a city department to fulfill the State mandated requirements.

### **Conclusion**

The "City of Los Angeles Public Health Protection Act" ballot initiative would require the commitment of substantial additional City resources. To provide an equivalent level of services that DPH currently provides to City of Los Angeles residents, the cost to the City would exceed \$50 million annually, excluding start-up costs. Passage of the proposed measure would also result in a significant loss of revenue, jobs, and workload for the County. Initial estimates indicate a reduction of more than \$107 million in lost fees, grant funds and other revenue sources. The fiscal impact could necessitate the closure of public health clinics in or serving the City of Los Angeles, along with reductions in clinical care and prevention services provided for communicable diseases, health promotion, and emergency preparedness. An estimated total number of 960 County positions in DPH could be subject to potential elimination as a result of these reductions. The proposed measure would create a duplicative administrative infrastructure and fragmented or redundant services within the County, at a time when consolidation of local public health departments is occurring to enable more efficient provision of the essential public health services. Although Long Beach, Pasadena, and Vernon operate separate city public health departments, they operate in smaller, more geographically compact areas. By contrast, the City of Los Angeles is large, has areas that extend throughout the County, and abuts many other cities and unincorporated areas. The ballot initiative language's potential complete ban on contracting for public health services may further impede the provision of quality public health services. Finally, the initiative is based on the false premise that City of Los Angeles fees are subsidizing public health services in other areas of the County.

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<sup>10</sup> Health and Safety Code Section 101375-101380 determines the timeline for implementation of this statute change.



California Department of Public Health  
**MEMORANDUM**

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**DATE:** December 17, 2012

**TO:** Kathleen Billingsley, RN  
Chief Deputy Director  
Policy and Programs

**FROM:** Peter A. Baldrige  
Assistant Chief Counsel  
Office of Legal Services

A handwritten signature in black ink, appearing to read "Peter A. Baldrige", is written over the "FROM:" line.

**SUBJECT:** Mandated Public Health Service Requirements for Local Health Departments

Due to ongoing fiscal concerns in 2009, the local health officers of several counties inquired as to the public health services that they were required to provide. At that time, the Office of Legal Services (OLS) provided a memorandum enumerating and briefly describing the mandatory services that were specified in statute or regulation. (See attached memorandum to Bonita Sorensen, dated April 22, 2009.)

OLS was recently requested by the leadership of the California Conference of Local Health Officers (CCLHO) to update that 2009 memorandum. In response to that request, OLS checked the legal references in the original memorandum and determined that all references are current. In addition, OLS identified several more recently enacted statutes that mandate additional services by the local health officer (LHO), as follows:

1. Health & Safety Code, sections 119301, 119319 – Requires LHO to conduct inspections and enforce standards for body art facilities
2. Health & Safety Code, section 121690 – LHO must determine exemptions from the mandatory vaccination requirements established in the Regulation and Control of Dogs statutes.
3. Health & Safety Code, section 115885 – Requires LHO to inspect and investigate public beaches to determine if they are in compliance with the applicable standards and report violations to the district attorney.

4. Health & Safety Code, section 108555 – Requires the LHO and CDPH to enforce the prohibition against the manufacture, sale, or possession of poisonous or contaminated toys or toys produced in unsanitary conditions.
5. Health & Safety Code, section 105215 - Upon notification of a spill or accidental release of pesticide, the LHO must notify the county agricultural commissioner and the Director of Environmental Health Hazard Assessment of each report received.
6. Health & Safety Code, section 121023 – LHO is required to inspect each clinical laboratory CD4+ T-Cell test report to determine if the test is related to a case of HIV infection and, if related, report to the State Department of Public Health or, if not related, destroy it.

These memoranda are not intended to serve as a legal opinions or interpretations of these mandated requirements. Rather, they are intended to serve as quick, easy references to the provisions that are currently found in California law. While the memoranda represent our best efforts in the time available to prepare a list of required services, should they be shared with CCLHO, OLS cannot warrant that the memoranda represent a complete and full listing of all public health services that counties are required to provide. For a definitive listing, the local health officer should consult with county counsel.

The local health officers have additional discretionary powers, which are not within the scope of these memoranda. These memoranda do not take into account agreements between any county and cities within the county under which the county provides public health services to the cities. In addition, it should be noted that some of the services described in this memorandum may be transferred by a county from the local health department to a comprehensive environmental health agency. (Health & Saf. Code, § 101275.)

Please let me know if you have any questions.

Attachment

## Memorandum

**Date:** April 22, 2009

**To:** Bonita Sorensen  
Chief Deputy Director Policy and Programs  
California Department of Public Health  
1615 Capitol Avenue, Suite 720  
MS 0500

**From:** Peter A. Baldrige  
Assistant Chief Counsel  
Office of Legal Services

**Subject:** Mandated Public Health Service Requirements for Local Health Departments

### INTRODUCTION

Due to ongoing fiscal concerns, several counties have inquired as to the public health services they are required to provide. The purpose of this memorandum is to enumerate and briefly describe those services which are specified in statute or regulation. It is not intended as a legal opinion or interpretation, but rather as a quick, easy reference to the provisions which are currently found in California law. While it represents our best effort in the time available to prepare a list of required services, it is not intended to represent a complete and full listing of all public health services counties are required to provide.

The local health officers (LHOs) have additional discretionary powers, which are not within the scope of this memorandum. This memorandum does not take into account agreements between a county and cities within the county under which the county provides public health services on the cities. In addition, it should be noted that some of the services described in this memorandum may be transferred by a county from the local health department to a comprehensive environmental health agency. (Health & Saf. Code, §101275.)

#### **A. General Requirements**

##### **1. Enforcement of State and Local Laws Related to Public Health**

Health & Safety Code section 101030 provides:

101030. The county health officer shall enforce and observe in the unincorporated territory of the county, all of the following:

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- (a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters.
- (b) Orders, including quarantine and other regulations, prescribed by the department.
- (c) Statutes relating to public health.

Under this provision, LHOs must comply with California law pertaining to public health, both those laws expressed in statute and also the requirements established by regulation. (See *Alfa-Dena Dairy v. San Diego County* (1969) 271 Cal.App.2d 66, 75 [76 Cal.Rptr. 510].)

## 2. Organization and Reports of Services, Finances and Expenditures

All legally appointed LHOs are members of the California Conference of Local Health Officers (CCLHO; Health & Safe. Code, § 100925), which reviews and approves some of the regulations that CDPH promulgates (Health & Safe. Code, § 100950.)

Regulations that CCLHO reviews and approves include those regulations described in the provisions of Health and Safety Code section 100295, which states:

"The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances and expenditures, that shall be reported to the director in a manner and at times as the director may specify." (Health & Safe. Code, § 100295.)

Regulations that CCLHO reviews and approves also include those regulations described in Chapter 3 of Part 3 of Division 101 (commencing with section 101175) of the Health and Safety Code. (Health & Safe. Code, § 100950.)

## 3. Requirements of Local Health Officer

Regulations define the time that the health officer is required to dedicate to local health activities. The health officer is required:

- 1. To direct the health department;
- 2. To devote full time to official duties, which shall constitute the health officer's primary responsibility; and

3. To ensure that no other activities interfere with performance of the official duties. (17 CCR, § 1250.)
4. Communicable Disease Control

Health and Safety Code section 120175 requires the health officer to implement measures to prevent the spread of disease:

"Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the department, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases." (Health & Safe. Code, § 120175. )

Health officers are required to report local epidemics of disease and the measures to address them to CDPH (Health & Safe. Code, § 120185), immediately report any outbreak of certain designated diseases (Health & Safe. Code, §§ 120130 and 120190), establish and maintain places of quarantine or isolation (Health & Safe. Code, § 120200), and enforce all orders, rules, and regulations concerning quarantine or isolation prescribed or directed by the department (Health & Safe. Code, § 120195).

**B.           Tuberculosis Control**

Other requirements of health officers, pertaining specifically to tuberculosis control, include:

1. Report to the Tuberculosis Control Branch within the department any adverse event that he or she determines has resulted from improper tuberculin skin test technician training or performance. (Health & Safe. Code, § 121360.5, subd. (k).);
2. Receive reports of transfer of patients infected with tuberculosis (Health & Safe. Code, § 121361);
3. Receive reports of patients infected with tuberculosis from health care providers (Health & Safe. Code, § 121362);
4. Investigate all reported cases of tuberculosis (Health & Safe. Code, § 121365);
5. Detain persons infected with tuberculosis (Health & Safe. Code, § 121366);
6. Assess the need for and issue orders related to tuberculosis (Health & Safe. Code, § 121367); and
7. Advise state medical, correctional, and educational institutions regarding the control of tuberculosis (Health & Safe. Code, § 121380).

**C. Miscellaneous Statutory Duties**

Various California Codes set forth a broad array of additional requirements for the LHO, including the following provisions:

1. Control, contain, and remediate sites identified by law enforcement personnel as having been potential methamphetamine laboratories. (Health & Safe. Code, §25400.17, et seq.);
2. Develop a written plan for remediation of the methamphetamine laboratory sites. (Health & Safe. Code, §25400.35.);
3. On notification by law enforcement, determine whether laboratories producing analogs of fentanyl, phencyclidine, and methamphetamine pose an immediate threat to public health and safety and, if so, take corrective action. (Health & Safe. Code, §11642.);
4. Investigate health and sanitary conditions in every county jail (or for city LHOs, all city jails), every other publicly operated detention facility in the county, and all private work furlough facilities and programs established pursuant to Section 1208 of the Penal Code, at least annually. (Health & Safe. Code, §101045.);
5. For county LHOs, identify and list all family planning and birth control clinics in the county. (Gov. Code, § 26808; and Health & Safe. Code, §101050, et seq.);
6. Receive and investigate complaints concerning dispensing or furnishing of drugs requiring a prescription, without a license. (Health & Safe. Code, §101070.);
7. Subject to availability of State funding, test waters on public beaches within the LHO's jurisdiction, respond to reports of sewage spills, and close beaches, if needed. (Health & Safe. Code, §115880, et seq.);
8. Regulate the use of equipment for cleaning septic tanks, chemical toilets, cesspools or sewage seepage pits. (Health & Safe. Code, §117400, et seq.);
9. Enforce legal requirements for small water systems and report on compliance. (Health & Safe. Code, §116340, subd. (b), et seq.);
10. Test probationers and parolees for controlled substances, on Court order. (Health & Safe. Code, §11551.);
11. Receive and process reports of pesticide poisoning or exposure. (Food & Ag. Code, § 12982 and Health & Safe. Code, §105200, et seq.);
12. Issue orders to owners of property where hazardous substance spills have occurred. (Health & Safe. Code, §25359.5.);
13. Provide information, support, referrals, and follow-up services to family members and persons with custody and control of a child who dies from Sudden Infant Death Syndrome. (Health & Safe. Code, §123740.);



14. Receive reports of AIDS infections, ensure continued access to anonymous testing sites, and report and investigate any potential or actual breach of confidentiality of HIV public health records. (Health & Safe. Code, §121022.);
15. Enforce legal requirements pertaining to toys. (Health & Safe. Code, §108550, et seq.);
16. Regulate the issuance of permits for use of industrial wiping rags. (Health & Safe. Code, §118450, et seq.);
17. Receive reports of transfusion-associated AIDS cases, HIV infections, and viral hepatitis infections. (Health & Safe. Code, §1603.1.);
18. Receive and investigate reports of food-borne illnesses. (Health & Safe. Code, §113949, et seq.);
19. Receive reports of the improper disposal of hazardous waste. (Health & Safe. Code, §25180.5.);
20. Receive copies of plans for construction of public swimming pools. (Health & Safe. Code, §116038.);
21. Enforce building standards and other regulations pertaining to swimming pools. (Health & Safe. Code, §116053.);
22. Order abatement of contamination of water. (Health & Safe. Code, §5412.);
23. Receive reports of contagious disease from funeral directors. (Health & Safe. Code, §7302.);
24. Ensure compliance with tuberculosis testing for private, parochial, and nursery school employees. (Health & Safe. Code, §121540.);
25. Receive permits for the importation of wild animals. (Health & Safe. Code, §121840.);
26. Receive and forward to the Department of Motor Vehicles reports of individuals suffering from lapses of consciousness. (Health & Safe. Code, §103900.);
27. Organize and operate a program for the topical application of fluoride to the teeth for students in public and private elementary and secondary schools. (Health & Safe. Code, §104840.);
28. Ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, investigate all cases that probably are not subject to proper control measures, ascertain all sources of infection, and take all measures reasonably necessary to prevent the transmission of infection. (Health & Safe. Code, §120575.);
29. In jurisdictions participating in the clean needle and syringe exchange program, report annually to the LHO's governing body. (Health & Safe. Code, §121349.3.);
30. Receive reports of recalled meat products. (Health & Safe. Code, §110806.);
31. Receive evidence that legal requirements are met by persons intending to use a previously inactive water well. (Health & Safe. Code, §115700.);
32. Conduct annual inspections of tattoo parlors. (Health & Safe. Code, §119304.);

33. Enforce building standards related to organized camps. (Health & Safe. Code, §18897.4.);
34. Perform all duties of local registrar of births and deaths. (Health & Safe. Code, §102275.);
35. Maintain an immunization program. (Health & Safe. Code, §120350.);
36. Regulate materials that require special handling that, when removed from a major appliance, constitute a hazardous waste. (Health & Safe. Code, §25212.);
37. Receive reports of rises in bacterial count of water in public water systems. (Health & Safe. Code, §116450.);
38. Approve establishment of garbage dumps. (Health & Safe. Code, §6512.);
39. Order the abatement of contamination caused by use of recycled water. (Water Code, §13522.);
40. Receive reports, investigate, and report cases of ophthalmia neonatorum. (Bus. & Prof. Code, §554.);
41. Provide for HIV testing in criminal cases involving the transfer of bodily fluids. (Pen. Code, §1524.1.);
42. Prohibit the use, sale, or disposal of milk from cows believed to be infected with typhoid fever, salmonella, bacillary dysentery, diphtheria, respiratory streptococcal infection, brucellosis, or tuberculosis. (Food & Ag. Cod, §35928.); and
43. Notify the public of sewage discharge into water. (Water Code, §13271.).
44. Have available the services of a public health laboratory. (Health & Saf. Code, §101150, et seq.)

**D. Minimum Regulatory Standards For The Local Health Department**

In addition to the statutory duties enumerated above, regulations enacted by the Department prescribe minimum standards for local health departments (see Health & Saf. Code, §101185) to observe. These standards, set forth in section 1276 of Title 17 of the California Code of Regulations, include many basic services that local health departments are required to provide:

1. Collection, tabulation and analysis of all public health statistics, including population data, natality, mortality and morbidity records, as well as evaluation of service records.
2. Health education programs including, but not necessarily limited to, staff education, consultation, community organization, public information, and individual and group teaching, such programs to be planned and coordinated within the department and with schools, public and voluntary agencies, professional societies, and civic groups and individuals.

3. Communicable disease control, including availability of adequate isolation facilities, the control of the acute communicable diseases, and the control of tuberculosis and the venereal diseases, based on provision of diagnostic consultative services, epidemiologic investigation and appropriate preventive measures for the particular communicable disease hazards in the community.
4. Medical, nursing, educational, and other services to promote maternal and child health, planned to provide a comprehensive program to meet community needs in these fields.
5. Environmental health and sanitation services and programs in accordance with an annual plan and program outline as required in Title 17, Section 1328, and approved by the State Department of Health and the applicable services and program standards as specified in the State Department of Health "Services in a Local Environmental Health and Sanitation Program," September 1976. The required services and programs are:
  - (1) Food.
  - (2) Housing and institutions.
  - (3) Radiological health in local jurisdictions contracting with the State Department of Health to enforce the Radiation Control Law pursuant to Section 25600-25654 and Sections 25800-25876, Health and Safety Code.
  - (4) Milk and dairy products in local jurisdictions maintaining an approved milk inspection service pursuant to Section 32503, Food and Agricultural Code.
  - (5) Water oriented recreation.
  - (6) Safety.
  - (7) Vector control.
  - (8) Wastes management.
  - (9) Water supply.
  - (10) Air sanitation.
  - (11) Additional environmentally related services and programs as required by the County Board of Supervisors, City Council, or Health District Board.
  - (12) And may include land development and use.

6. Laboratory services, provided by an approved public health laboratory in health departments serving a population of 50,000 or more. Such laboratories shall provide:

- (1) Services necessary for the various programs of the health department.
- (2) Consultation and reference services to further the development of improved procedures and practices in laboratories employing such procedures related to the prevention and control of human disease.

In addition to the language of section 1276(f), with regard to the public health laboratories, section 1075 of title 17, California Code of Regulations, provides:

"Each local health department shall have available the services of an official public health laboratory. The laboratory of the State Department of Health is hereby designated as the official laboratory for all local health department jurisdictions not covered by local laboratory service."

Section 1076 requires that these local public health laboratories be approved by the Department. In order to be approved, the laboratory must meet minimum requirements specified in section 1078. These requirements are:

- "(a) Maintain adequate equipment and facilities and sufficient personnel to carry on dependable public health laboratory work.
- (b) Employ procedures, techniques (sic), and reporting practices approved by the Department.
- (c) Establish and maintain for a minimum of two years adequate record systems and files of laboratory work done.
- (d) Conduct, maintain, and operate programs, acceptable to the Department, for controlling the quality of test performance.
- (e) Demonstrate satisfactory performance in a proficiency testing program approved by the Department.
- (f) Maintain and conduct the laboratory in a manner approved by the Department.
- (g) Employ personnel as specified.
- (h) Accept specimens for examination as an aid to patient management only from, and issue reports only to, persons licensed under the provisions of the law relating to the healing arts or their representatives.
- (i) Employ procedures and precautions to provide for the safety and health protection of all persons in the laboratory." (See 17 C.C.R., §1078.)

This work may be done under contract. Under the regulations, a health officer may designate any laboratory as an official public health laboratory to perform any of the basic services, as defined under Section 1276(f). The designated laboratory is subject to the same requirements as an official public health laboratory. (See 17 C.C.R., §1084.)

7. Services in nutrition, including appropriate activities in education and consultation for the promotion of positive health, the prevention of ill health, and the dietary control of disease.
8. Services in chronic disease, which may include case finding, community education, consultation, or rehabilitation, for the prevention or mitigation of any chronic disease.
9. Services directed to the social factors affecting health, and which may include community planning, counseling, consultation, education, and special studies.
10. Services in occupational health to promote the health of employed persons and a healthful work environment, including educational, consultative and other activities appropriate to local needs.
11. Appropriate services in the field of family planning.
12. Public health nursing services to provide for the preventive and therapeutic care of the population served."

**E. Consequences of Failure To Comply with Minimum Standards**

Failure to comply with the minimum standards established by the department results in a loss of funding to the local health department not meeting those standards:

"No funds appropriated for the purposes of this article shall be allocated to any local health department whose professional and technical personnel and whose organization and program do not meet the minimum standards established by the department."  
(Health & Safe. Code, § 101260.)