

Legislation Text

File #: BOH22-02, **Version:** 2

A RULE AND REGULATION relating to the membership of the King County board of health and hybrid meetings; and amending R&R 1, Amendment Section 2, as amended, and BOH 2.04.020, R&R 09-04, Section 2, as amended, and BOH 2.04.035, R&R 09-04, Section 3, and BOH 2.04.045, R&R 09-04, Section 5, as amended, and BOH 2.04.065 and R&R 09-04, Section 8, as amended, and BOH 2.04.165.

STATEMENT OF FACTS:

1. Created in 2004 in accordance with state law, the King County Board of Health sets countywide public health policy, enacts and enforces local public health regulations and carries out the duties of local boards of health as specified in RCW 70.05.060 including preventing and controlling the spread of infectious disease, abating nuisances and establishing fee schedules for licenses and permits.
2. In May 2021, Engrossed Second Substitute House Bill 1152 was signed into law as Chapter 205, Laws of Washington 2021, modifying the structure of local boards of health. Chapter 205, Laws of Washington 2021 requires that the membership of the King County Board of Health be modified so that the number of boardmembers who are elected officials representing the county and its cities and towns equals the number of members who are not elected officials, with one of those nonelected members selected by the American Indian Health Commission of Washington State and the remaining nonelected members selected by the King County Board of Health from three specific categories of interests. The selected candidates would be appointed by the King

County council. Those changes to state law take effect on July 1, 2022.

3. The King County Board of Health passed Resolution 20-08 in February 2020, declaring racism a public health crisis. The board is committed to addressing racial equity and as such welcomes the encouragement in Chapter 205, Laws of Washington 2021 to recruit nonelected members representing consumers of public health to be from historically marginalized and underrepresented communities. The board supports using racial equity and social justice principles when recruiting nonelected members from all categories outlined in state law.

4. Additionally, Chapter 205, Laws of Washington 2021 requires the Washington state Board of Health to promulgate rules for how nonelected members of local boards of health are to be recruited, selected and appointed. The new rules are expected to be effective by July 25, 2022.

5. On April 5, 2022, the King County council adopted Ordinance XXXXX (Proposed Ordinance 2022-0103) to amend King County Code and conform the membership of the board to the new state law as described subsections 2 through 4 of this statement of facts. In addition to align the board with state law, the ordinance codifies the current practice for election of the board chair, establishes an equal number of nonelected alternates as there are elected alternates, and provides compensation for nonelected members who are not otherwise compensated for their participation on the board.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. R&R 1, Amendment Section 2, as amended, and BOH 2.04.020 are hereby amended to read as follows:

A. Consistent with K.C.C. 2.35.021, the ~~((b))~~Board of ~~((h))~~Health shall have a total of ~~((eleven members, of whom ten shall be voting members and one shall be a nonvoting member. Three of the voting members shall have votes weighted as two votes.))~~ sixteen members. All sixteen members shall be equal voting members except on matters related to the setting or modification of permit, licensing and application

fees. Any decision related to the setting or modification of permit, licensing and application fees may only be determined by the city and county elected officials on the board in accordance with RCW 70.05.035.

B. Consistent with K.C.C. 2.35.021, the Board of Health shall consist of the following members:

1. Three regular and one alternate member shall be members of the metropolitan King County council who are appointed by the chair of the council. ~~((Each county councilmember vote shall be weighted as two votes))~~;

2. Three regular and one alternate member shall be elected officials of the city of Seattle who shall be appointed by the city; ~~((and))~~

3. Two regular and two alternate members shall be elected officials from cities and towns of King County other than the city of Seattle to be appointed in a manner agreed to by and among the cities and towns representing a majority of the populations of those cities and towns; and

4. Eight regular and four alternate members shall be nonelected members, one of these regular members and one alternate member shall be tribal representative as described in RCW 70.05.035(1)(e). The remaining regular and alternate members shall be selected in accordance with the categories enumerated in RCW 70.050.035(1)(a).

~~C.1. ((Consistent with K.C.C. 2.35.021A.4., there shall be two members of the board who are health professionals who shall be appointed by an affirmative vote of members representing seven votes. One of the health professionals should have knowledge of environmental health, including knowledge of septic systems and groundwater quality. A third nonvoting member, who shall be a health professional, shall be appointed by a majority vote of the other members of the board.~~

~~2. Consistent with K.C.C. 2.35.021, the terms of health professional members shall be established by the rules of the board. Beginning on January 1, 2011, the term of a health professional member is established as three years and the health professional member may serve a maximum of three terms.~~

~~3. The term of a health professional shall commence on January 1, though the board may appoint a~~

~~health professional as a member of the board commencing at any time during the year. For appointments to a new term on the expiration of an existing term, if a health professional is appointed to the board after January 1, the term shall be considered to have commenced on January 1. For appointments made to an existing term to fill a midterm vacancy, the health professional shall be appointed to serve the remainder of the existing term. If a health professional serves two years or more to fill a midterm vacancy, the health professional shall be considered as having served a full term for the purposes of the term limits established in subsection C.2. of this section.)~~) All regular and alternate nonelected board members identified in BOH 2.04.020.B.4. shall be recruited in accordance with RCW 70.05.035, chapter 246-90 WAC and K. C. C. 2.35.021 and all shall be appointed by a majority of the King County council. The regular and alternate tribal representative identified in BOH 2.04.020.B.4. shall be selected by the American Indian Health Commission of Washington State, and the remaining nonelected members shall be selected by the Board of Health.

2. Each of the three categories of nonelected members enumerated in RCW 70.05.035(1)(a) shall have one alternate each. An alternate shall only serve in place of a regular member from that category in the event of that regular member's absence.

D.1. ~~((Consistent with K.C.C. 2.35.021.B.1., alternate members for each regular member may be appointed according to the relevant procedures under subsection B.1, 2. or 3. of this section.))~~ During ~~((the))~~ a meeting, an alternate member shall indicate to the clerk when the alternate member is serving in a regular member's absence and the clerk shall note the alternate member's attendance in the proceedings and include the alternate member in any roll call. When serving in a regular member's absence, an alternate member shall act as a regular member.

2. ~~((Consistent with K.C.C. 2.35.021.B.2., the third nonvoting health professional member shall serve as an alternate voting member in the absence of either of the two voting health professional members.~~

E. ~~Consistent with RCW 70.05.040, vacancies on the board shall be filled by appointment within thirty~~

~~days and made in the same manner as was the original appointment.))~~ The board shall pass a resolution identifying the board's regular and alternate nonelected member candidate selections and the American Indian Health Commission's regular and alternate tribal representative selections to be transmitted with the materials identified in K.C.C. chapter 2.35 for appointment.

F. Consistent with K.C.C. 2.35.061, ~~((members of the board of health))~~ boardmembers may be reimbursed for mileage and parking expenses between the member's workplace or residence and the location of the board of health meeting. Members may also be reimbursed for expenses, in accordance with the policies established for county employees in K.C.C. chapter 3.24, when traveling on official board of health business.

G.1 Nonelected members who are not being compensated for their participation on the board through their employer shall be compensated in accordance with K.C.C. 2.35.XXX (Ordinance XXXX, Section 6 (Proposed Ordinance 2022-0103, Section 6)).

2. Administrative processes to distribute the compensation described in this section shall be determined by executive staff.

H. Nonelected regular and alternate member terms shall be structured in accordance with K.C.C. 2.35.XXX (Ordinance XXXX, Section 5 (Proposed Ordinance 2022-0103, Section 5)).

SECTION 2. R&R 09-04, Section 2, as amended, and BOH 2.04.035 are hereby amended to read as follows:

A. Consistent with RCW 70.05.040, the board shall annually elect a chair to serve for a period of one year. In accordance with K. C. C. 2.35.021, the chair shall be selected from among the boardmembers representing the King County council. The chair shall perform the usual functions of a presiding officer.

B. The chair shall:

1. Establish the agenda for regular and special meetings;
2. Call the board to order at the hour appointed for meeting and, if a quorum is present, shall cause the minutes of the previous meeting to be approved;

3. Proceed with the order of business; and

4. Adjourn the board when business is deemed finished. If a quorum is not present, the chair shall proceed with any business that does not require a quorum.

C. The chair shall preserve order and decorum and in the interest of efficiency may impose time and subject matter limits for the testimony and comment given by the public and members of the board.

D. The chair shall promote efficient operation of the board, including alteration of the order of the agenda if necessary, and expedite orderly debate and the passage of routine motions. The chair may speak to points of order, inquiry or information in preference to other members and shall decide all questions of order, subject to appeal to the board by two members of the board.

E. The chair may create standing and ad hoc committees of boardmembers and may appoint boardmembers and other persons to any committee to facilitate the performance of the board's functions.

F. The chair shall sign rules and regulations, guidelines and recommendations and resolutions adopted by the board.

~~((G. The chair shall determine the process for selecting the candidates for the health professional members of the board.))~~

SECTION 3. R&R 09-04, Section 3, as amended, and BOH 2.04.045 are hereby amended to read as follows:

A. Annually, the board shall designate ~~((four))~~ two vice-chairs ~~((each representing one of the major categories of membership:~~

~~1. Metropolitan King County council;~~

~~2. City of Seattle;~~

~~3. Suburban cities; and~~

~~4. Health professionals)).~~ One shall represent the city and county officials and one shall represent the nonelected members.

B. In the absence of the chair, a vice-chair will exercise the duties, powers and prerogatives of the chair. Each year the board shall designate by resolution the order in which the vice-chairs may act in the absence of the chair. The order of the vice-chair shall rotate annually.

SECTION 4. R&R 9-04, Section 5, as amended, and BOH 2.04.065 are hereby amended to read as follows:

A. Subject to the discretion of the chair, the board shall dispose of business in the following order:

1. Call to order;
2. Roll call;
3. Approval of minutes;
4. General public comment;
5. Report of the director of the department of public health;
6. Rules and Regulations:
 - a. public hearing; and
 - b. discussion and vote;
7. Guidelines and Recommendations:
 - a. public hearing; and
 - b. discussion and vote;
8. Discussion and vote on other action items;
9. Briefings;
10. Report of the chair;
11. Board member reports;
12. Other business; and
13. Adjourn.

B.1. Except in cases of emergency, the agenda and materials related to action items shall be sent to

boardmembers at least seven days in advance of the meeting at which the items will be considered.

2. The agenda for regular meetings of the board shall be posted to the internet at least seven days in advance of the meeting.

3. The agenda shall include information about how to access meetings remotely, if applicable.

SECTION 5. R&R 09-04, Section 8, as amended, and BOH 2.04.165 are hereby amended to read as follows:

A.1. ~~((Board members representing seven votes))~~ Nine boardmembers shall constitute a quorum for board meetings except as provided in subsection F of this rule. A quorum is presumed to exist unless a member calls the quorum into question.

2. Nothing in this subsection shall be construed to waive or negate the requirements prescribed under subsections B., C., D., E. and F. of this section.

B.1. An affirmative vote of nine members ~~((representing seven votes))~~ is required to adopt, amend or repeal a rule and regulation except as provided in subsection F. of this section. However, any repeal or amendment of an existing rule and regulation that was effective before January 1, 1996, that applies outside of the limits of the city of Seattle shall be adopted only by an affirmative vote of nine members ~~((representing seven votes))~~ as well as an affirmative vote collectively of a majority of the represented votes of King County councilmembers and the suburban city members except as provided in subsection F. of this section.

2. Any amendment or repeal of an existing rule or regulation adopted by the board of health of the city of Seattle and effective before January 1, 1996, shall be adopted only by an affirmative vote of nine members ~~((representing seven votes))~~ as well as an affirmative vote of a majority of the members appointed by the city of Seattle except as provided in subsection F. of this section.

C. An affirmative vote of nine members ~~((representing seven votes))~~ is required to adopt, amend or repeal ~~((a guideline and recommendation))~~, guidelines and recommendations, resolutions or motions except as provided in subsection F. of this section.

~~D. ((A majority of affirmative votes by board members representing seven votes is required for all actions on resolutions and motions.~~

~~E.)) A roll call vote shall be taken on final passage of any rule and regulation, guideline and recommendation and resolutions.~~

~~((F.)) E.~~ There will be no voting by proxy on any question before the board.

F. In accordance with RCW 70.05.035, any decision by the board related to the setting or modification of permit, licensing and application fees may only be determined by the city and county elected officials on the board described in BOH 2.04.020.B. As such, a quorum for meetings solely to decide any matter related to the fees described in this subsection shall be five of the members described in BOH 2.04.020.B. An affirmative vote of five members described in BOH 2.04.020.B. is required to adopt, amend or repeal legislation related to the fees described in BOH 2.04.020.A.

G.1. Members may participate in meetings of the full board in person, by telephone or by video conferencing ~~((when:~~

~~-a. an emergency that limits the board from meeting as usual is declared by federal, state or local officials; or~~

~~b. if the member deems it necessary, but no more than twice per year)).~~

2. Members who participate in meetings of the full board by telephone or video conferencing in accordance with subsection G.1. of this section shall be counted toward the quorum and shall retain their voting authority ~~((unless the member elects to participate by telephone or video conferencing in accordance with subsection G.1.b. of this section and the alternate is physically present, at which time the alternate shall be counted toward the quorum and have voting authority instead of the member)).~~

3. The clerk of the board, in consultation with the chair, shall establish authentication and operating procedures pertaining to appearance by ~~((phone))~~ telephone or video conferencing under subsection G.1. of this section, which must comply with all state and county laws regarding open public meetings.

~~((4. A member wishing to participate by telephone or video conferencing under subsection G. of this section shall declare orally or in writing to the chair and the board administrator. It shall be noted in the minutes when members participate by telephone or video conferencing and whether they have retained or relinquished their voting authority under subsection G.2. of this section.~~

~~5. To facilitate connection to the broadcasting system, notices for participation by telephone or video conferencing should be made half an hour in advance of the meeting when possible, and the member should promptly inform the board administrator. When participating by means of telephone or video conference, the member shall speak audibly so that the public can hear the discussion and voting process.))~~

SECTION 6. This rule takes effect January 1, 2023.

SECTION 7. If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.