WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED

HOUSE BILL No. 133

(By Mr. Speaker, Mr. Clower)

PASSED February 21, 1949

In Effect July 1, 1949 - Passage

133
AN ACT to amend chapter sixteen of the code of West Virginia one thousand nine hundred thirty-one, as amended, by repealing article one and enacting in lieu thereof a new article one, and by amending and reenacting sections three and four, article two; sections one, two, five, six, and twelve, article three; sections two and seventeen, article five; section one, article five-A; section nine, article five-B, and section three, article seven; establishing the organization of the state department of health, creating a state board of health, establishing the membership, organization, powers and duties of said board, providing for the employment by the said board, and establishing the qualifications, powers, and duties of a director of health and other employees, authorizing joint local boards of health, and vesting in the state board of health the power and
duty to administer the public health laws of the state, all relating to public health.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing article one and enacting in lieu thereof a new article one, and by amending and reenacting sections three and four article two; sections one, two, five, six, and twelve, article three; sections two and seventeen, article five; section one, article five-A; section nine, article five-B, and section three, article seven; all to read as follows:


Section 1. Composition of Department.—There shall be a state department of health, which shall consist of a board of health, a director of health; directors of divisions, and other employees as hereinafter provided.

Sec. 2. Board of Health; Membership.—There shall be a state board of health, to be known as the West Virginia board of health, which shall be a corporation and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common
The state board of health shall consist of nine members, who shall be appointed by the governor, by and with the advice and consent of the senate. Three members of the board shall be physicians or surgeons holding the degree of doctor of medicine, one shall be a dentist, one shall be an osteopathic physician, one shall be a pharmacist, one shall be chosen as the representative of the hospitals licensed in the state of West Virginia and two shall be representative citizens, neither of which said representative citizens shall be an employee of, or connected in any way with, any hospital licensed in this state, and neither of whom shall be a member of any of the professions named above.

All persons appointed to membership on the state board of health shall be citizens of this state and shall have been such citizens and residents of the state for at least five years prior to the date of their appointment. Every professional member of the said board shall be duly licensed to practice his profession in this state on the date of his appointment and shall have been so licensed and have been actively practicing his profession for at least five
27 years immediately preceding the date of such appoint-
28 ment. Before appointing any professional member, the
29 governor shall request the state professional society of
30 the profession practiced by any proposed appointee to
31 furnish to the governor a full and complete report con-
32 cerning the qualifications and suitability of the proposed
33 appointee. All members of the board shall be appointed
34 for terms of nine years each, except that the persons
35 originally appointed, shall be appointed to serve for
36 designated terms beginning on the first day of July, one
37 thousand nine hundred forty-nine, and continuing for one,
38 two, three, four, five, six, seven, eight, and nine years
39 respectively. Upon the expiration of such initial appoint-
40 ments the term of each new appointee shall be nine years.
41 Any vacancy on the board shall be filled by the governor
42 by appointment for the unexpired term.
43 No more than five of the members of the board shall
44 belong to the same political party. Not less than one nor
45 more than two members shall be appointed from the same
46 congressional district. No person shall be eligible for
47 appointment to membership on the state board who is
a member of any political party executive committee, or who holds any public office or public employment under the Federal government or under the government of this state or any of its political subdivisions, or who is an appointee or employee of the board. All members shall be eligible for re-appointment.

No member may be removed from office by the governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal by the governor of state elective officers: Provided, however, That the expiration or revocation of the professional license of any professional member of the board shall be cause for his removal.

No member shall receive any compensation for his services but each shall be reimbursed for actual and necessary travel and other expenses incurred by him in the performance of his duties as a member of the board.

Sec. 3. Board of Health; Powers and Duties.—The state board of health shall assume, carry on, and succeed to, all the duties, rights, powers, obligations and liabili-
ties heretofore belonging to, exercised by, or assumed by
the state department of health, the public health council,
and the commissioner of health pursuant to statutory
authority heretofore existing and as changed or modified
by the provisions of this article: Provided, however,
That the said board shall not succeed to, or exercise any
of the powers heretofore exercised by the public health
council with regard to the licensure of physicians, sur-
geons, chiropodists, and chiropractors.
The state board of health shall have the power to ac-
quire by condemnation or otherwise land or buildings
and to hold title thereto, for the use and benefit of any
state institution subject to its control and management,
and, by and with the consent of the governor, to sell, ex-
change or otherwise convey any property title to which
is acquired or held by it. Any condemnation proceed-
ing instituted by the said board shall be conducted pur-
suant to the provisions of chapter fifty-four of this code.
The state board shall have supervision and control of
the business, fiscal, administrative and medical affairs of
the department of health and shall have advisory medical
supervision of all of the state institutions set forth in
section ten of this article. It shall have authority to em-
ploy, fix the compensation of, and discharge all persons
necessary for the proper execution and enforcement of
the laws of this state pertaining to public health, and the
efficient and proper discharge of the duties imposed upon,
and execution of the powers vested in, the said board by
law. It may place any or all of its employees under the
merit system, provided that the same may be done in
conformity with the applicable laws of this state and of
the Federal government.

The state board shall have the authority to enforce all
of the laws of this state concerning the public health,
and shall take care to protect the life and health of all
of the inhabitants of the state, and to that end shall
make or cause to be made sanitary investigations and in-
quiries respecting the cause of disease, especially of
epidemics and endemic conditions, and the means of pre-
vention, suppression or control of such conditions; the
source of mortality, and the effects of localities, employ-
ment, habits and circumstances of life on the public
health. It shall gather information in respect to the
said and kindred subjects for diffusion among the people
of the state. It shall inspect and examine food, drink
and drugs offered for sale, or for public consumption, in
such manner as it shall deem necessary to protect the
public health, and shall report all violations of the laws
of this state and the regulations adopted thereunder re-
ating to pure food, drink and drugs to the prosecuting
attorney of the county in which such violations occur,
and lay before such prosecuting attorney the evidence in
its knowledge of such violations. The board or its duly
designated employees may make complaint or cause
proceedings to be instituted against any person or per-
sons, or corporation, for the violation of any of the health
laws of this state. Such action may be taken by the
board without the sanction of the prosecuting attorney
of the county in which proceedings are instituted, if said
officer fail or refuse to discharge his duty. In no such
case shall the board or any person acting under its di-
rection be required to give security for costs.

The state board of health shall provide for the ef-
efficient and accurate registration of births and deaths, and
the recordation of cases of such diseases as may be re-
quired to be recorded by statute or regulation. It shall
have the power to inspect, and to make and enforce, for
the protection of the public health, reasonable rules and
regulations to control the sanitary condition of all insti-
tutions and schools, whether public or private, public
conveyances, dairies, creameries, slaughter houses, work
shops, factories, labor camps, places of entertainment,
hotels, tourist camps, all other places open to the general
public and inviting public patronage or public assem-
bly, or tendering to the public any item for human con-
sumption, and places where offensive trades or industries
are conducted. It shall have the power to make and en-
force reasonable rules and regulations to control occupa-
tional and industrial health hazards, and to make in-
spections and conduct hearings respecting the cause and
control of such hazards. It shall have the power to in-
spect and to make reasonable rules and regulations to
control the sanitary condition of streams, sources of
water supply, and sewerage facilities.
The state board is empowered and directed to encourage and foster the cooperation of all physicians, voluntary health organizations and other interested persons and organizations in the improvement of public health, and to disseminate information to the general public in all matters pertaining to public health.

The state board shall promulgate and enforce regulations governing the design of all public water systems, plumbing systems, sewerage systems and sewage treatment plants, swimming pools and excreta disposal methods in this state, whether publicly or privately owned; the operation of all public chlorination and filtration plants, and the qualifications of operators, chemists, bacteriologists and superintendents of filtration, or others, who are in actual charge of the plant operation of all public water systems, sewage treatment plants and swimming pools.

The state board shall have the power and authority to make and promulgate, and from time to time amend such rules and regulations as it may deem necessary and advisable to properly put into effect the public health laws
of this state, and for the administration of the powers
granted to it by this article.

Every general regulation adopted by the state board
of health shall state the day on which it takes effect. A
copy of any such regulation, duly signed by the director
of health, shall be filed in the office of the secretary of
state, and a copy thereof shall be sent by the director of
health to each health officer within the state and shall be
published in such manner as the board may determine.

Provided, however, That nothing herein contained shall
be construed to give the state department of health or
the state board of health power to regulate or interfere
with the drainage from any mine or manufacturing plant
unless the drainage from said mine or manufacturing
plant shall contain disease producing bacteria in suffi-
cient numbers to endanger health, or organic or in-
organic wastes of such nature as to cause the water in-
tended for public or private water supplies to be unfit
for use.

Sec. 4. Board of Health; Organization, Reports, and
Offices.—The state board of health shall adopt a seal. It
shall organize by electing from among its members a chairman who shall serve as such for a period of two years. Such chairman shall have the power to sign documents, execute contracts and otherwise act for and in the name of the board in all matters within its lawful powers and duly authorized by a majority of its members.

The board shall determine the number, date and place of its regular meetings, but at least one such meeting shall be held annually at the board's established offices in the city of Charleston. Whenever the convenience of the public or of interested persons may be promoted, or delay or expense may be prevented, the board may, in its discretion, hold meetings, hearings or proceedings at any other time or place designated by it.

The board shall report in writing to the governor on or before the thirty-first day of August of each year. The report shall contain a summary of the board's proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue received and all expenditures made by or on behalf of the board, such other information as it may deem necessary or useful, and any additional
information which may be requested by the governor.

The fiscal year of the board and of the department of health shall conform to the fiscal year of the state.

An office shall be established and maintained by the board in the city of Charleston. In addition, the board may establish and maintain such other offices within the state as it may deem necessary and expedient.

Sec. 5. Director of Health; Appointment, Qualifications, Compensation.—A state director of health shall be appointed by the state board of health, to serve for an indefinite term at the pleasure of the board. The director of health so appointed shall be a physician holding the degree of doctor of medicine, a graduate of a reputable medical college, and eligible for licensure as a physician in this state, and shall have had at least five years experience in the practice of medicine. He shall be skilled in sanitary science and experienced in public health administration. He shall devote his entire time to the duties of his office as required and prescribed by this article, and shall not be actively engaged or employed in any other business, vocation or employment. He shall receive such
compensation as the board may determine. He shall be
reimbursed for all necessary traveling and other expenses
incurred by him in the discharge of his official duties.

Sec. 6. **Director of Health; Duties and Powers.**—The
director of health shall be the executive officer of the state
board of health. Under its supervision, he shall admin-
ister the provisions of this article, all other laws of this
state relating to public health and within the authority of
the department of health, and the rules, regulations and
orders established, promulgated or issued by the board
of health. The director shall attend but not vote at all
meetings of the state board of health. He shall act as
secretary of the board and as such shall be in charge of its
offices and responsible to the board for the preparation of
reports and the collection and dissemination of data and
other public information relating to public health. At
the direction of the board of health, he shall, together with
the chairman of the board, execute all contracts entered
into by the board which are legally authorized. He shall
be the administrative head and chief executive officer of
the state department of health and as such shall organize
and supervise all of the activities of the department of health.

Sec. 7. Divisions of Department; Directors of Divisions.

There shall be included in the state department of health the following divisions:

Division of communicable diseases,
Division of cancer control,
Division of vital statistics,
Division of sanitary engineering,
Division of child hygiene,
Division of barbers and beauticians.

The state board of health shall appoint, with the advice of the director of health, a director for each division, and shall prescribe, with the advice of the director of health, the qualifications of each such division director, the duties pertaining to each division, and the arrangement of the subdivisions, if any, thereof.

The state board shall have authority to establish such additional administrative sections or groupings within the department of health as it may consider necessary or ad-
visable for the efficient administration of its powers and
duties.

Sec. 8. *Administrative and Other Employees of the De-
partment of Health.*—The state board of health may at
such time or times as it may deem necessary, employ,
with the advice of the director of health, such administra-
tive employees, inspectors, examiners, or other persons
as may be necessary to properly carry out the provisions
of the public health laws of this state. Such inspectors,
examiners and other employees as may be duly designated
by the board of health shall act as its representatives and,
under the direction of the director of health, shall enforce
the provisions of the public health laws and all duly
promulgated rules and regulations of the board of health,
and in the discharge of official duties, shall have the right
of entry into any institution or school, whether public or
private, public conveyance, dairy, creamery, slaughter
house, work shop, factory, labor camp, place of entertain-
ment, hotel, tourist camp, all other places open to the gen-
eral public and inviting public patronage or public as-
sembly, or tendering to the public any item for human
consumption, and places where offensive trades or industries are conducted.

Any person interfering with or attempting to interfere with any inspector, examiner or other duly authorized employee of the board of health in the discharge of his duties under this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars, nor more than one hundred dollars.

Sec. 9. Supervision Over Local Sanitation.—No county or municipal government, public or private institution, firm, corporation or company, person or persons, shall install or establish any system or method of drainage, water supply, excreta disposal or system of garbage and refuse disposal insofar as each affects the public health in this state unless the same is installed or established in accordance with plans, specifications, and instructions issued by the state department of health or which have been approved in writing by the director of health or his authorized representative.

Whenever the director of health or his authorized representative finds upon investigation that any system or
method of drainage, water supply, excreta disposal or garbage or refuse disposal, whether publicly or privately owned, is such as to endanger the public health or is creating a nuisance that is detrimental to health, the director of health or his duly authorized representative shall be empowered to issue an order requiring the owner of such system or method to make such alterations, within a reasonable time, as may be necessary to correct the improper condition.

The personnel of the state department of health shall be at the disposal of any county, municipality, firm, corporation, company, person or persons to consult and advise with them as to the most appropriate design, method of operation or alteration of the systems or methods above mentioned.

Any county, municipality, public or private institution, firm, corporation, company, person or persons who shall violate any provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.
Sec. 10. *Supervision of State Health Institutions.*—The state department of health shall have the advisory medical supervision of Denmar, Berkeley Springs, Pinecrest, Hopemont and all other state sanitariums for the treatment of tuberculosis or chronic diseases; Huntington, Spencer, Lakin, Weston and all other state hospitals for the treatment of mental or nervous diseases; and Fairmont and Welch emergency hospitals; and the state board of control shall have the control of the business and fiscal affairs thereof.

The director of the bureau of tuberculosis of the state department of health, under the supervision of the state board of health, shall encourage measures for the suppression of tuberculosis, such as clinics, camps, open air schools, sanitariums, district nursing, anti-tuberculosis societies, diffusion of knowledge and other means.

The state board of health may promote mental health, by having mental hygiene clinics conducted, by utilizing the professional services available at the state mental hospitals, by cooperating with the state department of education and other school authorities in making the
services of psychologists and psychiatrists available to schools, by conducting educational programs, and by any other means that it may deem necessary or advisable.

Sec. 11. *State Laboratory; Branches.*—The state board of health may establish and maintain a state hygienic laboratory as an aid in performing the duties imposed upon the said board, or the department of health, by law, and may employ any chemists, bacteriologists, and other employees that may be necessary to properly operate such laboratory. The board of health may establish branches of the state laboratory at such points within the state as it may deem necessary in the interest of the public health.

Sec. 12. *Expenditures of State Department of Health.*—The state department of health shall have power to expend annually, for the purpose of performing the duties imposed on it, or authorized by law, such sum as may be appropriated by the legislature for the department of health. The director of health shall audit all bills, which shall be made out in due form and verified by the members of the board of health, directors of divisions, employees, or agents rendering services or incurring traveling or
21

other expenses in the performance of the duties of their
offices or employments. Such bills, when approved by the
auditor, shall be paid out of the state treasury.

Sec. 13. Disposition of Moneys Received by State Direc-
tor of Health; Report to Auditor.—The state director of
health, as secretary of the board of health, shall receive
and account for all moneys required to be paid to the
board of health as fees for permits, licenses, or registra-
tions, pursuant to the provisions of this Code, and shall
pay such moneys into the state treasury monthly, on or
before the tenth day of the month succeeding the month
in which such moneys were received. The director of
health shall, on the first day of January and the first day
of July in each year, or within five days thereafter, certify
to the state auditor a detailed statement of all such moneys
received by him during the preceding six months. If the
director of health shall fail or refuse to comply with the
provisions of this section, he shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined for
each offense not less than fifty dollars, nor more than two
hundred dollars.
Sec. 14. *State Department of Health Authorized to Cooperate with Federal Government in Hospital Construction Program.*—The state board of health is hereby designated as the sole state agency to cooperate with the federal government in its hospital construction program; and is hereby authorized to make such an inventory of existing public health centers and public and private hospitals, and the laboratory and other facilities thereof, and to adopt and supervise the administration of such a state wide plan for the construction of additional hospitals and public health centers as may be necessary to comply with the requirements and conditions of federal law in respect to the granting of federal aid for such purposes.

The governor shall have authority to appoint such an advisory council to consult with the state board of health as may be necessary under federal law to effectuate the purposes of this section. The members of any such advisory council shall serve without compensation, but shall be paid the amount of their traveling and other expenses necessarily incurred in the performance of their duties.

Sec. 15. *Federal Aid.*—The state board of health is au-
thorized to accept, receive and receipt for federal moneys
and other moneys, either public or private, for and in be-
half of this state or any county or municipality thereof, for
public health purposes, or for the establishment or con-
struction of public health facilities, whether such work
is to be done by the state, or by such county or municipal-
ity, or jointly, aided by grants of aid from the United
States, upon such terms and conditions as are, or may be,
prescribed by the laws of the United States and any rules
or regulations made thereunder. The state board is au-
thorized to, and may, act as the agent of the state or any
of its agencies, or of any county or municipality of this
state, upon the request of any agency of the state or of
any such county or municipality, in accepting, receiving
and receipting for such moneys in its behalf, for public
health facilities financed either in whole or in part by
federal moneys.

The state, or any agency thereof, or any county or mu-
nicipality is authorized to, and may designate the state
board of health as its agent for the purposes above set
forth, and any such agency, county or municipality may
enter into an agreement with the board prescribing the
terms and conditions of such agency in accordance with
federal laws, rules and regulations, and with the laws of
this state. Such moneys as are paid over by the United
States government shall be retained by the state or paid
over to said counties or municipalities under such
terms and conditions as may be imposed by the United
States government in making such grants.

All moneys accepted for disbursement by the board
pursuant to this section shall be deposited in the state
treasury, and, unless otherwise prescribed by the au-
thority from which the money is received, kept in separate
funds, designated according to the purpose for which the
moneys were made available, and held by the state in
trust for such purposes. All such moneys are hereby ap-
propriated for the purposes for which the same were made
available and shall be expended in accordance with fed-
eral laws and regulations and with the laws of this state.
The board is authorized, whether acting for the state or
one of its agencies, or as the agency for any county or mu-
nicipality, when requested by the United States govern-
ment or any agency or department thereof, or when re-
quested by the state, a state agency, or any county or mu-
nicipality for which the moneys has been made available,
to disburse such moneys for the designated purposes, but
this shall not preclude any other authorized method of
disbursement.

Sec. 16. Investigations, Hearings, Power to Subpoena
Witnesses; Self Crimination.—The state board of health,
any member thereof, the director of health, or any of-
ficer or employee of the department of health designated
by the board of health, shall have the power to hold in-
vestigations, inquiries and hearings concerning matters
covered by the laws of this state pertaining to public
health and within the authority of the state board of
health, and the rules, regulations and orders of the board.
Hearings shall be open to the public and shall be held
upon such call or notice as the board shall deem ad-
visable.

Each member of the board, the director and every of-
ficer or employee of the department of health designated
to hold any inquiry, investigation or hearing shall have
the power to administer oaths and affirmations, certify
to all official acts, issue subpoenas and order the attend-
ance and testimony of witnesses in the production of
papers, books and documents. In case of the failure of
any person to comply with any subpoena or order issued
under the authority of this section, the board or its author-
ized representative may invoke the aid of any circuit
court of this state. The court may thereupon order such
person to comply with the requirements of the subpoena
order or to give evidence touching the matter in question.
Failure to obey the order of the court may be punished
by the court as a contempt thereof.
Subject to the foregoing provision the board may in its
discretion make available to appropriate federal, state
and municipal agencies information and material devel-
oped in the course of its investigation and hearings: Pro-
vided, however, that information obtained from studies
or from any investigation made or hearing held pursuant
to the provisions of this article shall not be admissible
in evidence in any action at law to recover damages for
personal injury or in any action under the workmen's
compensation act, but such information, if available, shall be furnished upon request to the West Virginia compensation commissioner for the sole purpose of adjusting claims presented to the said commissioner.

Sec. 17. State Board of Health, Orders, Notices and Opportunity for Hearing.—Every order of the state board of health requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the board will be given or the approval, license, or certificate granted or restored or the order modified or changed. Orders issued by the board pursuant to the provisions of this article shall be served upon the persons affected either by registered mail or in the manner provided by chapter fifty-six, article two, section one of this code. In every case where notice and opportunity for hearing are required under the provisions of this article, the order of the board shall, on not less than ten days notice, specify the time when and place where the person affected may
be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the board shall affirm, disaffirm or modify such order after hearing held or default by the person affected.

Sec. 18. Judicial Review of Action by State Board of Health.—Any person aggrieved by any final order of the state board of health shall have the right to a judicial review of the action of the board upon certiorari by the circuit court of the county in which the cause of action arose. The granting of such review, upon certiorari, shall be within the sound discretion of the judge of the said circuit court. A petition for such review must be filed with the said court, or with the judge thereof in vacation, within a period of thirty days from the date of entry of the final order complained of.

An appeal from any final order entered by the said circuit court upon granting such writ of certiorari may be
had by application to the supreme court of appeals of
West Virginia for a writ of error and supersedeas. Such
application to the supreme court of appeals shall be made
within thirty days of the entry of the order appealed
from by the said circuit court.

Provided, however, That when either the circuit court
or the supreme court of appeals has taken jurisdiction of
any such case, such court may, in its sound discretion,
refuse a stay of execution or supersedeas to the order or
any portion of the order, of the board, during the time
that the case is pending before the said court, if the
court is of the opinion that the order of the board or a
part of such order is reasonable and has been issued for
the protection of the public health.

Sec. 19. Meaning of Words “Public Health Council”
and “Commissioner of Health”. Wherever in this code
the words “public health council” or “state public health
council” appear, they shall mean, and be construed as
meaning the “West Virginia board of health”.

Wherever in this code the words “commissioner of
health”, “health commissioner”, or “state commissioner
8 of health” appear, they shall mean, and be construed as
9 meaning “state director of health”.

Sec. 20. Penalties for Violating of Provisions of this
2 Article.—Any person violating any of the provisions of
3 this article, for which the penalty is not otherwise pro-
4 vided, or any of the rules, regulations or orders issued
5 pursuant thereto, shall be punishable by a fine of not more
6 than two hundred dollars or by imprisonment for not
7 more than thirty days, or both.

Sec. 21. Severability.—If any provision of this article,
2 or the application thereof to any person or circumstance,
3 shall be held invalid, such invalidity shall not affect the
4 provisions or applications of this article which can be
5 given effect without the invalid provisions or applica-
6 tion, and to this end the provisions of this article are
7 declared to be severable.

Article 2. Local Health Officers.

Sec. 3. Counties, or Counties and Municipalities, May
2 Combine in Employment of Officers and Installation and
3 Maintenance of Equipment.—Any two or more counties,
4 or any county or counties and any one or more munici-
palities within the said county or counties, may combine
to cooperate with the state department of health, by vote
of the county court in the case of a county and by vote of
the council or other governing body in the case of a
municipality, and may participate in the employment of
trained health officers and other agents or in the installa-
tion and maintenance of a common laboratory and other
equipment. Whenever any such units shall decide so to
cooperate and shall appropriate a sum or sums of money
for such joint or cooperative action, a sum equal to two-
fifths of the total amount contributed by the cooperating
units, shall be added thereto from the appropriation made
for the state department of health: Provided, That the
general plan of cooperation, as well as the principal
health officer, executive agent or laboratory director em-
ployed by the cooperating units, shall first have been
approved by the state board of health.

Each county or municipality participating in any such
cooperative action shall annually select and appoint by
vote of the county court in the case of a county, and by
vote of the council or other governing body in the case
of a municipality, not less than one nor more than three
persons to be members of a combined board of health. No
such person shall be selected by, nor represent on any
such combined board, more than one such county or
municipality. The number of persons to be selected by
each participating county or municipality as members of
such board, subject to the limitation contained in the two
preceding sentences, shall be agreed upon by the several
counties or municipalities participating. Any such com-
bined board of health shall consist of the several members
so selected. Such board shall organize by electing a
chairman from among its members. It shall have the
power to adopt, and from time to time amend, such rules
and regulations as it may deem necessary concerning the
time and place of its meetings, the procedure and method
of conducting its meetings or business, and any other
matters affecting, or necessary to, the orderly and ef-
ficient discharge of its duties or exercise of its powers.
All powers and duties belonging to or vested in county
boards of health or municipal boards of health are hereby
vested in, conferred upon, and declared to be, the powers
and duties of, any combined board of health created pursuant to the provisions of this section. The territorial jurisdiction of any such combined board of health shall be coextensive with the boundaries of all of the counties and municipalities which have been combined to cooperate as herein provided.

Upon the formation of a combined local board of health as herein provided, and during the period that it continues to exist, there shall be no separate county board of health or municipal board of health in any county or municipality represented on the combined board of health.

Sec. 4. State Board of Health May Supplant Local Health Authority; Removal of Delinquent Local Officer.—When, in the opinion of the state board of health, any local health authority shall fail or refuse to enforce necessary laws and regulations to prevent and control the spread of communicable or infectious disease declared to be dangerous to the public health, or when, in the opinion of the said state board, a public health emergency exists, the state board may enforce its rules and regulations within the territorial jurisdiction of such local
11 health authorities, and for that purpose shall have and
12 may exercise all the powers given by law to local health
13 authorities. All expenses so incurred shall be a charge
14 against the counties, cities, or towns concerned. And in
15 such cases the failure or refusal of any local health of-
16 ficer or local health body to carry out the lawful orders
17 and regulations of the state board of health shall be suf-
18 ficient cause for the removal of such local health officer
19 or local health body from office, and upon such removal
20 the proper county or municipal authorities shall at once
21 nominate a successor, other than the person removed, as
22 provided by law.

Article 3. Prevention and Control of Communicable and In-
fectious Diseases.

Section 1. State Board of Health May Establish Quar-
2 antine and Control Epidemics.—The state board of health
3 is empowered to establish and strictly maintain quaran-
4 tine at such places as it may deem proper, and forbid and
5 prevent the assembling of the people in any place, when
6 the said board or the state director of health or any
7 county or municipal health officer deems that the public
health and safety so demand, and may adopt rules and
regulations to obstruct and prevent the introduction or
spread of small pox or other communicable or infectious
diseases into or within the State, and shall have the
power to enforce these regulations by detention and ar-
est, if necessary. It shall have power to enter into any
town, city, factory, railroad train, steamboat or other
place whatsoever, and enter upon and inspect private
property for the purpose of investigating the sanitary
and hygienic conditions and the presence of cases of
infectious diseases, and may, at its discretion, take charge
of any epidemic or endemic conditions, and enforce such
regulations as it may prescribe. All expenses incurred
in controlling any endemic or epidemic conditions shall
be paid by the county or municipality in which such
epidemic occurs.

Sec. 2. Powers of County and Municipal Boards of
Health to Establish Quarantine; Penalty for Violation.—
The county board of health of any county may declare
quarantine therein, or in any particular district or place
therein, whenever in their judgment it is necessary to
6 prevent the spread of any communicable or infectious
disease prevalent therein, or to prevent the introduction
8 of any communicable or infectious disease prevailing in
9 any other state, county or place, and of any and all per-
10 sons and things likely to spread such infection. As soon
11 as such quarantine is established such board shall, in
12 writing, inform the state board of health thereof, the
13 duty of which it shall be to ascertain, as soon as prac-
14 ticable, the necessity therefor, if any exists, and if the
15 said state board, or the state director of health, acting
16 for the said state board, finds that no such necessity
17 exists, the same shall, by the said state board, be declared
18 raised. The said county board of health shall have power
19 and authority to enforce such quarantine until the same
20 is raised as aforesaid, or by themselves, and may con-
21 fine any such infected person, or any person liable to
22 spread such infection, to the house or premises in which
23 he resides, or if he has no residence in the county, at a
24 place to be provided by them for the purpose; and if it
25 shall become necessary to do so, they shall summon
26 sufficient guard for the enforcement of their orders in the
premises. Every person who shall fail or refuse to comply with any order made by such board under this section, and every person summoned as such guard who shall, without a lawful excuse, fail or refuse to obey the orders and directions of such board in enforcing said quarantine, shall be guilty of a misdemeanor, and for such offense shall be fined not less than twenty-five nor more than two hundred dollars. In cases of emergency or actual necessity, and when the court or corporate authorities are from any cause unable to meet or to provide for the emergency or the necessity of the case, all actual expenditures necessary for local and county quarantine, as provided for in this section, shall be certified by the county board of health to the county court, and the whole, or as much thereof as the said court may deem right and proper, shall be paid out of the county treasury. The board of health of any city, town or village shall have, within the municipality, the same powers and perform the same duties herein conferred upon and required of the county board of health in their county. So far as applicable the provisions of this section shall
apply to any quarantine established and maintained by
the state board of health pursuant to section one of this
article.

Sec. 5. Free Serum or Vaccine Preventives of Disease.

—The state board of health shall purchase vaccine lymph,
diphtheria antitoxin, tetanus antitoxin and such other
forms of serum or vaccine preventives of disease as it may
deem necessary, and shall distribute the same, free of
charge, in such quantities as it may deem necessary, to
county and municipal health officers, to be used by them
for the benefit of, and without expense to the indigent
within their respective jurisdictions, and in other
cases where it may be urgently necessary to check con-
tagions and control epidemics.

The state board of health shall also deliver, free of
charge, to such drug stores or other stores within each
county as the health officer of such county may designate
as proper depositaries, such quantities of diphtheria anti-
toxin as said board may deem necessary for the use of the
indigent of such county, and such antitoxin shall be
kept at said drug stores or other stores at all times and in
sufficient quantities to permit immediate delivery to any licensed physician who may require the same for the treatment of any indigent person infected with diphtheria, or to prevent such infection, without cost to the patient so treated. The state board of health shall take a receipt from the proprietor of each drug store or other store for any antitoxin delivered as herein provided.

The auditor of the state shall pay the actual cost of all said serum and vaccine preventives and the cost of delivering said diphtheria antitoxin to any drug store or other store, upon the presentation of the original invoices thereof, duly verified by affidavit and approved by the state director of health, and shall in addition pay to said drug stores or other stores, for delivery of said diphtheria antitoxin to the physicians aforesaid, a commission of ten percent of the original cost of said antitoxin so delivered.

Sec. 6. Nuisances Affecting Public Health.—The state board of health, the state director of health or any county or municipal health officer shall inquire into and investigate all nuisances affecting the public health within its or his jurisdiction; and the said board or any such officer or
the county court of any county or any municipality is au-

thorized and empowered to apply to the circuit court of

the county in which any such nuisance exists, or to the

judge thereof in vacation, for an injunction forthwith to

restrain, prevent or abate such nuisance.

Sec. 12. *Same; Duties of State Board of Health.*—It

shall be the duty of the state board of health:

(a) To enforce the provisions of sections seven to thir-

teen, inclusive, of this article.

(b) To promulgate such rules and regulations as shall

be necessary for the purpose of enforcing said provisions,

and as the state board of health may deem necessary for

the further and proper guidance of local health officers;

(c) To provide for the gratuitous distribution of one

percent solution of silver nitrate outfits, together with

proper directions for the use and administration thereof,

to all physicians and midwives who may be engaged in the

practice of obstetrics, or assisting at childbirth;

(d) To publish and promulgate such further advice

and information concerning the dangers of inflammation
of the eyes of the new-born as is necessary for prompt and
effective treatment;
(e) To furnish copies of sections seven to thirteen,
inclusive, of this article to all physicians and midwives
who may be engaged in the practice of obstetrics, or as-
sisting at childbirth;
(f) To keep a proper record of any and all cases of in-
flammation of the eyes of the new-born of which reports
are filed with the state board of health pursuant to law,
or which may come to their attention in any way, and to
constitute such records a part of the annual report to the
governor;
(g) To report any and all violations of the public
health laws or of any rules or regulations lawfully adopted
pursuant thereto that may come to their attention, to the
prosecuting attorney of the county wherein said viola-
tions may have occurred, and to assist said official in any
way possible in the prosecution of such cases.


Section 2. Division of Vital Statistics; Supervision by
2 State Board of Health; State Registrar of Vital Statistics;
3 Appointment.—The state board of health shall have general supervision over the division of vital statistics, which shall be under the immediate direction of the state registrar of vital statistics, who shall be appointed by the state board of health, with the advice of the state director of health, and who shall be a competent vital statistician. The board shall provide for such clerical and other assistants in the division of vital statistics as may be necessary for the purposes of this article. The custodian of the capitol shall provide for the division of vital statistics suitable offices in the state capitol at Charleston, which shall be properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all official records made under and returned under this article.

Sec. 17. Local Registrars; Duties.—Each local registrar shall supply blank forms of certificates to such persons as require them. Each local registrar shall carefully examine each certificate of birth or death when presented for record, in order to ascertain whether or not it has been made in accordance with the provisions of this article and the instructions of the state registrar; and if any certifi-
cate of death is incomplete or unsatisfactory, it shall be his
duty to call attention to the defects in the return, and to
withhold the burial or removal permit until such defects
are corrected. All certificates, either of birth or of death,
shall be written legibly, in durable black ink or with a
typewriter, and no certificate shall be held to be complete
and correct that does not supply all of the items of infor-
mation called for therein, or satisfactorily account for
their omission. If the certificate of death is properly exe-
cuted and complete, he shall then issue a burial or removal
permit to the undertaker; Provided, That in case the death
occurred from some disease which is held by the state
board of health to be infectious or communicable and
dangerous to the public health, no permit for the removal
or other disposition of the body shall be issued by the reg-
istrar, except under such conditions as may be prescribed
by the state board of health. If a certificate of birth is in-
complete, the local registrar shall immediately notify the
informant, and require him to supply the missing items of
information, if they can be obtained. He shall number,
consecutively, the certificates of birth and death, in two
Enr. H. B. No. 133] 44

29 separate series, beginning with number one (1) for the
30 first birth and the first death in each calendar year, and
31 sign his name as registrar in attest of the date of filing in
32 his office. He shall also make a complete and accurate
33 copy of each birth and each death certificate registered by
34 him, and shall, on or before the tenth day of each month,
35 transmit to the state registrar all original certificates reg-
36 istered by him for the preceding month and the copies of
37 such certificate made as herein provided. If no births or
38 no deaths occurred in any month, he shall, on the tenth
39 day of the following month, report that fact to the state
40 registrar, on a card provided for such purpose.

Article 5A. Cancer Control.

Section 1. Division of Cancer Control.—There is hereby
2 created a division of cancer control in the state depart-
3 ment of health. The division, under the supervision of
4 the state board of health, shall execute and administer
5 the provisions of this article relating to the diagnosis,
6 treatment and care of persons suffering from cancer. The
7 division shall have authority to direct, control, govern and
8 provide for the management of any state institution for
the care and treatment of cancer patients which may here-

after be created by law.

The head of the division shall be appointed in the same
manner as the heads of other divisions in the department.

He must meet the requirements and possess the qualifica-
tions fixed by the merit system council in consultation
with the state board of health. The said board may also
appoint such assistants and employees in the division of
cancer control as may be necessary for the proper admin-
istration of the provisions of this article, such appoint-
ments also to be made in accordance with the rules and
regulations of the merit council.

Article 5B. Hospitals and Similar Institutions.

Section 9. Appointment and Term of Office of Advisory
Board Members.—There shall be an advisory board of
seven members, all of whom shall be citizens of West Vir-
ginia, to assist in the establishment of rules, regulations
and standards necessary to carry out the provisions of this
article and to serve as consultants to the state board of
health. The advisory board shall meet at least twice each
year and at the call of the state board of health. The
9 members of the advisory board shall annually elect one
10 of its members to serve as chairman.

11 The advisory board shall be appointed by the governor
12 by and with the consent of the senate. Of the seven mem-
13 bers of the board, four shall be persons who are well-
14 versed in hospital organization and administration, and
15 the remaining three shall be chosen from persons of rec-
16 ognized ability in the fields of medicine and surgery, nurs-
17 ing, welfare, public health, architecture, or allied profes-
18 sions in the field of health, or consumers of hospital serv-
19 ices.

20 The members shall be appointed for seven year terms
21 except that in the original appointments one person shall
22 be appointed for one year, one person for two years, one
23 person for three years, one person for four years, one per-
24 son for five years, one person for six years, and one person
25 for seven years. Thereafter each member shall be appoint-
26 ed to serve seven years or until his successor is appointed.
27 In the case of a vacancy the appointee shall serve the re-
28 mainder of the unexpired term.

29 Members of the advisory board shall be eligible to suc-
Members of the advisory board shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of their office.

Article 7. Pure Food and Drugs.

Section 3. Inspection and Analysis of Food and Drugs.—

Whenever the state board of health, the West Virginia board of pharmacy, or any county or municipal health officer has reason to believe that any food or drug manufactured for sale, offered for sale, or sold, within this state, is adulterated, such board of health or board of pharmacy, by its authorized agent, or such county or municipal health officer, shall have the power, and it shall be his duty, to enter, during the usual hours of business, into any creamery, factory, store, sales room, drug store, laboratory, or other place where he has reason to believe such food or drug is manufactured, prepared, sold, or offered for sale, within the county or municipality, as the same may be, and to open any case, tub, jar, bottle or package containing, or supposed to contain, any such food or drug, and take a specimen thereof for examina-
tion and analysis. If less than a whole package is taken, the specimen shall be sealed and properly prepared for shipment to the person who shall make the analysis hereinafter provided for. No whole or less than a whole package taken and prepared for shipment shall be opened before it has been received by the analyst aforesaid.

It shall be the duty of a qualified chemist of the state health department to test and analyze any such specimen, to record the result of his analysis among the records of the department, and to certify such findings to the state board of health, the West Virginia board of pharmacy, or to the county or municipal health officers, as the case may be. If the analysis indicates that the said food or drug is adulterated, a certificate of such result sworn to by the person making the analysis, who shall also state in his certificate the reasonable cost and expense of such analysis, shall be prima facie evidence of such adulteration in any prosecution under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 26th day of February, 1949.

Governor