WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 50

(By Mr. Walker)

PASSED March 9, 1955

In Effect 90 days from Passage

Filed in the Office of the Secretary of State
of West VirginiaMAR 15 1955
D. PITTOBRIEND. PITTOBRIEN
SECRETARY OF STATE
AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article two-a, relating to an alternative method of organizing local boards of health, levy for local health purposes, and the employment, powers and duties of local health officers and other persons employed by such local health agencies.

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 adding thereto a new article, to be designated article two-a, to read as follows:

Section 1. County and Municipal Boards of Health Authorized; Jurisdiction.—Any county or municipality may in its discretion, and in lieu and instead of the local board
of health provided for in article two of this chapter, create, establish and maintain a county board of health or a municipal board of health organized pursuant to, and with the powers and duties prescribed by, the provisions of this article. Such county board of health may be created and established by the county court, and such municipal board of health may be created and established by the governing body of the municipality. The jurisdiction of such county board of health shall be coextensive with the territorial limits of the county and shall include every city, town, and village therein which does not have a full time health officer of its own employed in the manner, for the purpose, and to perform the duties set forth in this article. The jurisdiction of such municipal board of health shall be coextensive with the territorial limits of the municipality and an area including all points within a distance of one mile from the limits of the municipality. The jurisdiction of any county board of health, or of any combined local board of health established pursuant to the provisions of section three, article two of this chapter, shall not extend to or include any area within the jurisdiction of any mu-
municipal board of health which has established and is main-
taining a separate full time municipal health department
under the supervision of a municipal health officer.

In any county in which there is created and established
a county board of health pursuant to the provisions of
this article, the county board of health provided for in
article two of this chapter shall cease to exist and shall
be abolished during such period of time as the county
board of health provided for in this article is maintained
and continued in existence.

Sec. 2. Membership and Organization of County and
Municipal Boards of Health; Appointment and Qualifica-
tion.—A county board of health or municipal board of
health created and established under the provisions of
this article shall be composed of five members appointed
by the county court or the governing body of the munici-
pality. Where any county board of education contributes
funds to a county court or a municipality, which creates
such board of health, for health purposes, such board of
education may nominate one member of such local board
of health. Such nominee shall be appointed to such
board of health by the appointing authority, if otherwise qualified. In the event such nominee is rejected by the appointing authority, or in the event his position on the board of health is vacated during the term for which he is appointed, such county board of education may nominate another person, who, if otherwise qualified, shall be appointed to the board of health by the appointing authority. In the event such county board of education fails or refuses to nominate some person for such appointment within thirty days of the date of the receipt of a request, in writing, from the appointing authority, for a nomination, the appointing authority shall proceed to make such appointment without any nomination by the county board of education.

All members of any such board of health shall be citizens and residents of the county or municipality they are appointed to represent. No more than three of the members of such board shall belong to the same political party, nor shall more than two of such members be residents of the same magisterial district or municipal
ward, nor shall more than two such members be person- 
ally and individually licensed in, engaged in, or ac-
tively participating in or carrying on, the same business, 
profession, or occupation. All members shall be eligible 
for reappointment.

All members of such board shall be appointed for terms 
of five years each, except that the persons appointed when 
the board is initially created shall be individually desig-
nated to serve for terms of one, two, three, four and five 
years, respectively. Upon the expiration of such initial 
appointments the term for each new appointee shall be 
five years Each member shall serve until the appointment 
of his duly qualified successor. Any vacancy on such 
board shall be filled by appointment for the unexpired 
term.

Such county or municipal board of health shall organize 
by electing from its members a chairman who shall serve 
as such for a period of one year. Such chairman shall 
have the power to sign documents, execute contracts and 
otherwise act for and in the name of such board in all
matters within its lawful powers and duly authorized by a majority of its members.

No member of such board may be removed from office during the term for which he is appointed except for official misconduct, incompetence, neglect of duty or gross immorality: Provided, however, That the revocation of a professional license issued by this state to any such member shall be sufficient reason and cause for the removal of such member from office.

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

Sec. 3. Powers and Duties of County and Municipal Boards of Health.—County or municipal boards of health created and established pursuant to the provisions of this article shall direct, supervise, and control all matters relating to the general health and sanitation of their respective counties or municipalities, and shall possess and exercise such powers in relation thereto as may be exer-
cised and is possessed by the state board of health, so far
as such powers are applicable to such county or munici-
pality. Such local boards of health shall also have the
power and authority to adopt and promulgate and from
time to time amend such rules and regulations, consistent
with the laws of this state and the rules and regulations
of the state board of health, as may be necessary and
proper for the protection of the general health of the
county or municipality and the prevention of the intro-
duction, propagation and spread of disease therein. All
such rules and regulations shall be filed, in the case of a
county board, with the clerk of the county court, and in
the case of a municipal board, with the clerk, recorder, or
similar officer of the municipality. Such rules and regu-
lations shall be kept by such clerk or recording officer in
a separate book and shall be public records.

It shall be the duty of such local boards of health to
protect the general health and supervise and control the
sanitation of their respective counties and municipalities;
to enforce the laws of this state pertaining to public health,
and the rules and regulations of the state board of health,
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insofar as they are applicable to such counties or munici- 
palities, and to perform such duties in relation to public 
health as may be prescribed by order of the county courts 
of such counties or ordinances of such municipalities, 
consistent with the public health laws of this state and 
the regulations duly adopted by the state board of health. 
All such local boards of health receiving state or federal 
funds for health purposes shall first receive approval by 
the state board of health of their general plans of opera-
tion for health purposes. The state board of health may, 
if deemed necessary or expedient by it, act through any 
county or municipal board of health created, established 
and operated pursuant to the provisions of this article.

Sec. 4. County or Municipal Health Officers, Health 
Personnel and Other Employees; Appointment or Em-
ployment, Term, Qualification and Compensation.—A 
county or municipal board of health, created and main-
tained pursuant to the provisions of this article, shall have 
the power to appoint a health officer to serve for an indefi-
nite term at the pleasure of the appointing county or mu-
nicipal board of health. Such health officer shall be a phy-
sician licensed or eligible for licensure as a physician in this state. He shall be skilled in the science of preventive medicine and sanitation. He shall receive such compensation, to be paid out of the county or municipal treasury, as may be determined by such county or municipal board of health, and approved by the county court or municipal governing body.

Any such county or municipal board of health as is mentioned in the preceding paragraph shall have the power to employ such technical, administrative, clerical, and other employees as such board may deem necessary. All such employees shall be employed for such such period of time as may be determined by such board, and shall be suitably trained in public health practices. Such employees shall perform such duties in relation to public health as may be prescribed by any order, rule or regulation of the county or municipal board of health, the public health laws of this state or the regulations of the state board of health.

Any such county or municipal board of health may, with the consent and approval of the county court or
30 municipal governing body creating and maintaining such
31 local board of health, establish and adopt a merit system
32 for any or all employees of the county or municipal health
33 department. Such merit system may be similar to the
34 state merit system and may be established by the local
35 board by its order, subject to the approval of the county
36 court or municipal governing body, adopting and making
37 applicable to the local health department all, or such por-
38 tion, of any order, rule, standard, or compensation rate in
39 effect in the state merit systems as may be desired by the
40 local board of health and as it may consider properly
41 applicable to the local health department.

Sec. 5. Powers and Duties of County or Municipal
2 Health Officers; Reporting Contagious or Infectious Dis-
3 eases.—The county or municipal health officer appointed
4 by any local board of health created pursuant to the pro-
5 visions of this article shall be the executive officer of such
6 board of health. Under the supervision of the board he
7 shall administer the provisions of this article, all other
8 laws of this state relating to public health and applicable
9 to his county or municipality, and the rules, regulations
and orders of such county or municipal board of health, and of the state board of health, so far as such rules, regulations and orders are applicable to his county or municipality.

Such health officer shall attend, but not vote, at all meetings of his county or municipal board of health. He shall act as secretary of such board and shall be in charge of its offices. He shall supervise and direct the activities of county or municipal health services, employees, and facilities: Provided, however, That the duties of such health officer shall not include the rendering of medical or surgical services on an individual basis to wards of the county or municipality or to inmates of any public institution operated or maintained by any county court or municipality.

It shall be the duty of every practicing physician to report to the municipal health officer, where there is such official, immediately on diagnosis, every case of communicable or infectious disease that may arise or come under his treatment within the municipality, and to the county health officer cases occurring outside of the municipality,
and also, where there is no municipal health officer, cases occurring within such municipality. Any health officer receiving such reports shall make to the state director of health a weekly report of all such cases, stating the number of each kind of disease reported, the action taken to arrest the infection and spread of the disease, and the result.

Sec. 6. County and Municipal Health Officers, Levy; Receipt and Disposition of Funds by Local Boards of Health.—The county court of any county or the governing body of any municipality in which a county or municipal health officer is appointed pursuant to the provisions of this article, shall have the power and authority to provide funds for the payment of such health officer and the expenses of his administration, and for that purpose may levy a county or municipal tax, as the case may be, of not exceeding three cents on each one hundred dollars' assessed valuation of the taxable property in such county or municipality according to the last assessment thereof. Any county or municipality may, whether it has exercised the power to lay the special levy hereinbefore pro-
vided for or not, appropriate and expend money from the county or municipal general fund for public health purposes and to pay the expenses of operation and administration of a county or municipal board of health and the public health facilities operated thereby or in conjunction therewith.

Any county or municipality in which there is a board of health created and maintained pursuant to the provisions of this article, may accept, receive and receipt for money or property from any federal, state, or local governmental agency, or from any public or private source, to be used for public health purposes, or for the establishment or construction of public health facilities. All moneys accepted by any county or municipality pursuant to the provisions of this paragraph shall be deposited in the county or municipal treasury, and unless otherwise prescribed by the authority from which the money is received, shall be kept in separate funds, designated according to the purposes for which the money was made available, and held by the county or municipality in trust for such purposes: Provided, however, That nothing con-
Sec. 7. Charges by Local Boards of Health for Inspection of Milk Distribution, Production or Pasteurization Facilities Outside of State.—Any local board of health, whether created and maintained pursuant to the provisions of this article or article two of this chapter, may cause an inspection to be made of the physical plant and facilities of any distributor, producer, or pasteurizer of milk whose milk distribution, production, or pasteurization plant or facilities are located outside of this state but who sells or distributions in this state, or transports, or causes or permits to be transported, into this state, milk, or milk products, for resale, use or consumption in this state and within the territorial jurisdiction of such local board of health. The local board of health may charge to, and collect from, such distributor, producer, or pasteurizer of milk, all of the expense of such inspection. The amount of such charge for expense of inspection shall be based on the number of inspections made, mileage
traveled, and time consumed by the inspecting official in traveling to and from the place of the inspection and in actually making the inspection.

Provided, however, That in any case in which such milk distribution, production, or pasteurization plant or facilities are regularly inspected in the course of a regular inspection schedule or itinerary by any duly authorized representative of any agency of this state or its governmental subdivisions, or any agency of any other state or its governmental subdivisions, which has been certified as an approved inspection agency by the state board of health of this state, no charge for expense of inspection shall be made by any local board of health unless it is the agency making the regular inspection. In any event, not more than one local board of health shall act as, and be deemed, the regular inspection agency for any such milk distribution, production, or pasteurization plant or facility. Where two or more agencies each include any such plant or facility in a regular inspection schedule or itinerary the state board of health shall designate one of such agencies as the regular inspection agency for such plant or facility.
Sec. 8. State Board of Health May Supplant Local Health Authority; Removal of Delinquent Local Officers.

—When, in the opinion of the state board of health, any local health authority shall fail or refuse to enforce laws and regulations necessary 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 state board, a public health emergency exists, the state board may enforce its rules and regulations within the territorial jurisdiction of such local health authority, and for that purpose shall have and may exercise all the powers given by law to local health authorities. All expenses so incurred shall be a charge against the counties, cities, or towns concerned. And in such cases the failure or refusal of any local health officer or local health body to carry out the lawful orders and regulations of the state board of health shall be sufficient cause for the removal of such local health officer, or local health body or its members, from office, and upon such removal a successor or successors to the person or persons removed shall im-
mediately be appointed in the manner, and for the term, provided for in this article.

Sec. 9. Obstructing Health Officers and Others in Enforcement of Health Laws; Penalty.—Every person who wilfully opposes or obstructs any health officer, public health nurse, sanitarian, or any other person charged with the enforcement of any health law, in the performance of such officer or person's legal duty in enforcing such law, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days or both.

Sec. 10. Penalties for Violating Provisions of Article; Jurisdiction of Justices.—Any person wilfully violating any of the provisions of this article, for which a penalty is not otherwise provided, or any of the rules, regulations or orders adopted or issued pursuant thereto, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days or both. Justices of the Peace shall have concurrent jurisdiction
with circuit and criminal courts for the enforcement of
the provisions of this article and any rules, regulations, or
orders, lawfully adopted, promulgated or issued pursuant
thereto.

Sec. 11. Severability.—If any provision of this article,
or the application thereof to any person or circumstance,
shall be held to be invalid or unconstitutional, such in-
validity or unconstitutionality shall not affect the other
provisions or applications of this article which can be
given effect without the invalid or unconstitutional pro-
vision or application, and to this end the provisions of this
article are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect... [Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

[Signature]

The within... [Signature]

day of March, 1955.

[Signature]

Filed in the Office of the Secretary of State of West Virginia MAR 15 1955

D. Pitt O'Brien
Secretary of State