

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955



ENROLLED

HOUSE BILL No. 50

(By Mr. Walker)



PASSED Mar 9 1955

In Effect 90 Days from Passage



Filed In the Office of the Secretary of State
of West Virginia. MAR 15 1955
D. PITT O'BRIEN
SECRETARY OF STATE

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House Bill No. 50
(By MRS. WALKER)

[Passed March 9, 1955; in effect ninety days from passage.]

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
2 in its discretion, and in lieu and instead of the local board
3

4 of health provided for in article two of this chapter, cre-
5 ate, establish and maintain a county board of health or
6 a municipal board of health organized pursuant to, and
7 with the powers and duties prescribed by, the provisions
8 of this article. Such county board of health may be created
9 and established by the county court, and such municipal
10 board of health may be created and established by the
11 governing body of the municipality. The jurisdiction of
12 such county board of health shall be coextensive with the
13 territorial limits of the county and shall include every city,
14 town, and village therein which does not have a full time
15 health officer of its own employed in the manner, for the
16 purpose, and to perform the duties set forth in this article.
17 The jurisdiction of such municipal board of health shall be
18 coextensive with the territorial limits of the municipality
19 and an area including all points within a distance of one
20 mile from the limits of the municipality. The jurisdiction
21 of any county board of health, or of any combined local
22 board of health established pursuant to the provisions of
23 section three, article two of this chapter, shall not extend
24 to or include any area within the jurisdiction of any mu-

25 nicipal board of health which has established and is main-
26 taining a separate full time municipal health department
27 under the supervision of a municipal health officer.

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

*Sec. 2. Membership and Organization of County and
2 Municipal Boards of Health; Appointment and Qualifica-
3 tion.—A county board of health or municipal board of
4 health created and established under the provisions of
5 this article shall be composed of five members appointed
6 by the county court or the governing body of the munici-
7 pality. Where any county board of education contributes
8 funds to a county court or a municipality, which creates
9 such board of health, for health purposes, such board of
10 education may nominate one member of such local board
11 of health. Such nominee shall be appointed to such*

12 board of health by the appointing authority, if other-
13 wise qualified. In the event such nominee is rejected
14 by the appointing authority, or in the event his
15 position on the board of health is vacated during the
16 term for which he is appointed, such county board of
17 education may nominate another person, who, if other-
18 wise qualified, shall be appointed to the board of
19 health by the appointing authority. In the event such
20 county board of education fails or refuses to nominate
21 some person for such appointment within thirty days
22 of the date of the receipt of a request, in writing, from
23 the appointing authority, for a nomination, the ap-
24 pointing authority shall proceed to make such appoint-
25 ment without any nomination by the county board of
26 education.

27 All members of any such board of health shall be citi-
28 zens and residents of the county or municipality they
29 are appointed to represent. No more than three of the
30 members of such board shall belong to the same politi-
31 cal party, nor shall more than two of such members be
32 residents of the same magisterial district or municipal

33 ward, nor shall more than two such members be per-
34 sonally and individually licensed in, engaged in, or ac-
35 tively participating in or carrying on, the same business,
36 profession, or occupation. All members shall be eligible
37 for reappointment.

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

48 Such county or municipal board of health shall organize
49 by electing from its members a chairman who shall serve
50 as such for a period of one year. Such chairman shall
51 have the power to sign documents, execute contracts and
52 otherwise act for and in the name of such board in all

53 matters within its lawful powers and duly authorized by
54 a majority of its members.

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

62 No member of such board shall receive any compensa-
63 tion for his services but each may be reimbursed for actual
64 and necessary travel and other expenses incurred by him
65 in the performance of his duties as a member of such
66 board.

Sec. 3. *Powers and Duties of County and Municipal*
2 *Boards of Health.*—County or municipal boards of health
3 created and established pursuant to the provisions of this
4 article shall direct, supervise, and control all matters re-
5 lating to the general health and sanitation of their re-
6 spective counties or municipalities, and shall possess and
7 exercise such powers in relation thereto as may be exer-

8 cised and is possessed by the state board of health, so far
9 as such powers are applicable to such county or municipi-
10 pality. Such local boards of health shall also have the
11 power and authority to adopt and promulgate and from
12 time to time amend such rules and regulations, consistent
13 with the laws of this state and the rules and regulations
14 of the state board of health, as may be necessary and
15 proper for the protection of the general health of the
16 county or municipality and the prevention of the intro-
17 duction, propagation and spread of disease therein. All
18 such rules and regulations shall be filed, in the case of a
19 county board, with the clerk of the county court, and in
20 the case of a municipal board, with the clerk, recorder, or
21 similar officer of the municipality. Such rules and regu-
22 lations shall be kept by such clerk or recording officer in
23 a separate book and shall be public records.

24 It shall be the duty of such local boards of health to
25 protect the general health and supervise and control the
26 sanitation of their respective counties and municipalities;
27 to enforce the laws of this state pertaining to public health,
28 and the rules and regulations of the state board of health,

29 insofar as they are applicable to such counties or municipi-
30 palities, and to perform such duties in relation to public
31 health as may be prescribed by order of the county courts
32 of such counties or ordinances of such municipalities,
33 consistent with the public health laws of this state and
34 the regulations duly adopted by the state board of health.
35 All such local boards of health receiving state or federal
36 funds for health purposes shall first receive approval by
37 the state board of health of their general plans of opera-
38 tion for health purposes. The state board of health may,
39 if deemed necessary or expedient by it, act through any
40 county or municipal board of health created, established
41 and operated pursuant to the provisions of this article.

Sec. 4. *County or Municipal Health Officers, Health
2 Personnel and Other Employees; Appointment or Em-
3 ployment, Term, Qualification and Compensation.*—A
4 county or municipal board of health, created and main-
5 tained pursuant to the provisions of this article, shall have
6 the power to appoint a health officer to serve for an indefi-
7 nite term at the pleasure of the appointing county or mu-
8 nicipal board of health. Such health officer shall be a phy-

9 sician licensed or eligible for licensure as a physician in
10 this state. He shall be skilled in the science of preventive
11 medicine and sanitation. He shall receive such compen-
12 sation, to be paid out of the county or municipal treasury,
13 as may be determined by such county or municipal board
14 of health, and approved by the county court or municipal
15 governing body.

16 Any such county or municipal board of health as is
17 mentioned in the preceding paragraph shall have the
18 power to employ such technical, administrative, clerical,
19 and other employees as such board may deem necessary.
20 All such employees shall be employed for such such period
21 of time as may be determined by such board, and shall
22 be suitably trained in public health practices. Such em-
23 ployees shall perform such duties in relation to public
24 health as may be prescribed by any order, rule or regu-
25 lation of the county or municipal board of health, the
26 public health laws of this state or the regulations of the
27 state board of health.

28 Any such county or municipal board of health may,
29 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

10 and orders of such county or municipal board of health,
11 and of the state board of health, so far as such rules, regu-
12 lations and orders are applicable to his county or mu-
13 nicipality.

14 Such health officer shall attend, but not vote, at all
15 meetings of his county or municipal board of health. He
16 shall act as secretary of such board and shall be in charge
17 of its offices. He shall supervise and direct the activities
18 of county or municipal health services, employees, and
19 facilities: *Provided, however,* That the duties of such
20 health officer shall not include the rendering of medical
21 or surgical services on an individual basis to wards of the
22 county or municipality or to inmates of any public insti-
23 tution operated or maintained by any county court or
24 municipality.

25 It shall be the duty of every practicing physician to re-
26 port to the municipal health officer, where there is such
27 official, immediately on diagnosis, every case of commu-
28 nicable or infectious disease that may arise or come under
29 his treatment within the municipality, and to the county
30 health officer cases occurring outside of the municipality,

31 and also, where there is no municipal health officer, cases
32 occurring within such municipality. Any health officer
33 receiving such reports shall make to the state director
34 of health a weekly report of all such cases, stating the
35 number of each kind of disease reported, the action taken
36 to arrest the infection and spread of the disease, and the
37 result.

Sec. 6. *County and Municipal Health Officers, Levy;*
2 *Receipt and Disposition of Funds by Local Boards of*
3 *Health.*—The county court of any county or the governing
4 body of any municipality in which a county or municipal
5 health officer is appointed pursuant to the provisions of
6 this article, shall have the power and authority to provide
7 funds for the payment of such health officer and the ex-
8 penses of his administration, and for that purpose may
9 levy a county or municipal tax, as the case may be, of not
10 exceeding three cents on each one hundred dollars'
11 assessed valuation of the taxable property in such county
12 or municipality according to the last assessment thereof.
13 Any county or municipality may, whether it has exer-
14 cised the power to lay the special levy hereinbefore pro-

15 vided for or not, appropriate and expend money from the
16 county or municipal general fund for public health pur-
17 poses and to pay the expenses of operation and administra-
18 tion of a county or municipal board of health and the pub-
19 lic health facilities operated thereby or in conjunction
20 therewith.

21 Any county or municipality in which there is a board
22 of health created and maintained pursuant to the pro-
23 visions of this article, may accept, receive and receipt for
24 money or property from any federal, state, or local gov-
25 ernmental agency, or from any public or private source,
26 to be used for public health purposes, or for the estab-
27 lishment or construction of public health facilities. All
28 moneys accepted by any county or municipality pursuant
29 to the provisions of this paragraph shall be deposited in
30 the county or municipal treasury, and unless otherwise
31 prescribed by the authority from which the money is re-
32 ceived, shall be kept in separate funds, designated ac-
33 cording to the purposes for which the money was made
34 available, and held by the county or municipality in trust
35 for such purposes: *Provided, however,* That nothing con-

36 tained in this section shall be construed to conflict with
37 the provisions of section fifteen, article one, chapter six-
38 teen of this code.

Sec. 7. *Charges by Local Boards of Health for Inspec-
2 tion of Milk Distribution, Production or Pasteurization
3 Facilities Outside of State.*—Any local board of health,
4 whether created and maintained pursuant to the pro-
5 visions of this article or article two of this chapter, may
6 cause an inspection to be made of the physical plant and
7 facilities of any distributor, producer, or pasteurizer of
8 milk whose milk distribution, production, or pasteuriza-
9 tion plant or facilities are located outside of this state
10 but who sells or distributes in this state, or transports, or
11 causes or permits to be transported, into this state, milk,
12 or milk products, for resale, use or consumption in this
13 state and within the territorial jurisdiction of such local
14 board of health. The local board of health may charge
15 to, and collect from, such distributor, producer, or pas-
16 teurizer of milk, all of the expense of such inspection.
17 The amount of such charge for expense of inspection
18 shall be based on the number of inspections made, mileage

19 traveled, and time consumed by the inspecting official in
20 traveling to and from the place of the inspection and in
21 actually making the inspection.

22 *Provided, however,* That in any case in which such milk
23 distribution, production, or pasteurization plant or facili-
24 ties are regularly inspected in the course of a regular in-
25 spection schedule or itinerary by any duly authorized rep-
26 resentative of any agency of this state or its governmental
27 subdivisions, or any agency of any other state or its gov-
28 ernmental subdivisions, which has been certified as an ap-
29 proved inspection agency by the state board of health of
30 this state, no charge for expense of inspection shall be
31 made by any local board of health unless it is the agency
32 making the regular inspection. In any event, not more
33 than one local board of health shall act as, and be deemed,
34 the regular inspection agency for any such milk distribu-
35 tion, production, or pasteurization plant or facility. Where
36 two or more agencies each include any such plant or
37 facility in a regular inspection schedule or itinerary the
38 state board of health shall designate one of such agencies
39 as the regular inspection agency for such plant or facility.

Sec. 8. *State Board of Health May Supplant Local*

2 *Health Authority; Removal of Delinquent Local Officers.*

3 —When, in the opinion of the state board of health, any
4 local health authority shall fail or refuse to enforce laws
5 and regulations necessary to prevent and control the
6 spread of communicable or infectious disease declared to
7 be dangerous to the public health, or when, in the opinion
8 of the state board, a public health emergency exists, the
9 state board may enforce its rules and regulations within
10 the territorial jurisdiction of such local health authority,
11 and for that purpose shall have and may exercise all the
12 powers given by law to local health authorities. All ex-
13 penses so incurred shall be a charge against the counties,
14 cities, or towns concerned. And in such cases the failure or
15 refusal of any local health officer or local health body to
16 carry out the lawful orders and regulations of the state
17 board of health shall be sufficient cause for the removal
18 of such local health officer, or local health body or its
19 members, from office, and upon such removal a successor
20 or successors to the person or persons removed shall im-

21 mediately be appointed in the manner, and for the term,
22 provided for in this article.

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

Sec. 10. *Penalties for Violating Provisions of Article;*
2 *Jurisdiction of Justices.*—Any person wilfully violating
3 any of the provisions of this article, for which a penalty
4 is not otherwise provided, or any of the rules, regulations
5 or orders adopted or issued pursuant thereto, shall be
6 guilty of a misdemeanor, and upon conviction shall be
7 punishable by a fine of not more than two hundred dollars
8 or by imprisonment for not more than thirty days or both.
9 Justices of the Peace shall have concurrent jurisdiction

10 with circuit and criminal courts for the enforcement of
11 the provisions of this article and any rules, regulations, or
12 orders, lawfully adopted, promulgated or issued pursuant
13 thereto.

Sec. 11. *Severability*.—If any provision of this article,
2 or the application thereof to any person or circumstance,
3 shall be held to be invalid or unconstitutional, such in-
4 validity or unconstitutionality shall not affect the other
5 provisions or applications of this article which can be
6 given effect without the invalid or unconstitutional pro-
7 vision or application, and to this end the provisions of this
8 article are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 Day from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 14 day of March, 1955.

[Signature]
William C. Marland



Filed in the Office of the Secretary of Governor
of West Virginia **MAR 15 1955**
D. PITT O'BRIEN
SECRETARY OF STATE