

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 571**

BY SENATOR BLAIR

[Introduced March 10, 2017; Referred  
to the Committee on Government Organization; and  
then to the Committee on Finance]

1 A BILL to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §30-17-20, all relating  
 3 generally to certification and qualifications of sanitarians; terminating the State Board of  
 4 Sanitarians; providing for the State Division of Personnel to establish education standards  
 5 and qualifications for sanitarians in collaboration with local boards of health; and correcting  
 6 an erroneous reference.

*Be it enacted by the Legislature of West Virginia:*

1 That §16-2-11 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that said code be amended by adding thereto a new section, designated §30-17-  
 3 20, all to read as follows:

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 2. LOCAL BOARDS OF HEALTH.**

**§16-2-11. Local board of health; powers and duties.**

1 (a) Each local board of health created, established and operated pursuant to the  
 2 provisions of this article shall:

3 (1) Provide the following basic public health services and programs in accordance with  
 4 state public health performance-based standards:

5 (i) Community health promotion including assessing and reporting community health  
 6 needs to improve health status, facilitating community partnerships including identifying the  
 7 community's priority health needs, mobilization of a community around identified priorities and  
 8 monitoring the progress of community health education services;

9 (ii) Environmental health protection including the promoting and maintaining of clean and  
 10 safe air, water, food and facilities and the administering of public health laws as specified by the  
 11 commissioner as to general sanitation, the sanitation of public drinking water, sewage and  
 12 wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

13 (iii) Communicable or reportable disease prevention and control including disease  
14 surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and  
15 prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases,  
16 HIV/AIDS, tuberculosis and other communicable and reportable diseases;

17 (2) Appoint a local health officer to serve at the will and pleasure of the local board of  
18 health with approval of the commissioner;

19 (3) Submit a general plan of operation to the commissioner for approval, if it receives any  
20 state or federal money for health purposes. This program plan shall be submitted annually and  
21 comply with provisions of the local board of health standards administrative rule;

22 (4) Provide equipment and facilities for the local health department that are in compliance  
23 with federal and state law;

24 (5) Permit the commissioner to act by and through it, as needed. The commissioner may  
25 enforce all public health laws of this state, the rules and orders of the secretary, any county  
26 commission orders or municipal ordinances of the board's service area relating to public health,  
27 and the rules and orders of the local board within the service area of a local board. The  
28 commissioner may enforce these laws, rules and orders when, in the opinion of the commissioner,  
29 a public health emergency exists or when the local board fails or refuses to enforce public health  
30 laws and rules necessary to prevent and control the spread of a communicable or reportable  
31 disease dangerous to the public health. The expenses incurred shall be charged against the  
32 counties or municipalities concerned;

33 (6) Deposit all moneys and collected fees into an account designated for local board of  
34 health purposes. The moneys for a municipal board of health shall be deposited with the municipal  
35 treasury in the service area. The moneys for a county board of health shall be deposited with the  
36 county treasury in the service area. The moneys for a combined local board of health shall be  
37 deposited in an account as designated in the plan of combination: *Provided*, That nothing  
38 contained in this subsection is intended to conflict with the provisions of article one, chapter

39 sixteen of this code;

40 (7) Submit vouchers or other instruments approved by the board and signed by the local  
41 health officer or designated representative to the county or municipal treasurer for payment of  
42 necessary and reasonable expenditures from the county or municipal public health funds:  
43 *Provided*, That a combined local board of health shall draw upon its public health funds account  
44 in the manner designated in the plan of combination;

45 (8) Participate in audits, be in compliance with tax procedures required by the state and  
46 annually develop a budget for the next fiscal year;

47 (9) Perform public health duties assigned by order of a county commission or by municipal  
48 ordinance consistent with state public health laws; and

49 (10) Enforce the public health laws of this state and any other laws of this state applicable  
50 to the local board.

51 (b) Each local board of health created, established and operated pursuant to the  
52 provisions of this article may:

53 (1) Provide primary care services, clinical and categorical programs, and enhanced public  
54 health services;

55 (2) Employ or contract with any technical, administrative, clerical or other persons, to serve  
56 as needed and at the will and pleasure of the local board of health. Staff and any contractors  
57 providing services to the board shall comply with applicable West Virginia certification and  
58 licensure requirements. Local boards of health may collaborate with the State Division of  
59 Personnel to set education standards and other qualifications for public sanitarians. Eligible staff  
60 employed by the board shall be covered by the rules of the Division of Personnel under ~~section~~  
61 ~~six, article ten,~~ section ten, article six, chapter twenty-nine of this code. However, any local board  
62 of health may, in the alternative and with the consent and approval of the appointing authority,  
63 establish and adopt a merit system for its eligible employees. The merit system may be similar to  
64 the state merit system and may be established by the local board by its order, subject to the

65 approval of the appointing authority, adopting and making applicable to the local health  
66 department all, or any portion of any order, rule, standard, or compensation rate in effect in the  
67 state merit system as may be desired and as is properly applicable;

68 (3) Adopt and promulgate and from time to time amend rules consistent with state public  
69 health laws and the rules of the West Virginia State Department of Health and Human Resources,  
70 that are necessary and proper for the protection of the general health of the service area and the  
71 prevention of the introduction, propagation and spread of disease. All rules shall be filed with the  
72 clerk of the county commission or the clerk or the recorder of the municipality or both and shall  
73 be kept by the clerk or recording officer in a separate book as public records;

74 (4) Accept, receive and receipt for money or property from any federal, state or local  
75 governmental agency, from any other public source or from any private source, to be used for  
76 public health purposes or for the establishment or construction of public health facilities;

77 (5) Assess, charge and collect fees for permits and licenses for the provision of public  
78 health services: *Provided*, That permits and licenses required for agricultural activities may not be  
79 assessed, charged or collected: *Provided, however*, That a local board of health may assess,  
80 charge and collect all of the expenses of inspection of the physical plant and facilities of any  
81 distributor, producer or pasteurizer of milk whose milk distribution, production or pasteurization  
82 facilities are located outside this state but who sells or distributes in the state, or transports,  
83 causes or permits to be transported into this state, milk or milk products for resale, use or  
84 consumption in the state and in the service area of the local board of health. A local board of  
85 health may not assess, charge and collect the expenses of inspection if the physical plant and  
86 facilities are regularly inspected by another agency of this state or its governmental subdivisions  
87 or by an agency of another state or its governmental subdivisions certified as an approved  
88 inspection agency by the commissioner. No more than one local board of health may act as the  
89 regular inspection agency of the physical plant and facilities; when two or more include an  
90 inspection of the physical plant and facilities in a regular schedule, the commissioner shall

91 designate one as the regular inspection agency;

92 (6) Assess, charge and collect fees for services provided by the local health department:

93 *Provided*, That fees for services shall be submitted to and approved by the commissioner:

94 *Provided, however*, That a local health department may bill health care service fees to a payor

95 which includes, but is not limited to, Medicaid, a Medicaid Managed Care Organization and the

96 Public Employees Insurance Agency for medical services provided: *Provided* further, that health

97 care service fees billed by a local health department are not subject to commissioner approval

98 and may be at the payor's maximum allowable rate.

99 (7) Contract for payment with any municipality, county or board of education for the

100 provision of local health services or for the use of public health facilities. Any contract shall be in

101 writing and permit provision of services or use of facilities for a period not to exceed one fiscal

102 year. The written contract may include provisions for annual renewal by agreement of the parties;

103 and

104 (8) Retain and make available child safety car seats, collect rental and security deposit

105 fees for the expenses of retaining and making available child safety car seats, and conduct public

106 education activities concerning the use and preventing the misuse of child safety car seats:

107 *Provided*, That this subsection is not intended to conflict with the provisions of section forty-six,

108 article fifteen, chapter seventeen-c of this code: *Provided, however*, That any local board of health

109 offering a child safety car seat program or employee or agent of a local board of health is immune

110 from civil or criminal liability in any action relating to the improper use, malfunction or inadequate

111 maintenance of the child safety car seat and in any action relating to the improper placement,

112 maintenance or securing of a child in a child safety car seat.

113 (c) The local boards of health are charged with protecting the health and safety, as well

114 as promoting the interests of the citizens of West Virginia. All state funds appropriated by the

115 Legislature for the benefit of local boards of health shall be used for provision of basic public

116 health services.

## CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

### ARTICLE 17. SANITARIANS.

#### §30-17-20. Termination of the State Board of Sanitarians.

1           (a) The State Board of Sanitarians is hereby terminated in accordance with section twelve,  
2 article ten, chapter four of this code. Effective July 1, 2018, the board is eliminated and the  
3 provisions of this article shall cease to be effective. Upon the effective date of this section, the  
4 board shall begin winding up its affairs and take all necessary steps to effectuate the termination  
5 of the board and its regulation of foresters.

6           (b) On or before June 30, 2018, the board shall dispose of all assets, property and records  
7 pursuant to section thirteen, article ten, chapter four of this code. All unexpended funds in the  
8 Sanitarians Operating Fund shall be transferred into the General Revenue Fund.

9           (c) Effective July 1, 2018, all legislative rules promulgated by the board in accordance with  
10 sections five and six of this article are terminated and have no further force or effect.

NOTE: The purpose of this bill is to terminate the State Board of Sanitarians and to provide that qualifications for public sanitarians be established through the classified service program for public employees.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.