

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 471**

BY SENATOR MARONEY

[Introduced January 24, 2022; referred to the  
Committee on Health and Human Resources]

1 A BILL to repeal §16-1-8, §16-1-13 and §16-1-21 of the Code of West Virginia, 1931, as amended;  
 2 to amend and reenact §16-1-2, §16-1-3 §16-1-4, §16-1-5, §16-1-6, §16-1-7, §16-1-10,  
 3 §16-1-11, §16-1-12, and §16-1-14 of said code; and to amend and reenact §16-2-2, §16-  
 4 2-10, §16-2-11, §16-2-12, §16-2-13, §16-2-14, and §16-2-17 of said code; all relating to  
 5 public health; repealing certain provisions; amending definitions; clarifying duties of the  
 6 Secretary; amending rule-making authority and the required experience of state health  
 7 officer; modifying duties of commissioner; clarifying commissioner’s service on advisory  
 8 boards; omitting requirement for annual report on health facility licensing account;  
 9 modifying provisions on disposition of fees received by commissioner, disbursement of  
 10 federal aid, and training of employees; clarifying meeting requirements and duties of local  
 11 board of health; modifying provision concerning appointment of local health officer;  
 12 amending powers of local health officer and financial provisions for local boards of health;  
 13 and omitting Secretary’s review of certain legislative rules.

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

**ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

**§16-1-2. Definitions.**

1 As used in this article:  
 2 (1) “Basic public health services” means those services that are necessary to protect the  
 3 health of the public. ~~The three areas of basic public health services are communicable and~~  
 4 ~~reportable disease prevention and control, community health promotion and environmental health~~  
 5 ~~protection~~  
 6 (2) “Bureau” means the Bureau for Public Health in the Department;  
 7 (3) “Combined local board of health” means one form of organization for a local board of  
 8 health and means a board of health serving any two or more counties or any county or counties  
 9 and one or more municipalities within or partially within the county or counties;  
 10 (4) “Commissioner” means the commissioner of the bureau, who is the state health officer;

11 (5) "County board of health" means one form of organization for a local board of health  
12 and means a local board of health serving a single county;

13 (6) "Department" means the West Virginia Department of Health and Human Resources;

14 (7) "Director" or "director of health" means the state health officer. Administratively within  
15 the department, the bureau through its commissioner carries out the public health functions of the  
16 department, unless otherwise assigned by the secretary;

17 (8) "Essential public health services" means the core public health activities necessary to  
18 promote health and prevent disease, injury and disability for the citizens of the state. The services  
19 include:

20 (A) Monitoring health status to identify community health problems;

21 (B) Diagnosing and investigating health problems and health hazards in the community;

22 (C) Informing, educating and empowering people about health issues;

23 (D) Mobilizing community partnerships to identify and solve health problems;

24 (E) Developing policies and plans that support individual and community health efforts;

25 (F) Enforcing laws and rules that protect health and ensure safety;

26 (G) Uniting people with needed personal health services and assuring the provision of  
27 health care when it is otherwise not available;

28 (H) Promoting a competent public health and personal health care workforce;

29 (I) Evaluating the effectiveness, accessibility and quality of personal and population-based  
30 health services; and

31 (J) Researching for new insights and innovative solutions to health problems;

32 ~~(9) "Licensing boards" means those boards charged with regulating an occupation,  
33 business or profession and on which the commissioner serves as a member~~

34 (10) "Local board of health", "local board" or "board" means a board of health serving one  
35 or more counties or one or more municipalities or a combination thereof;

36 (11) "Local health department" means the staff of the local board of health;

37 (12) "Local health officer" means the physician with a current West Virginia license to  
38 practice medicine who supervises and directs the activities, services, staff and facilities of the  
39 local health department and is appointed by the local board of health with approval by the  
40 commissioner;

41 (13) "Municipal board of health" means one form of organization for a local board of health  
42 and means a board of health serving a single municipality;

43 (14) "Performance-based standards" means generally accepted, objective standards such  
44 as rules or guidelines against which public health performance can be measured;

45 (15) "Potential source of significant contamination" means a facility or activity that stores,  
46 uses or produces substances or compounds with potential for significant contaminating impact if  
47 released into the source water of a public water supply;

48 ~~(16) "Program plan" or "plan of operation" means the annual plan for each local board of~~  
49 ~~health that must be submitted to the commissioner for approval~~

50 ~~(17)~~ (16) "Public groundwater supply source" means a primary source of water supply for  
51 a public water system which is directly drawn from a well, underground stream, underground  
52 reservoir, underground mine or other primary source of water supplies which is found underneath  
53 the surface of the state;

54 ~~(18)~~ (17) "Public surface water supply source" means a primary source of water supply for  
55 a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments  
56 or other primary sources of water supplies which are found on the surface of the state;

57 ~~(19)~~ (18) "Public surface water influenced groundwater supply source" means a source of  
58 water supply for a public water system which is directly drawn from an underground well,  
59 underground river or stream, underground reservoir or underground mine, and the quantity and  
60 quality of the water in that underground supply source is heavily influenced, directly or indirectly,  
61 by the quantity and quality of surface water in the immediate area;

62 ~~(20)~~ (19) "Public water system" means:

63 (A) Any water supply or system which regularly supplies or offers to supply water for  
64 human consumption through pipes or other constructed conveyances, if serving at least an  
65 average of twenty-five individuals per day for at least sixty days per year, or which has at least  
66 fifteen service connections, and shall include:

67 (i) Any collection, treatment, storage and distribution facilities under the control of the  
68 owner or operator of the system and used primarily in connection with the system; and

69 (ii) Any collection or pretreatment storage facilities not under such control which are used  
70 primarily in connection with the system;

71 (B) A public water system does not include a system which meets all of the following  
72 conditions:

73 (i) Consists only of distribution and storage facilities and does not have any collection and  
74 treatment facilities;

75 (ii) Obtains all of its water from, but is not owned or operated by, a public water system  
76 which otherwise meets the definition;

77 (iii) Does not sell water to any person; and

78 (iv) Is not a carrier conveying passengers in interstate commerce;

79 ~~(24)~~ (20) "Public water utility" means a public water system which is regulated by the West  
80 Virginia Public Service Commission pursuant to the provisions of chapter twenty-four of this code;

81 ~~(22)~~ (21) "Secretary" means the secretary of the department.

82 ~~(23)~~ (22) "Service area" means the territorial jurisdiction of a local board of health;

83 ~~(24)~~ "State Advisory Council on Public Health" means the advisory body charged by this  
84 article with providing advice to the commissioner with respect to the provision of adequate public  
85 health services for all areas in the state;

86 ~~(25)~~ "State Board of Health" means the secretary, notwithstanding any other provision of  
87 this code to the contrary, whenever and wherever in this code there is a reference to the State  
88 Board of Health;

89           ~~(26)~~ (23) “Zone of critical concern” for a public surface water supply is a corridor along  
 90 streams within a watershed that warrant more detailed scrutiny due to its proximity to the surface  
 91 water intake and the intake's susceptibility to potential contaminants within that corridor. The zone  
 92 of critical concern is determined using a mathematical model that accounts for stream flows,  
 93 gradient and area topography. The length of the zone of critical concern is based on a five-hour  
 94 time-of-travel of water in the streams to the water intake, plus an additional one-fourth mile below  
 95 the water intake. The width of the zone of critical concern is one thousand feet measured  
 96 horizontally from each bank of the principal stream and five hundred feet measured horizontally  
 97 from each bank of the tributaries draining into the principal stream.

**§16-1-3. Powers and duties of the secretary.**

- 1           (a) The secretary may establish a state public health system.
- 2           ~~(b) All powers and duties of the director of health previously established by former section~~  
 3 ~~ten of this article that are not specifically included in this chapter as powers and duties of the~~  
 4 ~~commissioner are powers and duties of the secretary~~
- 5           ~~(c)~~ As necessary for the effective, efficient and economical operation of the system, the  
 6 secretary may from time to time delegate, assign, transfer or combine responsibilities or duties to  
 7 or among employees of the department.
- 8           ~~(d)~~ (c) Within the limits of applicable federal law, the secretary may require every applicant  
 9 for a license, permit, certificate of registration, or registration under this chapter to place his or her  
 10 social security number on the application.
- 11           (d) The secretary may appoint advisory councils.

**§16-1-4. Proposal of rules by the secretary.**

- 1           ~~(a)~~ The secretary may propose legislative rules in accordance with the provisions of §29A-  
 2 3-1 ~~et seq.~~ of this code that ~~are necessary and proper to effectuate the purposes of this chapter.~~  
 3 ~~The secretary may appoint or designate advisory councils of professionals in the areas of~~  
 4 ~~hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and~~

5 ~~intellectual disability centers and any other areas necessary to advise the secretary on rules.~~

6 ~~(b) The rules may include, but are not limited to, the regulation of~~

7 (1) Land usage endangering the public health: *Provided*, That no rules may be  
8 promulgated or enforced restricting the subdivision or development of any parcel of land within  
9 which the individual tracts, lots or parcels exceed two acres each in total surface area and which  
10 individual tracts, lots or parcels have an average frontage of not less than 150 feet even though  
11 the total surface area of the tract, lot or parcel equals or exceeds two acres in total surface area,  
12 and which tracts are sold, leased or utilized only as single-family dwelling units. Notwithstanding  
13 the provisions of this subsection, nothing in this section may be construed to abate the authority  
14 of the department to:

15 (A) Restrict the subdivision or development of a tract for any more intense or higher density  
16 occupancy than a single-family dwelling unit;

17 (B) Propose or enforce rules applicable to single-family dwelling units for single-family  
18 dwelling unit sanitary sewerage disposal systems; or

19 (C) Restrict any subdivision or development which might endanger the public health, the  
20 sanitary condition of streams or sources of water supply;

21 (2) The sanitary condition of all institutions and schools, whether public or private, public  
22 conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open  
23 to the general public and inviting public patronage or public assembly, or tendering to the public  
24 any item for human consumption and places where trades or industries are conducted;

25 (3) Occupational and industrial health hazards, the sanitary conditions of streams, sources  
26 of water supply, sewerage facilities and plumbing systems and the qualifications of personnel  
27 connected with any of those facilities, without regard to whether the supplies or systems are  
28 publicly or privately owned; and the design of all water systems, plumbing systems, sewerage  
29 systems, sewage treatment plants, excreta disposal methods, and swimming pools in this state,  
30 whether publicly or privately owned;

31 (4) Safe drinking water, including:

32 (A) The maximum contaminant levels to which all public water systems must conform in  
33 order to prevent adverse effects on the health of individuals and, if appropriate, treatment  
34 techniques that reduce the contaminant or contaminants to a level which will not adversely affect  
35 the health of the consumer. The rule shall contain provisions to protect and prevent contamination  
36 of wellheads and well fields used by public water supplies so that contaminants do not reach a  
37 level that would adversely affect the health of the consumer;

38 (B) The minimum requirements for: Sampling and testing; system operation; public  
39 notification by a public water system on being granted a variance or exemption, or upon failure to  
40 comply with specific requirements of this section and rules promulgated under this section; record  
41 keeping; laboratory certification; as well as procedures and conditions for granting variances and  
42 exemptions to public water systems from state public water systems rules; and

43 (C) The requirements covering the production and distribution of bottled drinking water  
44 and may establish requirements governing the taste, odor, appearance and other consumer  
45 acceptability parameters of drinking water;

46 (5) Food and drug standards, including cleanliness, proscription of additives, proscription  
47 of sale and other requirements in accordance with §16-7-1 *et seq.* of this code as are necessary  
48 to protect the health of the citizens of this state;

49 (6) The training and examination requirements for emergency medical service attendants  
50 and emergency medical care technician-paramedics; the designation of the health care facilities,  
51 health care services, and the industries and occupations in the state that must have emergency  
52 medical service attendants and emergency medical care technician-paramedics employed, and  
53 the availability, communications and equipment requirements with respect to emergency medical  
54 service attendants and to emergency medical care technician-paramedics. Any regulation of  
55 emergency medical service attendants and emergency medical care technician- paramedics may  
56 not exceed the provisions of §16-4C-1 *et seq.* of this code;

57 (7) The health and sanitary conditions of establishments commonly referred to as bed and  
58 breakfast inns. For purposes of this article, "bed and breakfast inn" means an establishment  
59 providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may  
60 not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer  
61 rooms to install a restaurant-style or commercial food service facility. The secretary may not  
62 require an owner of a bed and breakfast providing sleeping accommodations of more than six  
63 rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast  
64 inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

65 (8) Fees for services provided by the Bureau for Public Health including, but not limited to,  
66 laboratory service fees, environmental health service fees, health facility fees, and permit fees;

67 (9) The collection of data on health status, the health system and the costs of health care;

68 ~~(c) The secretary shall propose a rule for legislative approval in accordance with the~~  
69 ~~provisions of §29A-3-1 et seq. of this code for (10) The distribution of state aid to local health~~  
70 ~~departments and basic public health services funds. The rule shall include the following provisions:~~  
71 in accordance with:

72 (A) Base allocation amount for each county;

73 (B) Establishment and administration of an emergency fund of no more than two percent  
74 of the total annual funds of which unused amounts are to be distributed back to local boards of  
75 health at the end of each fiscal year;

76 (C) A calculation of funds utilized for state support of local health departments;

77 (D) Distribution of remaining funds on a per capita weighted population approach which  
78 factors coefficients for poverty, health status, population density and health department  
79 interventions for each county and a coefficient which encourages counties to merge in the  
80 provision of public health services;

81 (E) A hold-harmless provision to provide that each local health department receives no  
82 less in state support for a period of four years beginning in the 2009 budget year.

83           ~~The Legislature finds that an emergency exists and, therefore, the secretary shall file an~~  
 84 ~~emergency rule to implement the provisions of this section pursuant to the provisions §29A-3-15~~  
 85 ~~of this code. The emergency rule is subject to the prior approval of the Legislative Oversight~~  
 86 ~~Commission on Health and Human Resources Accountability prior to filing with the Secretary of~~  
 87 ~~State.~~

88           ~~(d) The secretary may propose rules for legislative approval that may include the~~  
 89 ~~regulation of other health-related matters which the department is authorized to supervise and for~~  
 90 ~~which the rule-making authority has not been otherwise assigned~~

91           ~~(e) The secretary shall not review any repair or modernization of equipment at a public~~  
 92 ~~pool facility as long as such activity does not change the scope of the facility or its current use~~  
 93 ~~and such activity does not exceed \$25,000 in planned cost.~~

**§16-1-5. State health officer; appointment; qualifications; term.**

1           The Commissioner of the Bureau for Public Health is the state health officer and shall be  
 2 appointed by the secretary. The commissioner shall be ~~a physician~~ licensed under the laws of  
 3 this state to practice medicine or a person holding a doctorate degree in public health  
 4 administration. ~~The commissioner shall have not less than four years' experience in health~~  
 5 ~~services administration or a related field~~ The commissioner serves at the will and pleasure of the  
 6 secretary and shall not be actively engaged or employed in any other business, vocation or  
 7 employment, serving full time in the duties of the office as prescribed by this article.

**§16-1-6. Powers and duties of the commissioner.**

1           (a) The commissioner is the chief executive, administrative and fiscal officer of the Bureau  
 2 for Public Health and has the following powers and duties:

3           ~~(a)~~ (1) To supervise and direct the fiscal and administrative matters of the bureau, and in  
 4 that regard and in accordance with law, employ, fix the compensation of and discharge all persons  
 5 necessary for the proper execution of the public health laws of this state and the efficient and  
 6 proper discharge of the duties imposed upon, and execution of powers vested in the

7 commissioner by law and as directed by the secretary;

8 ~~(b) (2)~~ To enforce all laws of this state concerning public health. ~~to that end,~~

9 ~~(3) The commissioner shall make, or cause to be made, investigations and inquiries~~  
10 ~~respecting~~ To investigate the cause of disease, especially of epidemics and endemic conditions,  
11 and the means of prevention, suppression or control of those conditions; the source of sickness  
12 and mortality, ~~and~~ the effects of environment, employment, habits and circumstances of life on  
13 the public health.

14 ~~The commissioner shall further make, or cause to be made, inspections and examinations~~  
15 ~~of~~ (4) To inspect and examine food, drink and drugs offered for sale or public consumption in the  
16 manner the commissioner considers necessary to protect the public health and shall report all  
17 violations of laws and rules relating to the law to the prosecuting attorney of the county in which  
18 the violations occur;

19 ~~(e) (5)~~ To make complaint or cause proceedings to be instituted against any person,  
20 corporation or other entity for the violation of any public health law before any court or agency,  
21 without being required to give security for costs; the action may be taken without the sanction of  
22 the prosecuting attorney of the county in which the proceedings are instituted or to which the  
23 proceedings relate;

24 ~~(d) (6)~~ To promote the provision of essential public health services to citizens of this state;

25 ~~(e) (7)~~ To monitor the ~~administration,~~ operation and coordination of the local boards of  
26 health and local health officers;

27 ~~(f) (8)~~ To develop and maintain a state plan of operation that sets forth the needs of the  
28 state in the areas of public health; goals and objectives for meeting those needs; methods for  
29 achieving the stated goals and objectives; and needed personnel, funds and authority for  
30 achieving the goals and objectives;

31 ~~(g) (9)~~ To collect data as may be required to foster knowledge on the citizenry's health  
32 status, the health system and costs of health care;

33           ~~(h)~~ (10) To delegate to any appointee, assistant or employee any and all powers and  
34 duties vested in the commissioner, including, but not limited to, the power to execute contracts  
35 and agreements in the name of the bureau: *Provided*, That the commissioner is responsible for  
36 the acts of his or her appointees, assistants and employees;

37           ~~(i)~~ (11) To transfer ~~at the direction of the secretary, notwithstanding other provisions of this~~  
38 ~~code~~ any patient or resident between hospitals and facilities under the control of the commissioner  
39 and, by agreement with the state Commissioner of Corrections and otherwise in accord with law,  
40 accept a transfer of a resident of a facility under the jurisdiction of the state Commissioner of  
41 Corrections;

42           ~~(j)~~ (12) To make periodic reports to the Governor and to the Legislature relative to specific  
43 subject areas of public health, ~~the state facilities under the supervision of the commissioner or~~  
44 other matters affecting the public health of the people of the state; ~~at the direction of the secretary;~~

45           ~~(k) At the direction of the secretary~~ (13) To accept and use for the benefit of the health of  
46 the people of this state, any gift or devise of any property or thing which is lawfully given: *Provided*,  
47 That if any gift is for a specific purpose ~~or for a particular state hospital or facility~~ it shall be used  
48 as specified. Any profit which may arise from any gift or devise of any property or thing shall be  
49 deposited in a special revenue fund with the state Treasurer and shall be used only as specified  
50 by the donor or donors;

51           ~~(l)~~ (14) To acquire by condemnation or otherwise any interest, right, privilege, land or  
52 improvement and hold title to the land or improvement, for the use or benefit of the state or a state  
53 hospital or facility, ~~and, by and with the consent of the Governor, and at the direction of the~~  
54 ~~secretary~~ to sell, exchange or otherwise convey any interest, right, privilege, land or improvement  
55 acquired or held by the state, state hospital or state facility and deposit the proceeds from the  
56 sale, exchange or other conveyance into the hospital services revenue account. Any  
57 condemnation proceedings shall be conducted pursuant to chapter fifty-four of this code;

58           ~~(m)~~ (15) To inspect and enforce rules to control the sanitary conditions of and license all

59 institutions and health care facilities as set forth in this chapter, including, but not limited to,  
60 schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops,  
61 factories, labor camps, places of entertainment, hotels, motels, tourist camps, all other places  
62 open to the general public and inviting public patronage or public assembly, or tendering to the  
63 public any item for human consumption and places where trades or industries are conducted;

64 ~~(n)~~ (16) To make inspections, conduct hearings, and to enforce the legislative rules  
65 concerning occupational and industrial health hazards, the sanitary condition of streams, sources  
66 of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel  
67 connected with the supplies, facilities or systems without regard to whether they are publicly or  
68 privately owned; and to make inspections, conduct hearings and enforce the legislative rules  
69 concerning the design of chlorination and filtration facilities and swimming pools;

70 ~~(o)~~ ~~To provide in accordance with this subdivision and the definitions and other provisions~~  
71 ~~of article one-a, chapter twenty-seven 27-1A-1 et seq. of this code, and as directed by the~~  
72 ~~secretary, for a comprehensive program for the care, treatment and rehabilitation of alcoholics~~  
73 ~~and drug abusers; for research into the cause and prevention of alcoholism and drug abuse; for~~  
74 ~~the training and employment of personnel to provide the requisite rehabilitation of alcoholics and~~  
75 ~~drug abusers; and for the education of the public concerning alcoholism and drug abuse~~

76 ~~(p)~~ (17) To provide in accordance with this subdivision for a program for the care, treatment  
77 and rehabilitation of the parents of sudden infant death syndrome victims; for the training and  
78 employment of personnel to provide the requisite rehabilitation of parents of sudden infant death  
79 syndrome victims; for the education of the public concerning sudden infant death syndrome; ~~for~~  
80 ~~the responsibility of reporting to the Legislature on a quarterly basis the incidence of sudden infant~~  
81 ~~death syndrome cases occurring in West Virginia~~ for the education of police, employees and  
82 volunteers of all emergency services concerning sudden infant death syndrome; ~~for the state~~  
83 ~~sudden infant death syndrome advisory council to develop regional family support groups to~~  
84 ~~provide peer support to families of sudden infant death syndrome victims~~ and for requesting

85 appropriation of funds in both federal and state budgets to fund the sudden infant death syndrome  
86 program;

87 ~~(e)~~ (18) To establish and maintain a state hygienic laboratory as an aid in performing the  
88 duties imposed upon the commissioner, and to employ chemists, bacteriologists, and other  
89 employees that may be necessary to properly operate the laboratory. The commissioner may  
90 establish branches of the state laboratory at any points within the state that are necessary in the  
91 interest of the public health;

92 ~~(f)~~ ~~To establish and fund a uniform health professionals data system to collect and~~  
93 ~~maintain uniform data on all health professionals in the state. This data shall include, but not be~~  
94 ~~limited to, the following information about each health professional: His or her name, profession,~~  
95 ~~the area of the state where he or she is practicing, his or her educational background, his or her~~  
96 ~~employer's name, and number of years practicing within the profession. The boards provided for~~  
97 ~~in articles three, four, four-a, five, seven, seven-a, fourteen, fourteen-a, fifteen, sixteen, twenty,~~  
98 ~~twenty-one, twenty-three, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six and~~  
99 ~~thirty-seven, chapter thirty of this code shall annually collect the data on health professionals~~  
100 ~~under their jurisdiction in the format prescribed by the commissioner. Each board shall pay to the~~  
101 ~~bureau annually, an amount determined by the commissioner to be a pro rata portion, for~~  
102 ~~anticipated expenses to establish and operate the uniform health professionals data system~~  
103 ~~required by this section. The commissioner may standardize data collection methods if necessary~~  
104 ~~to implement the provisions of this section. The commissioner shall publish annually and make~~  
105 ~~available, upon request, a report setting forth the data which was collected the previous year;~~  
106 ~~areas of the state which the collected data indicates have a shortage of health professionals; and~~  
107 ~~projections, based upon the collected data, as to the need for more health professionals in certain~~  
108 ~~areas~~

109 ~~(s)~~ (19) To expend, for the purpose of performing the public health duties imposed on the  
110 bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may

111 make advance payments to public and nonprofit health services providers when the commissioner  
 112 determines it is necessary for the initiation or continuation of public health services. The advance  
 113 payments, being in derogation of the principle of payment only after receipt of goods or services,  
 114 shall be authorized only after serious consideration by the commissioner of the necessity of the  
 115 advance payments and shall be for a period no greater than ninety days in advance of rendition  
 116 of service or receipt of goods and continuation of health services; ~~and~~

117 ~~(†) (20)~~ To exercise all other powers delegated to the commissioner by the secretary or by  
 118 this chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities  
 119 necessary and incident to the authority and area of concern entrusted to the bureau or the  
 120 commissioner.

121 (b) The commissioner shall establish within the Bureau for Public Health, a Center for  
 122 Local Public Health. The center shall:

123 (1) Enhance the quality and availability of essential public health services throughout the  
 124 state provided by local boards of health;

125 (2) Provide technical assistance and consultation to a local board of health agency;

126 (3) Allocate and distribute funding based upon performance based standards;

127 (4) Provide technical assistance to the local public health workforce;

128 (5) Facilitate bi-directional communication;

129 (6) Establish a uniform state-wide computer system for the reporting of public health data;

130 (7) Inventory the services provided by a local board of health;

131 (8) Facilitate sharing of services between local boards of health;

132 (9) Create performance-based evaluation system based on standards established by  
 133 legislative rule; and

134 (10) Enforce compliance with performance standards.

**§16-1-7. Commissioner serving on advisory boards.**

1 ~~(a) Effective July 1, 2012, the commissioner serves on the West Virginia Board of~~

2 ~~Medicine, provided in §30-3-1 et seq. of this code.~~

3 ~~(b) Effective July 1, 2012~~ The commissioner serves on the following advisory councils,  
4 boards, and commissions:

5 (1) The Advisory Committee on Cancer (Cancer Registry);

6 (2) The Air Quality Board;

7 (3) The Appalachian States Low-level Radioactive Waste Commission;

8 (4) The Child Fatality Review Team;

9 (5) The Childhood Immunization Advisory Committee;

10 (6) The Early Intervention Coordinating Council;

11 (7) The Interagency Council on Osteoporosis;

12 (8) The Sewage Advisory Board;

13 (9) The State Emergency Response Commission;

14 (10) The State Groundwater Coordinating Committee;

15 (11) The Water Development Authority;

16 (12) The West Virginia Commission for the Deaf and Hard of Hearing;

17 (13) The West Virginia Infrastructure and Jobs Development Council; and

18 (14) Any other advisory council, board, or commission as assigned by the secretary except  
19 for business, professional, or occupational licensing boards.

20 ~~(c) Notwithstanding any other provision of this code to the contrary~~ The commissioner  
21 may, ~~at his or her discretion,~~ designate in writing a representative to serve in his or her stead at  
22 the meetings and in the duties of all boards and commissions on which the commissioner is  
23 designated as an ex officio member. The appropriately designated representative ~~or proxy~~ acts  
24 with the full ~~power and~~ authority of the commissioner in voting, ~~acting upon matters concerning~~  
25 ~~the public health and welfare~~ and other business that is properly the duty of any board or  
26 commission. The representative serves ~~as proxy~~ at the commissioner's will and pleasure. ~~The~~  
27 ~~provisions of this section do not apply to the West Virginia Board of Medicine, the Air Quality~~

28 ~~Board, or other board, commission, or body on which the commissioner is designated by this code~~  
 29 ~~as chairman ex officio, secretary ex officio, or a board, commission, or body on which the~~  
 30 ~~commissioner is designated by this code as being that person whose signature must appear on~~  
 31 ~~licenses, minutes, or other documents necessary to carry out the intents and purposes of the~~  
 32 ~~board, commission, or body~~

**§16-1-8. Duties and powers of the commissioner; authorization to cooperate with any state health planning and development agencies and any federal government agencies in hospital and other health facility programs.**

1 [Repealed.]

**§16-1-10. Disposition of permit, license or registration fees received by the commissioner; report to Auditor; health facility licensing account.**

1 (a) The commissioner shall receive and account for all moneys required to be paid as fees  
 2 to the bureau for permits, licenses or registrations, pursuant to the provisions of this code and  
 3 legislative rules.

4 (b) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the state  
 5 Treasury a separate account which shall be designated “the health facility licensing account.” The  
 6 commissioner shall deposit to the health facility licensing account all health facility licensing fees  
 7 and may spend the moneys deposited in the health facility licensing account in accordance with  
 8 the laws of this state to implement activities of health facility licensing. As part of the annual state  
 9 budget, the Legislature shall appropriate for health facility licensure all moneys deposited in the  
 10 health facilities licensing account.

11 Any remaining balance including accrued interest in the account at the end of any fiscal  
 12 year shall not revert to the General Revenue Fund, but shall remain in the account, and the  
 13 moneys may be spent after appropriation by the Legislature in ensuing fiscal years. ~~The~~  
 14 ~~commissioner shall make an annual report to the Legislature on the health facility licensing~~  
 15 ~~account, including the previous fiscal year's expenditures and projected expenditures for the next~~

16 fiscal year

**§16-1-11. Disposition of fees for services charged and received by the commissioner;  
health services fund.**

1 (a) ~~Notwithstanding any other provisions of this chapter~~ The commissioner may assess  
2 and charge reasonable fees for the provision of services provided by the bureau: *Provided*, That  
3 no individual may be denied health care services by the bureau because of the inability of the  
4 individual to pay for services. ~~when services are provided to similarly situated individuals who~~  
5 ~~have the ability to pay for them~~ The fees shall be deposited into a special revolving fund in the  
6 state Treasury designated the "health services fund."

7 (b) Any balance including accrued interest in the special revolving fund at the end of any  
8 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund for use by  
9 the commissioner for funding health programs in the ensuing fiscal years.

10 (c) ~~The commissioner may authorize reasonable fees for the provision of services by local~~  
11 ~~boards of health as created in article two of this chapter: *Provided*, That no individual may be~~  
12 ~~denied health care services by the local health department because of the inability of the individual~~  
13 ~~to pay for services when services are provided to similarly situated individuals who have the ability~~  
14 ~~to pay for them. The fees shall be deposited into the local board of health account for use by the~~  
15 ~~local board for funding health programs. The commissioner shall establish the fees on a sliding~~  
16 ~~fee basis determined by an individual's ability to pay: *Provided, however*, That the local board of~~  
17 ~~health may submit a request through the administrator for third party reimbursement where the~~  
18 ~~request is appropriate: *Provided further*, That Local boards of health that establish fees shall~~  
19 ~~annually submit a schedule of fees, a sliding fee scale and an accounting of amounts collected to~~  
20 ~~the commissioner as part of its program plan or plan of operation.~~

21 (d) ~~The secretary shall propose legislative rules in accordance with article three, chapter~~  
22 ~~twenty-nine-a of this code, setting forth the fees established, assessed, and charged by the~~  
23 ~~commissioner~~

**§16-1-12. Receipt and disbursement of federal aid and other moneys for health purposes.**

1           (a) The commissioner ~~at the direction of the secretary~~ may accept, receive and receipt for  
2 federal moneys and other moneys, either public or private, for and in behalf of this state or any  
3 county or municipality of this state, for public health purposes, or for the establishment or  
4 construction of public health facilities, whether the work is to be done by the state, or by the county  
5 or municipality, or jointly, aided by grants of aid from the United States, upon such terms and  
6 conditions as are, or may be, prescribed by the laws of the United States and regulations made  
7 thereunder. The commissioner may act as the agent of the state or any of its agencies, or of any  
8 county or municipality of this state, upon the request of any agency of the state or of any county  
9 or municipality, in accepting, receiving and receipting for the moneys in its behalf, for public health  
10 facilities financed either, in whole or in part, by federal moneys.

11           (b) The state, or any agency of the state, or any county or municipality may, designate the  
12 commissioner as its agent for the purposes set forth in subsection (a) of this section and the  
13 agency, county or municipality may enter into an agreement with the commissioner prescribing  
14 the terms and conditions of the agency in accordance with federal laws and regulations, and with  
15 the laws of this state. The moneys paid over by the United States government shall be retained  
16 by the state or paid over to the counties or municipalities under the terms and conditions imposed  
17 by the United States government in making the grants.

18           (c) All moneys accepted for disbursement pursuant to this section shall be deposited by  
19 ~~the secretary~~ or the commissioner in the state Treasury, and unless otherwise prescribed by the  
20 authority from which the money is received, kept in separate funds, designated according to the  
21 purpose for which the moneys were made available, and held by the state in trust for those  
22 purposes. All moneys are hereby appropriated for the purposes for which the moneys were made  
23 available and shall be expended in accordance with federal laws and regulations and with the  
24 laws of this state. The commissioner may, whether acting for the state or one of its agencies, or  
25 as the agency for any county or municipality, when requested by the United States government

26 or any agency or department of the United States government, or when requested by the state, a  
27 state agency, or any county or municipality for which the moneys have been made available,  
28 disburse the moneys for the designated purposes, but this shall not include any other authorized  
29 method of disbursement.

**§16-1-13. Hospital services revenue account; health facilities long-range plans.**

1 [Repealed.]

**§16-1-14. Training of employees.**

1 ~~To insure adequate standards of public service~~ The commissioner may provide technical  
2 and specialized instruction for employees of the bureau.

3 ~~If upon review of the personnel records of any employee of the bureau, the commissioner~~  
4 ~~is of the opinion that it would be in the best interest of the bureau to provide the employee with~~  
5 ~~additional training or instruction, not to exceed nine months in any four-year period, in the field or~~  
6 ~~vocation in which the employee is engaged, the commissioner may, upon approval of the~~  
7 ~~secretary, direct that the employee obtain the additional training or instruction at any place the~~  
8 ~~commissioner considers suitable. Designated attendance of the employee shall be compensated~~  
9 ~~for as a part of regular employment. The commissioner is further authorized to may pay out of~~  
10 federal funds and such state funds as are available to match such federal funds, any required  
11 tuition or enrollment fees.

**§16-1-21. Creation of Diabetes Action Plan.**

1 [Repealed.]

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

**§16-2-2. Definitions.**

1 Unless the context in which used clearly requires a different meaning, as used in this  
2 article:

3 (a) "Basic public health services" means those services that are necessary to protect the  
4 health of the public and that a local board of health must provide. ~~The three areas of basic public~~

5 ~~health services are communicable and reportable disease prevention and control, community~~  
6 ~~health promotion, and environmental health protection~~

7 (b) "Bureau" means the Bureau for Public Health in the Department of Health and Human  
8 Resources;

9 (c) "Clinical and categorical programs" means those services provided to individuals of  
10 specified populations and usually focus on health promotion or disease prevention. These  
11 services are not considered comprehensive health care but focus on specific health issues such  
12 as breast and cervical cancer, prenatal and pediatric health services and home health services;

13 (d) "Combined local board of health" is one form of organization for a local board of health  
14 and means a board of health serving any two or more counties or any county or counties and one  
15 or more municipalities within or partially within the county or counties;

16 (e) "Commissioner" means the commissioner of the Bureau for Public Health, who is the  
17 state health officer;

18 (f) "Communicable and reportable disease prevention and control" ~~is one of three areas~~  
19 ~~of basic public health services each local board of health must offer. Services shall include means~~  
20 disease surveillance, case investigation and follow-up, outbreak investigation, response to  
21 epidemics, and prevention and control of ~~rabies, sexually transmitted diseases, vaccine~~  
22 ~~preventable diseases, HIV/AIDS, tuberculosis and other~~ communicable and reportable diseases;

23 (g) "Community health promotion" ~~is one of three areas of basic public health services~~  
24 ~~each local board of health must offer. Services shall include means assessing and reporting~~  
25 community health needs to improve health status, facilitating community partnerships including  
26 identifying the community's priority health needs, mobilization of a community around identified  
27 priorities, and monitoring the progress of community health education services;

28 (h) "County board of health" is one form of organization for a local board of health and  
29 means a local board of health serving a single county;

30 (i) "Department" means the West Virginia Department of Health and Human Resources;

31 ~~(j) "Director" or "director of health" means the state health officer. Administratively within~~  
32 ~~the department, the Bureau for Public Health through its commissioner carries out the public~~  
33 ~~health function of the department, unless otherwise assigned by the secretary~~

34 ~~(k) "Environmental health protection" is one of three areas of basic public health services~~  
35 ~~each local board of health must offer. Services shall include means efforts to protect the~~  
36 ~~community from environmental health risks including, inspection of housing, institutions,~~  
37 ~~recreational facilities, sewage and wastewater facilities; inspection and sampling of drinking water~~  
38 ~~facilities; and response to disease outbreaks or disasters;~~

39 ~~(l) "Enhanced public health services" means services that focus on health promotion~~  
40 ~~activities to address a major health problem in a community, are targeted to a particular population~~  
41 ~~and assist individuals in this population to access the health care system; such as lead and radon~~  
42 ~~abatement for indoor air quality and positive pregnancy tracking. Enhanced public health services~~  
43 ~~are services a local health department may offer~~

44 ~~(m) "Local board of health," "local board" or "board" means a board of health serving one~~  
45 ~~or more counties or one or more municipalities or a combination thereof;~~

46 ~~(n) "Local health department" means the staff of the local board of health;~~

47 ~~(o) "Local health officer" means the individual physician with a current West Virginia~~  
48 ~~license to practice medicine who supervises and directs the activities of the local health~~  
49 ~~department services, staff and facilities and is appointed by the local board of health; with approval~~  
50 ~~by the commissioner~~

51 ~~(p) "Municipal board of health" is one form of organization for a local board of health and~~  
52 ~~means a board of health serving a single municipality;~~

53 ~~(q) "Performance-based standards" means generally accepted, objective standards such~~  
54 ~~as rules or guidelines against which a local health department's level of performance can be~~  
55 ~~measured;~~

56 ~~(r) "Primary care services" means health care services, including medical care, that~~

57 emphasize first contact patient care and assume overall and ongoing responsibility for the patient  
58 in health maintenance and treatment of disease. Primary care services are services that local  
59 boards of health may offer if the board has determined that an unmet need for primary care  
60 services exists in its service area. Basic public health services funding may not be used to support  
61 these services;

62 (e) "Program plan" or "plan of operation" means the annual plan for each local board of  
63 health that must be submitted to the commissioner for approval;

64 (f) "Secretary" means the secretary of the state Department of Health and Human  
65 Resources; and

66 (g) "Service area" means the territorial jurisdiction of the local board of health.

**§16-2-10. Local board of health; meetings; attendance; bylaws; quorum; chairperson selection, powers and duties.**

1 (a) Each A local board of health ~~may~~ shall meet as often as necessary to orderly and  
2 efficiently execute its duties and exercise its powers ~~Provided, That in a service area having a~~  
3 ~~population of less than thirty thousand residents, the board shall meet no fewer than four times~~  
4 ~~per year and in a service area having a population of more than thirty thousand residents, the~~  
5 ~~board shall meet~~ but, no fewer than six times per year. Members of a local board of health shall  
6 attend board meetings in compliance with attendance policies established by its bylaws or rules.

7 (b) ~~Each A local board of health is authorized to and shall adopt and may amend bylaws~~  
8 ~~or rules governing the time and place of its regular meetings, procedures and method of~~  
9 ~~conducting its meetings. including quorum, meeting attendance policies, requirements for written~~  
10 ~~minutes and board actions as public records, duties and election process for officers, process for~~  
11 ~~filling board vacancies, number, duties, tenure and eligibility of members, and any other matters~~  
12 ~~affecting how the board is organized to perform its duties~~ A quorum of the board for transacting  
13 business is a simple majority of the constituent membership of the board.

14 (c) ~~Each A local board of health, pursuant to its bylaws, shall elect from its members a~~

15 chairperson. The chairperson shall serve for a term of one year and may be reelected for  
16 additional terms. The chairperson may, on behalf of the board, sign documents, execute contracts  
17 and otherwise act for and in the name of the board in all matters within its lawful powers and as  
18 duly authorized by a majority of the board members.

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

1 (a) ~~Each~~ A 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) ~~(A)~~ (A) 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) ~~(B)~~ (B) Environmental health protection including the promoting and maintaining of clean  
10 and safe air, water, food and facilities and the administering of public health laws as specified by  
11 the 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) ~~(C)~~ (C) 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 (D) Immunizations; and

18 (E) Threat preparedness.

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

21 (3) ~~Submit a general plan of operation to the commissioner for approval, if it receives any~~

22 ~~state or federal money for health purposes. This program plan shall be submitted annually and~~  
23 ~~comply with provisions of the local board of health standards administrative rule~~

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

26 ~~(5)~~ (4) Permit the commissioner to act by and through it, as needed. The commissioner  
27 may enforce all public health laws of this state, the rules and orders of the secretary, any county  
28 commission orders or municipal ordinances of the board's service area relating to public health,  
29 and the rules and orders of the local board within the service area of a local board. The  
30 commissioner may enforce these laws, rules and orders when, in the opinion of the commissioner,  
31 a public health emergency exists or when the local board fails or refuses to enforce public health  
32 laws and rules necessary to prevent and control the spread of a communicable or reportable  
33 disease dangerous to the public health. The expenses incurred shall be charged against the  
34 counties or municipalities concerned;

35 ~~(6)~~ (5) Deposit all moneys and collected fees into an account designated for local board  
36 of health purposes. The moneys for a municipal board of health shall be deposited with the  
37 municipal treasury in the service area. The moneys for a county board of health shall be deposited  
38 with the county treasury in the service area. The moneys for a combined local board of health  
39 shall be deposited in an account as designated in the plan of combination: *Provided*, That nothing  
40 contained in this subsection is intended to conflict with the provisions of article one, chapter  
41 sixteen of this code;

42 ~~(7)~~ (6) Submit vouchers or other instruments approved by the board and signed by the  
43 local health officer or designated representative to the county or municipal treasurer for payment  
44 of necessary and reasonable expenditures from the county or municipal public health funds:  
45 *Provided*, That a combined local board of health shall draw upon its public health funds account  
46 in the manner designated in the plan of combination;

47 ~~(8)~~ (7) Participate in audits, be in compliance with tax procedures required by the state

48 and annually develop a budget for the next fiscal year;

49 ~~(9)~~ (8) Perform public health duties assigned by order of a county commission or by  
50 municipal ordinance consistent with state public health laws; and

51 ~~(10)~~ (9) Enforce the public health laws of this state and any other laws of this state  
52 applicable to the local board.

53 (b) ~~Each~~ A local board of health ~~created, established and operated pursuant to the~~  
54 ~~provisions of this article~~ may:

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

57 (2) Employ or contract with ~~any technical, administrative, clerical or other~~ persons, to serve  
58 as needed and at the will and pleasure of the local board of health. ~~Staff and any contractors~~  
59 ~~providing services to the board shall comply with applicable West Virginia certification and~~  
60 ~~licensure requirements. Eligible staff employed by the board shall be covered by the rules of the~~  
61 ~~Division of Personnel under section six, article ten, chapter twenty-nine of this code. However,~~  
62 ~~any local board of health may, in the alternative and with the consent and approval of the~~  
63 ~~appointing authority, establish and adopt a merit system for its eligible employees. The merit~~  
64 ~~system may be similar to the state merit system and may be established by the local board by its~~  
65 ~~order, subject to the approval of the appointing authority, adopting and making applicable to the~~  
66 ~~local health department all, or any portion of any order, rule, standard, or compensation rate in~~  
67 ~~effect in the 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 as approved by the appointing authority. ~~*Provided*, That fees for services shall be submitted to~~  
94 ~~and approved by the commissioner: *Provided, however*, That~~ A local health department may bill  
95 health care service fees to a payor which includes, but is not limited to, Medicaid, a Medicaid  
96 Managed Care Organization and the Public Employees Insurance Agency for medical services  
97 provided: *Provided further*, that health care service fees billed by a local health department are  
98 not subject to commissioner approval 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.

**§16-2-12. Local health officer; term of appointment; qualifications; reappointment;  
compensation; and removal.**

1 A local board of health shall appoint a full-time or part-time local health officer ~~with~~  
2 ~~approval by the commissioner~~. The local health officer shall be a physician currently licensed in  
3 this state and knowledgeable in the science of public health. A local health officer serves at the  
4 will and pleasure of the local board for a term of one year and is eligible for reappointment at  
5 compensation determined by the local board of health.

6 A local health officer may be removed from office by the commissioner if the local health  
7 officer fails or refuses to carry out the lawful orders or rules of the secretary in the event the

8 commissioner determines a public health emergency exists or if the local health officer fails or  
9 refuses to enforce public health laws and rules necessary to prevent and control the spread of  
10 communicable or reportable diseases dangerous to the public health. Upon removal, a successor  
11 local health officer shall immediately be appointed by the board pursuant to the provisions of this  
12 article.

**§16-2-13. Local health officer; powers and duties.**

1 (a) A local health officer serves as the executive officer of the local board and under its  
2 supervision, a local health officer shall administer the provisions of this article, all other laws of  
3 this state and the rules and orders of the secretary of the department relating to public health and  
4 applicable to the local board's service area, any county commission orders and municipal  
5 ordinances of the board's service area relating to public health and the rules and orders of the  
6 local board.

7 (b) A local health officer has the following additional powers ~~and duties~~ which may be  
8 delegated with the approval of the board:

9 (1) To attend local board meetings as a nonvoting member. A local health officer serves  
10 as secretary at all board meetings and is responsible for maintaining the board's offices, meeting  
11 minutes and records;

12 (2) To supervise and direct the activities of the local board's health services, employees  
13 and facilities;

14 (3) To ensure that procedures are established for the receipt of communicable or  
15 reportable disease reports, ~~from local physicians and other reporting sources~~ and for the  
16 transmittal of the reports to the commissioner;

17 (4) To perform mandatory HIV tests on persons convicted of sex-related offenses and  
18 resident within the service area; and

19 (5) To determine when sufficient corrections have been made to warrant removal of any  
20 restrictions or limitations placed on an individual or entity for public health purposes by an

21 employee of the local board of health.

**§16-2-14. Financial responsibilities of appointing authorities for local boards of health; levies; appropriation of county or municipal general funds for public health purposes; state funding.**

1 The appointing authorities for local boards of health shall provide financial support for the  
2 operation of the local health department. The county commission of any county or the governing  
3 body of any municipality in which a local board of health is established ~~pursuant to the provisions~~  
4 ~~of this article~~, or the county commission of any county or the governing body of any municipality  
5 who is a participating member of a combined local board of health may levy a county or municipal  
6 tax to provide funds for the local board of health: *Provided*, That the tax may not exceed 3¢ on  
7 each \$100 of assessed valuation of the taxable property in the levying county or municipality,  
8 according to the latest assessment.

9 The county commission of any county or the governing body of any municipality in which  
10 a local board of health is established, ~~pursuant to the provisions of this article~~, or the county  
11 commission of any county or the governing body of any municipality who is a participating member  
12 of a combined local board of health may appropriate and spend money from the county or  
13 municipal general funds for public health purposes and to pay the expenses of the operation of  
14 the local board of health services and facilities.

15 The commissioner and the secretary may pay over and contribute to any board of health,  
16 ~~created and maintained pursuant to the provisions of this article~~ the sum or sums of money that  
17 may be available from funds included in appropriations made for the department of ~~Health and~~  
18 ~~Human Resources~~. The commissioner may withhold all or part of any funds until a local board of  
19 health submits an acceptable plan to correct deficiencies in the local board's program plan.

**§16-2-17. Event permit fees good for a year, reciprocity from other state health departments.**

1 (a) A temporary food service permit issued by a local or county health department to an

2 in-state vendor in their county of residence for preparing and selling non-potentially hazardous  
3 foods at a festival, scheduled event, or similar activity which is valid for any time period less than  
4 annual and any permit fee paid shall be valid for an entire calendar year for the vendor regardless  
5 of the length of time for which the first permit is issued and regardless of the number of subsequent  
6 festivals, events or activities for which the vendor requires the same permit. Non-potentially  
7 hazardous foods mean food that does not require time or temperature control for safety to limit  
8 pathogenic microorganism growth or toxin formation.

9 (b) The permit shall also be valid in the counties that border the vendor's county of  
10 residence or 25 air miles, whichever is greater. No health department within these defined areas  
11 may charge a permit fee to any in-state vendor that has received a temporary food service permit  
12 to prepare and sell non-potentially hazardous foods by the other in-state health department during  
13 the same calendar year for the same type of activity, but may place conditions and limitations  
14 upon an issued permit to assure compliance with that health departments rules and standards for  
15 the type of permit being issued. Each vendor must provide notice to the local health department  
16 with jurisdiction at least 14 days prior to the start of the festival, event or activity. The permit must  
17 be visibly posted at the festival, event, or activity or the permit is not valid.

18 ~~(c) The Secretary shall review and modernize legislative rules regarding local boards of~~  
19 ~~health fees located in 64 CSR 30 in the next filing period~~

NOTE: The purpose of this bill relates generally to public health; repealing certain provisions; amending definitions; clarifying duties of the Secretary; amending rulemaking authority and required experience for the state health officer; modifying duties of commissioner; clarifying commissioner's service on advisory boards; omitting requirement for annual report on health facility licensing account; modifying provisions on disposition of fees received by commissioner, disbursement of federal aid, and training of employees; clarifying meeting requirements and duties of local board of health; modifying provision concerning appointment of local health officer; amending powers of local health officer and financial provisions for local boards of health; and omitting Secretary's review of certain legislative rules.

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