

SB128 ENGROSSED



1 SB128
2 J324YNY-2
3 By Senator Melson
4 RFD: Healthcare
5 First Read: 20-Feb-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Department of Public Health; to amend Sections 22-1-1, 22-2-1, 22-2-4, 22-2-5, 22-2-6, and 22-2-8, Code of Alabama 1975, to abolish the State Board of Health and confer all duties and authorities provided by law to the State Committee of Public Health; to revise the membership of the State Committee of Public Health; to provide minimum qualifications for the State Health Officer; to provide a mechanism to require the State Committee of Public Health to review certain official actions taken by the State Health Officer and take disciplinary action against the State Health Officer; to add Section 22-2-8.1 to the Code of Alabama 1975, to require certain emergency rules, orders, or directives issued by the State Health Officer to be approved by the Governor and a copy to be filed with the Secretary of State before the emergency rule, order, or other directive has the full force and effect of law; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 22-1-1, 22-2-1, 22-2-4, 22-2-5,



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29 22-2-6, and 22-2-8, Code of Alabama 1975, are amended to read
30 as follows:

31 "§22-1-1

32 For the purposes of this ~~title, the phrase "State~~
33 ~~Health Department"~~code, the Alabama Department of Public
34 Health shall mean the ~~State Board of Health or the State~~
35 ~~Committee of Public Health, when acting for the State Board of~~
36 ~~Health."~~

37 "§22-2-1

38 ~~The Medical Association of the State of Alabama, as~~
39 ~~constituted under the laws now in force or which hereafter may~~
40 ~~be in force, is the~~ The State Board of Health is abolished.
41 All powers and duties of the State Board of Health, as those
42 powers and duties exist on September 30, 2024, are conferred
43 upon the State Committee of Public Health created under
44 Section 22-2-4, and the State Committee of Public Health shall
45 act as the State Board of Health for purposes of this code."

46 "§22-2-4

47 (a) There is hereby created a State Committee of Public
48 Health, ~~which shall be composed of 12 members of the board of~~
49 ~~censors of the Medical Association of the State of Alabama and~~
50 ~~the chairman~~ Beginning October 1, 2024, the committee shall
51 consist of:

52 (1) The chairs of the four councils ~~which are created~~
53 in Section 22-2-9;

54 (2) The Governor or his or her designee;

55 (3) One physician from each Congressional district

56 appointed by the Medical Association of the State of Alabama;

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57 ~~The medical doctor members of the committee shall be selected~~
58 ~~by the State Board of Health, one from each of the United~~
59 ~~States congressional districts and the remainder from the~~
60 ~~state at large.~~

61 (4) One physician appointed by the Alabama Medical
62 Directors Association;

63 (5) One physician appointed by the Alabama State
64 Society of Anesthesiologists; and

65 (6) Two physicians practicing medicine in rural areas,
66 one physician appointed by the Alabama Academy of Family
67 Physicians, and the other physician being an
68 obstetrician-gynecologist appointed by the Alabama Chapter of
69 the American College of Obstetricians and Gynecologists.

70 (b) All physician members of the State Committee of
71 Public Health shall be residents of this state and shall be
72 licensed to practice medicine by the Medical Licensure
73 Commission of Alabama.

74 (c) A majority of the membership of the State Committee
75 of Public Health shall elect a chairman and vice-chairman
76 chair and a vice-chair to serve one term of four years. Upon
77 incapacitation or resignation of the chairman, the
78 vice-chairmanIf the chair is unable to serve, the vice-chair
79 shall succeed to the chairmanship position of chair of the
80 committee. Each member of the State Committee of Public Health
81 shall have one vote, except the chairman chair who shall vote
82 only in case of a tie. The State Health Officer shall be ex
83 officio secretary to the committee, though not a member
84 thereof, and he or she shall have no vote.



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85 (d) The members of the committee shall receive per diem
86 at a rate of ~~\$100.00~~ one hundred dollars (\$100) per day ~~or any~~
87 ~~portion thereof that such committee members shall be~~ when in
88 attendance at an official meeting or function of the
89 committee. In addition, each committee member shall receive
90 reimbursement for subsistence and travel in accordance with
91 state law for each day actively engaged in the duties of
92 ~~their~~ this or her office."

93 "§22-2-5

94 Whenever the words "State Board of Health" are used in
95 this ~~title, or in any chapter or subsection thereof, said~~
96 code, the words shall mean the "State Committee of Public
97 Health," as created in Section 22-2-4, ~~except when the State~~
98 ~~Board of Health is in actual session assembled. The State~~
99 ~~Committee of Public Health, as constituted by this chapter,~~
100 ~~shall have and possess all the prerogatives and powers and~~
101 ~~duties heretofore prescribed by law for the State Board of~~
102 ~~Health and shall act for said board. The State Board of Health~~
103 ~~may by a three-fifths vote alter or amend any action of the~~
104 ~~State Committee of Public Health, but only when said board is~~
105 ~~in session assembled."~~

106 "§22-2-6

107 (a) ~~When the State Board of Health is not in session,~~
108 ~~the State Committee of Public Health shall act for said board~~
109 ~~and have and discharge all the prerogatives and duties of said~~
110 ~~board, including the adoption and promulgation of rules and~~
111 ~~regulations. Meetings of the State Committee of Public Health~~
112 shall be held monthly. A majority of the members shall



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113 constitute a quorum. Special meetings of the committee may be
114 called by the ~~chairman~~chair upon 10 days prior written notice
115 to the committee members~~thereof~~.

116 (b) The State Committee of Public Health shall adopt
117 rules as necessary to promote and maintain public health in
118 this state."

119 "§22-2-8

120 ~~(a) The State Committee of Public Health shall elect an~~
121 ~~executive officer who shall be~~ Governor shall appoint, from a
122 list of names submitted by the State Committee of Public
123 Health, a physician licensed in the State of Alabama to be
124 known as the State Health Officer~~and~~. The State Committee of
125 Public Health shall fix his or her term of office and salary.
126 The qualifications of this individual shall be determined by
127 the State Committee of Public Health, which, at a minimum,
128 shall include possession of a full, active, and unrestricted
129 license to practice medicine in Alabama.

130 ~~Before entering upon the duties of his office, the~~
131 ~~State Health Officer shall execute to the State of Alabama a~~
132 ~~bond, to be approved by the Governor, in the amount~~
133 ~~of \$5,000.00, for the faithful performance of his duties.~~

134 (b) (1) The State Health Officer, so elected shall,
135 under the direction of the State Committee of Public Health
136 and with the approval of the State Personnel Board, shall fix
137 the salaries of the medical employees of the State Committee
138 of Public Health. When the State Committee of Public Health is
139 not in session, the State Health Officer, as executive officer
140 of the Alabama Department of Public Health, shall act for said



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141 the committee and shall have and discharge all the
142 ~~prerogatives~~powers and duties of ~~said the~~ committee. ~~He~~ The
143 State Health Officer shall report his or her actions to the
144 committee at its next meeting after ~~such the~~ action is taken,
145 and ~~such the~~ action of the State Health Officer shall then be
146 subject to confirmation or modification by the committee.

147 (2) If the Governor, Lieutenant Governor, Speaker of
148 the House of Representatives, or President Pro Tempore of the
149 Senate determine, in his or her opinion, that the State Health
150 Officer has taken an official action that exceeds the State
151 Health Officer's statutory authority in a manner that
152 demonstrates a willful disregard for the office, he or she may
153 petition the State Committee of Public Health to determine
154 whether the State Health Officer should be disciplined and
155 whether the official action should be modified, reversed, or
156 affirmed. Disciplinary action may include removal from office.
157 This review shall be initiated within 30 days of receipt of
158 written notice sent by certified mail to the Chair of the
159 State Committee of Public Health.

160 (c) The State Health Officer shall exercise general
161 supervision over county boards of health and county health
162 officers and promptly report to ~~said the~~ county boards of
163 health any delinquencies of official duty on the part of ~~said~~
164 a ~~county health officers~~ officer which may come to his or her
165 knowledge., ~~keep himself informed in regard to all diseases~~
166 ~~which may be in danger of invading the state~~

167 (d) The State Health Officer shall stay informed with
168 regard to an actual or potential outbreak of any disease



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169 affecting the state and, as far as authorized by law, take
170 prompt measures to prevent ~~such invasions~~ an outbreak and keep
171 the Governor and the Legislature informed as to the health
172 conditions prevailing in the state, especially as to outbreaks
173 of any of the diseases enumerated in Chapter ~~11 of this~~
174 ~~title~~ 11A, and submit to the Governor and Legislature such
175 recommendations as he or she deems proper to control, ~~such~~
176 ~~outbreaks~~ prevent, or minimize the outbreak."

177 Section 2. Section 22-2-8.1 is added to the Code of
178 Alabama 1975, to read as follows:

179 §22-2-8.1

180 (a) An emergency rule, order, or directive relating to
181 containment or mitigation measures to address a disease
182 outbreak that is generally applicable to the public at large,
183 or to businesses, institutions, or other entities, shall not
184 be effective unless the rule, order, or directive is first
185 approved by the Governor and a copy is filed in the Office of
186 the Secretary of State.

187 (b) Subsection (a) does not prohibit or restrict the
188 State Health Officer from issuing individualized orders or
189 directives to persons for violations of public health laws
190 under Title 22, Code of Alabama 1975, or rules adopted
191 thereunder, or closure of certain state waters for oyster
192 harvesting. Individualized orders or directives include, but
193 are not limited to, all of the following:

194 (1) Emergency suspensions or proposed revocations of
195 permits, licenses, or authorizations to engage in activities
196 governed by public health laws or rules thereunder.



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197 (2) Fines issued for violations of public health laws.

198 (3) Directives to destroy adulterated or contaminated
199 food, milk, or milk products.

200 (4) Directives to abate unsanitary conditions caused or
201 maintained by a person which are, or are likely to become,
202 menaces to public health.

203 (5) Quarantine or isolation orders issued to
204 individuals having, or suspected of having, a communicable
205 disease.

206 (c) The State Health Officer shall report emergency
207 rules, orders, and directives he or she issues to the State
208 Committee of Public Health at its next meeting after the
209 action is taken, and the action shall then be subject to
210 confirmation or modification by the committee.

211 (d) Nothing in this section shall permit the State
212 Health Officer or Governor to require an individual resident
213 to be vaccinated against COVID-19 or any variant thereof.

214 Section 3. This act shall become effective on October
215 1, 2024; provided, however, the provisions of Section 22-2-8,
216 Code of Alabama 1975, providing for the appointment of a State
217 Health Officer by the Governor shall become operative when a
218 vacancy occurs in the Office of the State Health Officer on or
219 after October 1, 2024.

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220
221
222 Senate

223 Read for the first time and referred20-Feb-24
224 to the Senate committee on
225 Healthcare
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227 Read for the second time and placed21-Mar-24
228 on the calendar:
229 0 amendments
230
231 Read for the third time and passed09-Apr-24
232 as amended
233 Yeas 34
234 Nays 0
235 Abstains 0
236
237

238 Patrick Harris,
239 Secretary.
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