

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2095

BY DELEGATES MCGEEHAN AND FOLK

[Introduced February 8, 2017;

Referred to the Committee on Health and Human

Resources then Government Organization.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §16-2-11a, relating to the rule-making authority of local boards of health;
 3 establishing a procedure by which a local governing body may review and vote upon the
 4 adoption, amendment or revocation of existing local board of health rules and requiring
 5 that the governing body adopt all proposed local board of health rules by a majority vote
 6 before any new rule may be enforced.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §16-2-11a, to read as follows:

ARTICLE 2. LOCAL BOARDS OF HEALTH.

§16-2-11a. Procedure for Enacting Local Board of Health Rules.

1 (a) Short Title. -- This section shall be known and may be cited as the “Local Government
 2 Accountability Act.”

3 (b) Definitions. -- For the purposes of this section:

4 (1) “Governing body” means the local governing body that created a local board of health.

5 (2) “Rule” means any public health rule, regulation or standard promulgated by a local
 6 board of health.

7 (c) Effective immediately, a local board of health may not promulgate any new rule unless
 8 the governing body adopts the rule by a majority vote.

9 (d) On or before September 1, 2017, the governing body may require a local board of
 10 health to submit any and all local board of health rules existing prior to the enactment of this
 11 section to the governing body for review. Upon review of the existing rules, the governing body
 12 may take one of the following actions, by a majority vote:

13 (1) Adopt the rules in their current form;

14 (2) Adopt the rules with amendments; or

15 (3) Revoke any or all of the rules.

16 (e) Effective immediately, a local board of health shall submit any proposed rule to the
17 governing body and request approval by a majority vote. Within ninety days of receiving a
18 proposed rule from a local board of health, the governing body shall take one of the following
19 actions, by a majority vote:

20 (1) Adopt the proposed rule in its current form;

21 (2) Adopt the rule with amendments; or

22 (3) Reject the rule.

23 (f) Upon a governing body's adoption of a local board of health rule, the local board of
24 health is authorized to enforce such rule: *Provided*, That nothing in this section authorizes a local
25 board of health to exceed its scope of authority under section eleven of this article.

NOTE: The purpose of this bill is to establish a procedure by which a local governing body may review and vote upon the adoption, amendment or revocation of existing local board of health rules and to require that a governing body officially adopt all proposed local board of health rules by a majority vote before any new rule may be enforced.

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