

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 269

By Senator Martin

[Introduced February 12, 2025; referred
to the Committee on Government Organization]

A BILL to amend and reenact §16-1-4 and §16-1-9a of the Code of West Virginia, 1931, as amended, relating to the regulation of public water systems; and providing that the Secretary of the Department of Health may not require public water systems or businesses to have backflow preventers.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.
§16-1-4. Proposal of rules by the secretary.

(a) The secretary may propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code that include:

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

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

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

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

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public

any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply: Provided, That the secretary may not promulgate rules that require a public water supply system or business to have backflow preventers, sewerage facilities, and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods, and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

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

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

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

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

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

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

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

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

(10) The distribution of state aid to local health departments and basic public health services funds in accordance with:

(A) Base allocation amount for each county;

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

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

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

(E) The provisions of this subdivision are in effect until the performance standard funding formula is created and established by legislative rule.

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

§16-1-9a. Regulation of public water systems.

(a) The ~~commissioner~~ secretary shall regulate public water systems as prescribed in this section.

(b) The ~~commissioner~~ secretary shall establish by legislative rule, in accordance with §29A-3-1 *et seq.* of this code:

(1) The maximum contaminant levels to which all public water systems shall conform in order to prevent adverse effects on the health of individuals;

(2) Treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer;

(3) Provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(4) Minimum requirements for:

(A) Sampling and testing;

(B) System operation;

(C) Public notification by a public water system on being granted a variance or exemption or upon failure to comply with specific requirements of this section and regulations promulgated under this section;

(D) Recordkeeping;

(E) Laboratory certification; and

(F) Procedures and conditions for granting variances and exemptions to public water systems from state public water systems' regulations;

(5) Requirements covering the production and distribution of bottled drinking water;

(6) Requirements governing the taste, odor, appearance, and other consumer acceptability parameters of drinking water; and

~~(7) Any requirements for a water supply system the commissioner determines is necessary to be equipped with a backflow prevention assembly, all maintenance activities must be documented and provided to the commissioner upon request; and~~

~~(8)~~ (7) Any other requirement the ~~commissioner~~ secretary finds necessary to effectuate the provisions of this article.

(c) The ~~commissioner~~ secretary, or his or her authorized representative or designee, may enter any part of a public water system, whether or not the system is in violation of a legal requirement, for the purpose of inspecting, sampling, or testing and shall be furnished records or information reasonably required for a complete inspection.

(d) The ~~commissioner~~ secretary, or his or her authorized representative or designee, may conduct an evaluation necessary to assure the public water system meets federal safe drinking water requirements. The public water system shall provide a written response to the commissioner within 30 days of receipt of the evaluation by the public water system, addressing corrective actions to be taken as a result of the evaluation.

(e)(1) Any individual or entity who violates any provision of this article, or any of the rules or orders issued pursuant to this article, is liable for a civil penalty not less than \$1,000 nor more than \$5,000. Each day's violation shall constitute a separate offense.

(2) For a willful violation of a provision of this article, or of any of the rules or orders issued under this article, an individual or entity shall be subject to a civil penalty of not more than \$10,000 and each day's violation shall be grounds for a separate penalty.

(3) Civil penalties are payable to the ~~commissioner~~ secretary. All moneys collected under this section shall be deposited into a restricted account known as the Safe Drinking Water Fund. All moneys deposited into the fund shall be used by the ~~commissioner~~ secretary to provide technical assistance to public water systems.

(f) The commissioner, or his or her authorized representative or designee, may also seek injunctive relief in the circuit court of the county in which all or part of the public water system is located for threatened or continuing violations.

(g) By July 1, 2020, a public water system supplying water to the public within the state shall immediately, but in no instance later than six hours, report the occurrence and the lifting of each advisory to local departments of health and to local office of emergency management 911 answering point.

(h) By January 1, 2022, a public water system shall make available to interested customers boiled water advisories promptly through a text or a voice alert mass notification system.

NOTE: The purpose of this bill is to prohibit the Secretary of the Department of Health from promulgating rules that require public water systems or businesses to have backflow preventers.

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