

SB128 ENROLLED



1 SB128
2 8P8B2HH-2
3 By Senator Melson
4 RFD: Healthcare
5 First Read: 20-Feb-24



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1 Enrolled, An Act,

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 22-1-1, 22-2-1, 22-2-4, 22-2-5,
24 22-2-6, and 22-2-8, Code of Alabama 1975, are amended to read
25 as follows:

26 "§22-1-1

27 For the purposes of this ~~title, the phrase "State~~
28 ~~Health Department"~~code, the Alabama Department of Public



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29 Health shall mean the ~~State Board of Health or the State~~
30 ~~Committee of Public Health, when acting for the State Board of~~
31 ~~Health."~~

32 "§22-2-1

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

41 "§22-2-4

42 (a) There is hereby created a State Committee of Public
43 Health which, until May 1, 2025, shall be composed of 12
44 members of the board of censors of the Medical Association of
45 the State of Alabama and the ~~chairman~~ chair of the four
46 councils which are created in Section 22-2-9. ~~The medical~~
47 ~~doctor members of the committee shall be selected by the State~~
48 ~~Board of Health, one from each of the United States~~
49 ~~congressional districts and the remainder from the state at~~
50 ~~large.~~

51 (b) Beginning May 1, 2025, the State Committee of
52 Public Health shall consist of:

53 (1) Eleven physicians appointed by the Medical
54 Association of the State of Alabama, consisting of one from
55 each congressional district of the state and four at-large
56 physicians, two of whom shall serve a one-year term and two of



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57 whom shall serve a two-year term;

58 (2) One physician appointed by the Alabama State
59 Society of Anesthesiologists; and

60 (3) The chair of each of the four councils created in
61 Section 22-2-9.

62 (c) Beginning May 1, 2026, the State Committee of
63 Public Health shall consist of:

64 (1) Nine physicians appointed by the Medical
65 Association of the State of Alabama, consisting of one from
66 each congressional district of the state and two at-large
67 physicians;

68 (2) One physician appointed by the Alabama State
69 Society of Anesthesiologists;

70 (3) One physician appointed by the Alabama Academy of
71 Family Physicians;

72 (4) One physician appointed by the Alabama Chapter of
73 the American College of Obstetricians and Gynecologists; and

74 (5) The chair of each of the four councils created in
75 Section 22-2-9.

76 (d) Beginning May 1, 2027, the State Committee of
77 Public Health shall consist of:

78 (1) One physician from each congressional district of
79 the state appointed by the Medical Association of the State of
80 Alabama;

81 (2) One physician appointed at-large by the Medical
82 Association of the State of Alabama from its Minority
83 Physicians Section;

84 (3) One physician appointed by the Alabama State



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85 Society of Anesthesiologists;

86 (4) One physician appointed by the Alabama Academy of
87 Family Physicians;

88 (5) One physician appointed by the Alabama Chapter of
89 the American College of Obstetricians and Gynecologists;

90 (6) One physician appointed by the Alabama Medical
91 Directors Association; and

92 (7) The chair of each of the four councils created in
93 Section 22-2-9.

94 (e) (1) The Medical Association of the State of Alabama
95 shall stagger initial appointments so that no more than three
96 members appointed from congressional districts shall be
97 appointed to the committee in any one year.

98 (2) Beginning with all appointments made on or after
99 May 1, 2025, appointed members of the State Committee of
100 Public Health, except as provided in subdivision (1) and the
101 at-large members in subdivision (b) (1), shall serve a term of
102 three years. All members shall be eligible for reappointment,
103 but may not serve more than two additional terms.

104 (f) All physician members of the State Committee of
105 Public Health shall be residents of this state and shall be
106 licensed to practice medicine by the Medical Licensure
107 Commission of Alabama.

108 (g) The appointing authorities shall coordinate their
109 appointments to assure the membership of the State Committee
110 of Public Health is inclusive and reflects the racial, gender,
111 geographic, urban, rural, and economic diversity of the state.

112 (h) A majority of the membership of the State Committee



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113 of Public Health shall elect a ~~chairman and vice-chairman~~
114 chair and a vice-chair to serve one term of four years;
115 provided, however, the vice-chair elected to serve on or after
116 May 1, 2025 shall serve a term of one year. Beginning May 1,
117 2026, both the chair and vice-chair shall serve concurrently
118 and shall each serve one term of three years. Upon
119 ~~incapacitation or resignation of the chairman, the~~
120 ~~vice-chairman~~If the chair is unable to serve, the vice-chair
121 shall succeed to the ~~chairmanship~~ position of chair of the
122 committee. Each member of the State Committee of Public Health
123 shall have one vote, except the ~~chairman~~ chair who shall vote
124 only in case of a tie. The State Health Officer shall be ex
125 officio secretary to the committee, though not a member
126 thereof, and he or she shall have no vote.

127 (i) The members of the committee shall receive per diem
128 at a rate of ~~\$100.00~~ one hundred dollars (\$100) per day ~~or any~~
129 ~~portion thereof that such committee members shall be~~ when in
130 attendance at an official meeting or function of the
131 committee. In addition, each committee member shall receive
132 reimbursement for subsistence and travel in accordance with
133 state law for each day actively engaged in the duties of
134 ~~their~~ this or her office."

135 "§22-2-5

136 Whenever the words "State Board of Health" are used in
137 this ~~title, or in any chapter or subsection thereof, said~~
138 code, the words shall mean the "State Committee of Public
139 Health," as created in Section 22-2-4, ~~except when the State~~
140 ~~Board of Health is in actual session assembled. The State~~



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141 ~~Committee of Public Health, as constituted by this chapter,~~
142 ~~shall have and possess all the prerogatives and powers and~~
143 ~~duties heretofore prescribed by law for the State Board of~~
144 ~~Health and shall act for said board. The State Board of Health~~
145 ~~may by a three-fifths vote alter or amend any action of the~~
146 ~~State Committee of Public Health, but only when said board is~~
147 ~~in session assembled."~~

148 "§22-2-6

149 ~~(a) When the State Board of Health is not in session,~~
150 ~~the State Committee of Public Health shall act for said board~~
151 ~~and have and discharge all the prerogatives and duties of said~~
152 ~~board, including the adoption and promulgation of rules and~~
153 ~~regulations. Meetings of the State Committee of Public Health~~
154 ~~shall be held monthly. A majority of the members shall~~
155 ~~constitute a quorum. Special meetings of the committee may be~~
156 ~~called by the ~~chairman~~ chair upon 10 days prior written notice~~
157 ~~to the committee members thereof.~~

158 ~~(b) The State Committee of Public Health shall adopt~~
159 ~~rules as necessary to promote and maintain public health in~~
160 ~~this state."~~

161 "§22-2-8

162 ~~(a) The State Committee of Public Health shall elect an~~
163 ~~executive officer who shall be Governor shall appoint, from a~~
164 ~~list of names submitted by the State Committee of Public~~
165 ~~Health, a physician licensed in the State of Alabama to be~~
166 ~~known as the State Health Officer ~~and~~ The State Committee of~~
167 ~~Public Health shall fix his or her term of office and salary.~~
168 ~~The qualifications of this individual shall be determined by~~



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169 the State Committee of Public Health, which, at a minimum,
170 shall include possession of a full, active, and unrestricted
171 license to practice medicine in Alabama.

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

176 (b) (1) The State Health Officer, so elected shall,
177 under the direction of the State Committee of Public Health
178 and with the approval of the State Personnel Board, shall fix
179 the salaries of the medical employees of the State Committee
180 of Public Health. When the State Committee of Public Health is
181 not in session, the State Health Officer, as executive officer
182 of the Alabama Department of Public Health, shall act for ~~said~~
183 the committee and shall have and discharge all the
184 prerogatives powers and duties of ~~said the~~ committee. ~~He~~ The
185 State Health Officer shall report his or her actions to the
186 committee at its next meeting after ~~such the~~ the action is taken,
187 and ~~such the~~ the action of the State Health Officer shall then be
188 subject to confirmation or modification by the committee.

189 (2) If the Governor, Lieutenant Governor, Speaker of
190 the House of Representatives, or President Pro Tempore of the
191 Senate determines, and at least two other of the
192 aforementioned public officials agree, that the State Health
193 Officer has taken an official action that exceeds the State
194 Health Officer's statutory authority in a manner that
195 demonstrates a willful disregard for the office, the
196 aforementioned public officials in agreement may jointly



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197 petition the State Committee of Public Health to determine
198 whether the State Health Officer should be disciplined and
199 whether the official action should be modified, reversed, or
200 affirmed. Disciplinary action may include removal from office.
201 This review shall be initiated within 30 days of receipt of
202 written notice sent by certified mail to the Chair of the
203 State Committee of Public Health.

204 (c) The State Health Officer shall exercise general
205 supervision over county boards of health and county health
206 officers and promptly report to ~~said~~ the county boards of
207 health any delinquencies of official duty on the part of ~~said~~
208 a county health officers ~~officer~~ which may come to his or her
209 knowledge., ~~keep himself informed in regard to all diseases~~
210 ~~which may be in danger of invading the state~~

211 (d) The State Health Officer shall stay informed with
212 regard to an actual or potential outbreak of any disease
213 affecting the state and, as far as authorized by law, take
214 prompt measures to prevent ~~such invasions~~ an outbreak and keep
215 the Governor and the Legislature informed as to the health
216 conditions prevailing in the state, especially as to outbreaks
217 of any of the diseases enumerated in Chapter ~~11 of this~~
218 ~~title~~ 11A, and submit to the Governor and Legislature such
219 recommendations as he or she deems proper to control, such
220 ~~outbreaks~~ prevent, or minimize the outbreak."

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

223 §22-2-8.1

224 (a) An emergency rule, order, or directive relating to



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225 containment or mitigation measures to address a disease
226 outbreak that is generally applicable to the public at large,
227 or to businesses, institutions, or other entities, shall not
228 be effective unless the rule, order, or directive is first
229 approved by the Governor and a copy is filed in the Office of
230 the Secretary of State.

231 (b) Subsection (a) does not prohibit or restrict the
232 State Health Officer from issuing individualized orders or
233 directives to persons for violations of public health laws
234 under Title 22, Code of Alabama 1975, or rules adopted
235 thereunder, or closure of certain state waters for oyster
236 harvesting. Individualized orders or directives include, but
237 are not limited to, all of the following:

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

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

242 (3) Directives to destroy adulterated or contaminated
243 food, milk, or milk products.

244 (4) Directives to abate unsanitary conditions caused or
245 maintained by a person which are, or are likely to become,
246 menaces to public health.

247 (5) Quarantine or isolation orders issued to
248 individuals having, or suspected of having, a communicable
249 disease.

250 (c) The State Health Officer shall report emergency
251 rules, orders, and directives he or she issues to the State
252 Committee of Public Health at its next meeting after the



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253 action is taken, and the action shall then be subject to
254 confirmation or modification by the committee.

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

258 Section 3. This act shall become effective on October
259 1, 2024; provided, however, the provisions of Section 22-2-8,
260 Code of Alabama 1975, providing for the appointment of a State
261 Health Officer by the Governor shall become operative when a
262 vacancy occurs in the Office of the State Health Officer on or
263 after October 1, 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 09-Apr-24

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 30-Apr-24

Senate concurred in House amendment 30-Apr-24

By: Senator Melson