

To: New Jersey Law Revision Commission
From: Beshoy Shokralla
Re: Public Health - N.J.S. 26:1-1
Date: July 10, 2017

MEMORANDUM

Executive Summary

In reviewing Title 26 Health and Vital Statistics¹ it was found that there were two potentially duplicative definition sections. A preliminary examination revealed that both sections, N.J.S. 26:1-1 and 26:1A-1, define the same terms, and do so with similar wording. As a result, the two statutory sections are nearly indistinguishable, and might benefit from consolidation.

Title 26

The first two chapters in Title 26 establish the Department of Health in New Jersey, and define what kind of powers it has, who is in charge, and how it operates. The first chapter presently consists of only one section that defines terms that will be used in the law. Legislative history reveals that previously, chapter 26:1 once expanded on these terms and defined the State Health Department. The law was amended three times, in 1947, 1950, and 1951, leading to the deletion of most of 26:1 and the creation of 26:1A. At the time this area of the law was last amended, the Legislature chose to retain 26:1 even after the substantive provisions were moved to 26:1A.

The terms defined in chapter 1 are: “State Department”, “Department of Health”, “Department”, “Commissioner”, “Director”, “Council”, “Division”, “Division Director”, “Local Board”, and “Local Board of Health”.² In the next chapter, 1A, section one sets out to define the exact same terms, save for the word “Director”. The terms in both of these chapters are defined to mean the same things, and for the most part use the same wording. This is true in every case except for the term “Local Board”/“Local Board of Health”, which has a longer definition in N.J.S. 26:1-1. That section defines the terms as follows:

“Local board” or “local board of health” means the board of health of any municipality or the boards, body, or officers in such municipality lawfully exercising any of the powers of a local board of health under the laws governing such municipality and when, pursuant to law any local board of health is superseded by a consolidated local board of health or a county local board of health, and the functions, powers and duties conferred and imposed by this Title upon such local board of health shall thereupon be transferred to, and exercised and performed by, such consolidated local board of health or county

¹ N. J. Stat. Ann § 26

² N. J. Stat. Ann. § 26:1-1

local board of health, as the case may be, the term “local board of health” or “local board” as used in this Title shall thereafter be deemed to mean and include such consolidated local board of health, or county local board of health so far as relates to the exercise of such functions, powers and duties.

N.J.S. 26:1A-1, however, defines the terms in the following way:

“Local board” or “local board of health” means the board of health of any municipality or the boards, bodies or officers in such municipality lawfully exercising any of the powers of a local board of health under the laws governing such municipality, and includes any consolidated local board of health or county local board of health created and established pursuant to law.

The slightly shorter definition³ appears to be a more concise way of defining the term, rather than a substantive change in the definition of the term as defined in the earlier version of the statute.

Conclusion

Staff seeks authorization to conduct additional research and outreach regarding N.J.S. 26:1-1 and N.J.S. 26:1-1A, to consolidate the two sections into a single one in order to eliminate duplication, so long as consolidation poses no detriment to the statutory scheme and does not lead to confusion.

³ N. J. Stat. Ann. § 26:1A-1