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26-21-18. Church operated facilities.

Nothing in this chapter shall be construed to authorize or require interference with the establishment or operation of a hospital or nursing home for the practice of religious tenets by any recognized church or denomination administered by mental or spiritual means without the use of drugs whether gratuitously or for compensation, to the sick and suffering if compliance with statutes and regulations on environmental protection and life safety is established.

History: C. 1953, 26-21-18, enacted by L. 1981, ch. 126, § 20. persons in practice of religious tenets, not subject to administrator licensure requirement, § 58-15-11.
Cross-References. — Facilities for care of

26-21-19. Life and Health Insurance Guaranty Association Act not amended.

The provisions of this chapter do not amend, affect, or alter the provisions of Chapter 28, Title 31A.

History: C. 1953, 26-21-19, enacted by L. 1981, ch. 126, § 20; 1985, ch. 242, § 3.

CHAPTER 22

PRO-COMPETITIVE CERTIFICATE OF NEED ACT

(Repealed by Laws 1986, ch. 194, § 21.)

26-22-1 to 26-22-22. Repealed.

Repeals. — Laws 1986, ch. 194, § 21 repeals Chapter 22 of Title 26 (L. 1981, ch. 126, § 21; 1983, ch. 136, §§ 1 to 11), the “Utah Pro-competitive Certificate of Need Act.” Earlier §§ 26-22-1 to 26-22-42 had been repealed by Laws 1981, ch. 126, § 1.

CHAPTER 23

ENFORCEMENT PROVISIONS AND PENALTIES

Section		Section	
26-23-1.	Legal advice and representation for department.	26-23-5.	Unlawful acts concerning certificates, records and reports — Unlawful transportation or acceptance of dead human body.
26-23-2.	Administrative review of actions of department or director.	26-23-6.	Criminal and civil penalties and liability for violations.
26-23-3.	Violation of public health laws or orders unlawful.	26-23-7.	Application of enforcement procedures and penalties.
26-23-4.	Unlawful acts by department officers and employees.		

<p>Section 26-23-8. Representatives of department authorized to enter regulated premises.</p> <p>26-23-9. Authority of department as to functions transferred from other agencies.</p>	<p>Section 26-23-10. Religious exemptions from code — Regulation of state-licensed healing system practice unaffected by code.</p>
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26-23-1. Legal advice and representation for department.

The attorney general shall be the legal adviser for the department and the executive director and shall defend them in all actions and proceedings brought against either of them. The county attorney of the county in which a cause of action arises or a public offense occurs shall bring any action, civil or criminal, requested by the executive director to abate a condition which exists in violation of, or to prosecute for the violation of or for the enforcement of, the public health laws or standards, orders, and rules of the department. If the county attorney fails to act, the executive director may bring any such action and shall be represented by the attorney general or, with the approval of the attorney general, by special counsel.

History: C. 1953, 26-23-1, enacted by L. 1981, ch. 126, § 22. 1967, ch. 174, § 21; 1969, ch. 197, § 71), relating to dental health. Present §§ 26-23-1 to 26-23-10 were enacted by § 22 of the act.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former § 26-23-1 (L.

COLLATERAL REFERENCES

Am. Jur. 2d. — 39 Am. Jur. 2d Health §§ 36-38. ment health officer's warrantless search — post-Camara cases, 53 A.L.R.4th 1168.
C.J.S. — 39A C.J.S. Health and Environment §§ 48-51. **Key Numbers.** — Health and Environment ⇄ 37.
A.L.R. — Propriety of state or local govern-

26-23-2. Administrative review of actions of department or director.

Any person aggrieved by any action or inaction of the department or its executive director may request an adjudicative proceeding by following the procedures and requirements of Chapter 46b, Title 63, the Administrative Procedures Act.

History: C. 1953, 26-23-2, enacted by L. 1981, ch. 126, § 22; 1987, ch. 12, § 9; 1987, ch. 161, § 66; 1988, ch. 72, § 4. ment or its executive director may request agency action and appropriate adjudicative proceedings" and deleted the second, third, and fourth sentences listing some procedural requirements for hearings to guarantee the parties' due process rights.

Amendment Notes. — The 1988 amendment, effective April 25, 1988, rewrote the first sentence, which had read "Any person aggrieved by any action or inaction of the depart-

COLLATERAL REFERENCES

Journal of Contemporary Law. — Utah's Medicaid Program: A Senior's Eligibility Guide for Private Practitioners, 14 J. Contemp. L. 1 (1988).

26-23-3. Violation of public health laws or orders unlawful.

It shall be unlawful for any person, association, or corporation, and the officers thereof:

(1) to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, or regulation issued thereunder; or

(2) to fail to remove or abate from private property under the person's control at his own expense, within 48 hours, or such other reasonable time as the health authorities shall determine, after being ordered to do so by the health authorities, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the jurisdiction and control of the department, whether the person, association, or corporation shall be the owner, tenant, or occupant of such property; provided, however, when any such condition is due to an act of God, it shall be removed at public expense; or

(3) to pay, give, present, or otherwise convey to any officer or employee of the department any gift, remuneration or other consideration, directly or indirectly, which such officer or employee is forbidden to receive by the provisions of this chapter.

(4) to fail to make or file reports required by law or rule of the department relating to the existence of disease or other facts and statistics relating to the public health.

History: C. 1953, 26-23-3, enacted by L. 1981, ch. 126, § 22.

26-23-4. Unlawful acts by department officers and employees.

It shall be unlawful for any officer or employee of the department:

(1) To accept any gift, remuneration, or other consideration, directly or indirectly, for an incorrect or improper performance of the duties imposed upon him by or in behalf of the department or by the provisions of this chapter.

(2) To perform any work, labor, or services other than the duties assigned to him on behalf of the department during the hours such officer or employee is regularly employed by the department, or to perform his duties as an officer or employee of the department under any condition or arrangement that involves a violation of this or any other law of the state.

History: C. 1953, 26-23-4, enacted by L. 1981, ch. 126, § 22.

26-23-5. Unlawful acts concerning certificates, records and reports — Unlawful transportation or acceptance of dead human body.

It shall be unlawful for any person, association, or corporation and the officers thereof:

(1) to willfully and knowingly make any false statement in a certificate, record, or report required to be filed with the department, or in an application for a certified copy of a vital record, or to willfully and knowingly supply false information intending that such information be used in the preparation of any such report, record, or certificate or amendment thereof;

(2) to make, counterfeit, alter, amend, or mutilate any certificate, record, or report required to be filed under this code or a certified copy of such certificate, record, or report without lawful authority and with the intent to deceive;

(3) to willfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy thereof, including any that are counterfeited, altered, amended, or mutilated;

(4) with the intent to deceive, to willfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that such certificate or certified copy was issued upon information which is false in whole or in part or which relates to the birth of another person, whether living or deceased;

(5) to willfully and knowingly furnish or process a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purpose of deception by a person other than the person to whom the certificate of birth relates;

(6) without lawful authority, to possess any certificate, record or report, required by the department or a copy or certified copy of such certificate, record or report, knowing it to have been stolen or otherwise unlawfully obtained; or

(7) to willfully and knowingly transport or accept for transportation, interment, or other disposition a dead human body without a permit required by law.

History: C. 1953, 26-23-5, enacted by L. 1981, ch. 126, § 22.

Cross-References. — Burial-transit permits, § 26-2-17.

Vital statistics, records and certificates, Chapter 2 of this title.

26-23-6. Criminal and civil penalties and liability for violations.

(1) Any person, association, or corporation, or the officers thereof, who violates any provision of this chapter or lawful orders, or rules adopted under this chapter by the department shall be assessed, in a civil proceeding, a penalty not to exceed the sum of \$5,000, or in a criminal proceeding, for the first violation, be guilty of a class B misdemeanor, and for a subsequent

similar violation within two years, be guilty of a class A misdemeanor. In addition, such person, association, or corporation, or the officers thereof shall be liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

(2) Assessment or conviction under this chapter or any other public health law shall not relieve the person assessed or convicted from civil liability for any act which was also a violation of the public health laws.

(3) Each day of violation of this chapter or rules adopted by the department under it may be a separate violation.

History: C. 1953, 26-23-6, enacted by L. 1981, ch. 126, § 22.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

26-23-7. Application of enforcement procedures and penalties.

Enforcement procedures and penalties provided in this chapter shall not apply to other chapters in this title which provide for specific enforcement procedures and penalties.

History: C. 1953, 26-23-7, enacted by L. 1981, ch. 126, § 22.

26-23-8. Representatives of department authorized to enter regulated premises.

Authorized representatives of the department upon presentation of appropriate identification shall be authorized to enter upon the premises of properties regulated under this title to perform routine inspections to insure compliance with rules adopted by the department. This section does not authorize the department to inspect private dwellings.

History: C. 1953, 26-23-8, enacted by L. 1981, ch. 126, § 22.

26-23-9. Authority of department as to functions transferred from other agencies.

(1) If functions transferred from other agencies are vested by this code in the department, the department shall be the successor in every way, with respect to such functions, except as otherwise provided by this code. Every act done in the exercise of such functions by the department shall have the same force and effect as if done by the agency in which the functions were previously vested.

(2) Whenever any such agency is referred to or designated by law, contract, or other document, the reference or designation shall apply to the department.

History: C. 1953, 26-23-9, enacted by L. 1981, ch. 126, § 22.

26-23-10. Religious exemptions from code — Regulation of state-licensed healing system practice unaffected by code.

(1) Nothing in this code shall be construed to compel any person to submit to any medical or dental examination or treatment under the authority of this code when such person, or the parent or guardian of any such person objects to such examination or treatment on religious grounds, or to permit any discrimination against such person on account of such objection; provided, that exemption from medical or dental examination shall not be granted if the executive director has reasonable cause to suspect a substantial menace to the health of other persons exposed to contact with the unexamined person.

(2) Nothing in this code shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination, provided the statutes and regulations on sanitation are complied with.

(3) Nothing in this code shall be construed or used to amend any statute now in force pertaining to the scope of practice of any state-licensed healing system.

History: C. 1953, 26-23-10, enacted by L. 1981, ch. 126, § 22.

tenets, license not required, §§ 26-21-18, 58-15-11.

Cross-References. — Facilities for care and treatment of persons according to religious

Medical care of children, refusal for religious beliefs not neglect, § 78-3a-19.5.

COLLATERAL REFERENCES

A.L.R. — Power of court or other public agency to order medical treatment over parental religious objections for child whose life is

not immediately endangered, 52 A.L.R.3d 1118.

**CHAPTER 23a
INJURY REPORTING BY HEALTH
CARE PROVIDERS**

Section		Section
26-23a-1.	Definitions.	26-23a-3. Penalties.
26-23a-2.	Injury reporting requirements by health care provider — Contents of report.	

26-23a-1. Definitions.

As used in this chapter:

(1) "Health care provider" means any person, firm, corporation, or association which furnishes treatment, care, or transportation to persons who have suffered bodily injury, and includes hospitals, clinics, pharmacies, podiatrists, dentists and dental hygienists, nurses, medical doctors,

physicians and physicians' assistants, surgeons, osteopathic practitioners, naturopathic practitioners, chiropractors, acupuncturists, emergency medical technicians, and ambulance companies.

(2) "Injury" does not include any psychological or physical condition brought about solely through the voluntary administration of prescribed controlled substances.

History: C. 1953, 26-23a-1, enacted by L. 1988, ch. 238, § 1.

came effective on April 25, 1988, pursuant to Utah Const., Art. VI, § 25.

Effective Dates. — Laws 1988, ch. 238 be-

26-23a-2. Injury reporting requirements by health care provider — Contents of report.

(1) The first or the designated health care provider who treats, cares for, or transports any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any penal statute of this state, shall report those facts immediately both by telephone and in writing to the chief of police of the municipality, or if the treatment, care, or transportation is provided outside a municipality, then to the sheriff of the county, where the treatment, care, or transportation is provided. The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.

(2) No health care provider may be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.

(3) No person may incur any civil or criminal liability as a result of making any report required by this section.

History: C. 1953, 26-23a-2, enacted by L. 1988, ch. 238, § 2.

came effective on April 25, 1988, pursuant to Utah Const., Art. VI, § 25.

Effective Dates. — Laws 1988, ch. 238 be-

26-23a-3. Penalties.

Any health care provider who intentionally or knowingly violates any provision of Section 26-23a-2 is guilty of a class B misdemeanor.

History: C. 1953, 26-23a-3, enacted by L. 1988, ch. 238, § 3.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

Effective Dates. — Laws 1988, ch. 238 became effective on April 25, 1988, pursuant to Utah Const., Art. VI, § 25.

CHAPTER 24

LOCAL HEALTH DEPARTMENT ACT

<p>Section 26-24-1. 26-24-2. 26-24-3. 26-24-4. 26-24-5. 26-24-6. 26-24-7. 26-24-8. 26-24-9. 26-24-10. 26-24-11. 26-24-12. 26-24-13. 26-24-14.</p>	<p>Citation of chapter. Definitions. Assistance in establishing local departments — Monitoring and standards of performance — Responsibilities. County health departments. City-county health departments. District health departments. Branch office of state department in lieu of local department — Costs. Jurisdiction and duties of local departments. Local boards of health — Membership — Organization — Meetings. Local health officer — Appointment — Qualifications — Powers and duties — Vacancy. Removal of local health officer. Appointment of other personnel — Qualifications — Compensation — Removal. Right of entry to regulated premises by department representatives for inspection. Powers and duties of departments.</p>	<p>Section 26-24-15. 26-24-15.5. 26-24-16. 26-24-17. 26-24-18. 26-24-19. 26-24-20. 26-24-21. 26-24-22. 26-24-23. 26-24-24.</p>	<p>Apportionment of department costs — Contracts with state department to provide services — Requirement for percentage match of state funds. Allocation of state funds to local health departments — Formula. Funding of departments — Tax levies. Treasurer of local department — Bond. Health department fund — Sources — Uses. County attorney to represent and advise department, board, officers and employees. Regulations adopted by local board — Procedure — Administrative and judicial review of actions. Counties joining existing department — Abolition of department — Withdrawal of political subdivision from department. Unlawful acts enumerated — Criminal and civil liability. Religious exemptions. Powers and duties of departments as to schools.</p>
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26-24-1. Citation of chapter.

This chapter shall be known and may be cited as the "Local Health Department Act."

History: C. 1953, 26-24-1, enacted by L. 1981, ch. 126, § 23.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former §§ 26-24-1 to 26-24-26 (L. 1967, ch. 47, §§ 1 to 15, 17, 18; 1967, ch. 174, § 30; 1969, ch. 197, §§ 72 to 75; 1971, ch. 54, §§ 1 to 12; 1973, ch. 40, § 1; 1973, ch. 41, § 1; 1973, ch. 42, §§ 1 to 8; 1975, ch. 71, §§ 1 to 3; 1979, ch. 101, §§ 4, 5; 1979, ch. 103, §§ 1 to 5; 1980, ch. 33, §§ 1 to 3), the Air Conservation Act. Present §§ 26-24-1 to 26-24-24

were enacted by § 23 of the act. For the present Air Conservation Act, see Chapter 13 of this title.

Cross-References. — Counties, joinder with municipalities to create local boards of health, § 17-5-49.

Municipalities, creation of boards of health authorized, § 10-8-61.

Municipalities, joinder with county to create local health department required, § 10-7-3.

COLLATERAL REFERENCES

Am. Jur. 2d. — 39 Am. Jur. 2d Health §§ 4, 5. **Key Numbers.** — Health and Environment

C.J.S. — 39A C.J.S. Health and Environment §§ 7-15.

2 et seq.

26-24-2. Definitions.

As used in this chapter:

(1) "Board" means a local board of health established under Section 26-24-9.

(2) "City-county health department" means a local department established under this chapter which serves a county and municipalities located within that county.

(3) "District health department" means a local health department which serves two or more contiguous counties and municipalities within those counties.

(4) "Local governing body" means any local unit of government required to establish a local health department by Section 10-7-3, 10-13-2, or 17-5-49.

(5) "Local health department" means a city-county or district health department.

History: C. 1953, 26-24-2, enacted by L. 1981, ch. 126, § 23.

Compiler's Notes. — Section 10-13-2, relating to towns, was repealed in 1985.

26-24-3. Assistance in establishing local departments — Monitoring and standards of performance — Responsibilities.

(1) By request of local governing bodies, the department may assist in the establishment of a local health department as provided in Sections 10-7-3 and 17-5-49. On establishment of a local health department, the department shall monitor the effort of the local health department to protect and promote the health of the public. The department shall establish by rule minimum performance standards for basic programs of public health administration, personal health, environmental health, laboratory services and health resources and such other preventive health programs, not inconsistent with law, as may be necessary or desirable for the protection of the public health. No rules, regulations or standards relating to public health services adopted or established by a local health department, shall be less restrictive than those of the department. The department may by contract provide funds to assist a local health department where local resources are inadequate and may provide assistance to achieve the purposes of this chapter.

(2) Local health departments, within their jurisdictions, shall be responsible for providing directly or indirectly, basic public health services consisting of, but not limited to, public health administration and support services, maternal and child health, communicable disease control, surveillance, and epidemiology, food protection, solid waste management, waste water management, and safe drinking water management.

History: C. 1953, 26-24-3, enacted by L. 1981, ch. 126, § 23; 1988, ch. 169, § 22. **Amendment Notes.** — The 1988 amendment, effective April 25, 1988, substituted "10-7-3" for "10-13-2" in the first sentence of Subsection (1).

26-24-4. County health departments.

The governing body of each county shall create and maintain a local health department.

History: C. 1953, 26-24-4, enacted by L. 1981, ch. 126, § 23.

26-24-5. City-county health departments.

The governing body of each municipality shall join with the governing body of the county in which it is located to create and maintain a local city-county health department.

History: C. 1953, 26-24-5, enacted by L. 1981, ch. 126, § 23.

26-24-6. District health departments.

The governing bodies of two or more contiguous counties may unite to create and maintain a district health department. Any municipalities within counties comprising a district health department shall be included within the district by agreement between the governing bodies of such municipalities and the governing bodies of the counties comprising the district.

History: C. 1953, 26-24-6, enacted by L. 1981, ch. 126, § 23.

26-24-7. Branch office of state department in lieu of local department — Costs.

The governing bodies of jurisdictions served by a local health department may request that the department establish a branch office as provided in Section 26-1-25. The cost of operation and maintenance of a branch office shall be established by contract between the department and the governing bodies of participating jurisdictions. Such branch office shall satisfy the requirement that local governing bodies establish and maintain a local health department.

History: C. 1953, 26-24-7, enacted by L. 1981, ch. 126, § 23.

26-24-8. Jurisdiction and duties of local departments.

A local health department shall have jurisdiction throughout all unincorporated and incorporated areas of the county or district in which it is established and shall enforce state health laws, rules, regulations and standards therein.

History: C. 1953, 26-24-8, enacted by L. 1981, ch. 126, § 23.

26-24-9. Local boards of health — Membership — Organization — Meetings.

(1) A local health department shall have a board of health. Members of such board shall be appointed by the local governing bodies and shall consist of at least five persons. Not more than half plus one of the members shall be from the same political party. No employee of the local health department shall be a member of the board.

(2) To the degree possible, of the initial board, one-fifth shall serve a term of one year; one-fifth shall serve a term of two years; one-fifth shall serve a term of three years; one-fifth shall serve a term of four years; and one-fifth shall serve a term of five years. All subsequent appointments shall be for terms of five years and shall be made, to the degree possible, so that one-fifth of the terms of office of those serving on the board expire each year. Members appointed to fill vacancies shall hold office until expiration of the terms of their predecessors.

(3) All members of the board shall reside within the jurisdiction serviced by the local health department. A majority of the members shall not be primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and shall not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and shall not receive, either directly or through a spouse, more than one-tenth of the member's gross income from any entity or activity relating to health care. No business or professional group shall constitute a majority.

(4) The board shall at its organizational meeting elect from its members a chairman and a vice-chairman and secretary. The health officer of the local health department, appointed pursuant to Section 26-24-10, may serve as secretary to the board.

(5) Regular meetings of the board shall be held not less than once every three months. Special meetings may be called by the chairman, the health officer, or a majority of the members, at any time on three days' notice by mail, or in case of emergency, as soon as possible after the members of the board have been notified. A board may adopt and amend bylaws for the transaction of its business. A majority of the members of the board shall constitute a quorum. Members shall serve without compensation, but shall be reimbursed for actual and necessary traveling and subsistence expenses when absent from their place of residence in attendance at authorized meetings. All meetings shall be presumed to have been duly called and regularly held, and all orders and proceedings authorized unless the contrary is proved.

History: C. 1953, 26-24-9, enacted by L. 1981, ch. 126, § 23.

26-24-10. Local health officer — Appointment — Qualifications — Powers and duties — Vacancy.

A local health officer shall be appointed by the board, subject to ratification by the local governing bodies of participating jurisdictions which shall also approve the compensation fixed by the board for the local health officer. The board shall determine the general policies to be followed in administration of the local health department. The board shall adopt rules to carry out the provisions of this section. The local health officer shall have the qualifications of training and experience for that office equivalent to those approved by the state department of health for local health officers. The local health officer shall be the administrative and executive officer of the local health department and shall devote full time to the duties of his office. If provisions have been made with the state health department, he shall, without additional compensation or payment of fees provided by law, act as the local registrar of vital statistics for the area over which the local health department has jurisdiction. In the absence or disability of the local health officer, or in the event of a vacancy in that office, the board shall appoint an acting health officer for a temporary period not to exceed one year.

History: C. 1953, 26-24-10, enacted by L.
1981, ch. 126, § 23.

26-24-11. Removal of local health officer.

The local health officer may be removed by the board for cause. A hearing shall be granted if requested by the health officer.

History: C. 1953, 26-24-11, enacted by L.
1981, ch. 126, § 23.

26-24-12. Appointment of other personnel — Qualifications — Compensation — Removal.

All other personnel of the local health department shall be appointed by the local health officer. They shall have the qualifications for their positions equivalent to those approved for comparable positions in the department. A compensation plan shall be approved by the board. Subject to local merit systems, employees of the local health department may be removed by the local health officer for cause. A hearing by the board shall be granted if requested.

History: C. 1953, 26-24-12, enacted by L.
1981, ch. 126, § 23.

26-24-13. Right of entry to regulated premises by department representatives for inspection.

Upon presenting proper identification, authorized representatives of local health departments shall be authorized to enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules adopted by the department or by local boards of

health. This section does not authorize local health departments to inspect private dwellings.

History: C. 1953, 26-24-13, enacted by L. 1981, ch. 126, § 23.

COLLATERAL REFERENCES

A.L.R. — Propriety of state or local government health officer's warrantless search — post-Camara cases, 53 A.L.R.4th 1168.

26-24-14. Powers and duties of departments.

A local health department shall have in addition to all other powers and duties imposed on it, the following powers and duties:

(1) promote and protect the health and wellness of the people within the jurisdiction;

(2) enforce state and local laws, regulations, and standards relating to public health and sanitation;

(3) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health, and investigate and control the causes of environmental and occupational health hazards affecting the public health, and provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard considered dangerous or important or which may affect the public health;

(4) establish, maintain and enforce isolation and quarantine, and exercise such physical control over property and over individuals as the local health department may find necessary for the protection of the public health;

(5) enforce rules, regulations, and standards adopted by the board;

(6) administer all local ordinances, regulations and standards pertaining to health and sanitation;

(7) establish and maintain medical, environmental, occupational and other laboratory services deemed necessary or proper for the protection of the public health;

(8) establish and operate reasonable health programs, not inconsistent with state law, that are necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(9) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(10) abate nuisances to eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(11) make necessary sanitary and health investigations and inspections, on its own initiative, or in cooperation with the department, as to any matters affecting the public health;

(12) make reports to the department as prescribed by department rules or contract;

(13) cooperate with the department in all matters pertaining to the public health and in the administration of state health laws;

(14) establish and collect appropriate fees, to accept, use and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes, and to make such agreements, not inconsistent with law, as may be required as a condition to receiving such donation or grant;

(15) establish, maintain, or participate in a merit system of personnel administration, if required as a condition to receiving federal and state grants of funds, property, services or materials;

(16) prepare, publish, and disseminate such information as may be necessary to inform and advise the public concerning the health and wellness of the population, specific hazards and risk factors that may adversely affect the health and wellness of the population and specific activities that individuals and institutions can engage in to promote and protect the health and wellness of the population;

(17) investigate the cause of maternal and infant mortality;

(18) exercise incidental powers necessary to carry out the provisions and purposes of this chapter;

(19) issue notices and orders necessary to carry out the provisions of this chapter; and

(20) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups.

History: C. 1953, 26-24-14, enacted by L. 1981, ch. 126, § 23.

Cities and towns, quarantine of contagious and infectious diseases, § 10-8-61.

Cross-References. — Actions to abate nuisances, § 78-38-1 et seq.

NOTES TO DECISIONS

Abatement of dangerous conditions.

Where conditions dangerous to life or health exist, both state and local boards of health

have power and are charged with duty to abate them. *Hurst v. Highway Dep't*, 16 Utah 2d 153, 397 P.2d 71 (1964).

COLLATERAL REFERENCES

A.L.R. — Right to maintain action to enjoin public nuisance as affected by existence of pollution control agency, 60 A.L.R.3d 665.

26-24-15. Apportionment of department costs — Contracts with state department to provide services — Requirement for percentage match of state funds.

(1) The cost of establishing and maintaining a local health department may be apportioned among the participating municipalities and counties on the basis of population in proportion to the total population of all municipalities

and counties within the jurisdiction of the local health department, or upon such other bases as is agreeable to the participating counties and municipalities. For purposes of this subsection, "population" means population estimates prepared by the state planning coordinator. In addition, money available from fees, contracts, surpluses, grants, and donations may be used to establish and maintain local health departments.

(2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department shall be the responsibility of participating governing bodies.

(3) Local health departments which comply with all standards set forth by the department, and which secure advance approval of proposed service boundaries from the department, may by contract receive funds in accordance with Section 26-24-15.5 from the department to provide specified public health services.

(4) Contract funds distributed pursuant to Subsection (3) shall be in accordance with Section 26-24-15.5 and policies and procedures adopted by the department.

(5) Standards established by the department shall provide that contract funds shall be used for public health services and shall not replace other funds used for local public health services.

(6) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments.

History: C. 1953, 26-24-15, enacted by L. 1981, ch. 126, § 23; 1987, ch. 178, § 2; 1987, ch. 180, § 2.

Amendment Notes. — The 1987 amendment, by Chapter 178, effective July 1, 1987, added Subsection (6).

The 1987 amendment, by Chapter 180, effective

July 1, 1987, in the second sentence of Subsection (1) substituted "coordinator" for "coordinator's office" and added the statutory references in Subsections (3) and (4).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

26-24-15.5. Allocation of state funds to local health departments — Formula.

(1) The department shall establish by rule a formula for allocating state funds by contract to local health departments. This formula shall provide for allocation of funds based on need. Determination of need shall be based on population unless the department establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need. The formula shall include a differential to compensate for additional costs of providing services in rural areas.

(2) The formula established under Subsection (1) shall be in effect on or before July 1, 1990, and applies to all state funds appropriated by the Legislature to the department for local health departments, but does not apply to:

(a) funds that local health departments receive from sources other than the department;

(b) funds that local health departments receive from the department to operate a specific program within its jurisdiction which is available to all residents of the state;

(c) funds that a local health department receives from the department to meet a need that exists only within its jurisdiction; and

(d) funds that a local health department receives from the department for research projects.

History: C. 1953, 26-24-15.5, enacted by L. 1987, ch. 180, § 3.

Effective Dates. — Laws 1987, ch. 180, § 6 makes the act effective on July 1, 1987.

Cross-References. — Allocation of funds to local mental health authorities, § 26-17-5.

26-24-16. Funding of departments — Tax levies.

(1) Municipalities or counties involved in the establishment and operation of local health departments shall fund the health departments with appropriations from the General Fund or from the levy of a tax, or in part by an appropriation and in part by a levy under Section 17-5-62.

(2) A local health department may be funded as provided by law from local, state, and federal funds within local levy ceilings, or through a separate ceiling exempt tax under Section 59-2-911, which may not exceed .0004 per dollar of taxable value of taxable property, or in part by each. Local funds from either tax source shall be appropriated by the local governing authorities participating in the local health department.

History: C. 1953, 26-24-16, enacted by L. 1981, ch. 126, § 23; 1985, ch. 165, § 39; 1987, ch. 4, § 21; 1988, ch. 3, § 80.

Amendment Notes. — The 1985 amendment deleted "mill" before "levy" in Subsection (2) and substituted "not exceed .0004" for "not exceed two mills" in Subsection (2).

The 1987 amendment, effective February 6, 1987, changed the statutory reference in Sub-

section (2) and made various stylistic changes throughout the section.

The 1988 amendment, effective February 9, 1988, inserted "per dollar of taxable value of taxable property" in the first sentence of Subsection (2) and made minor stylistic changes.

Retrospective Operation. — Laws 1987, ch. 4, § 307 provides that this section has retrospective operation to January 1, 1987.

26-24-17. Treasurer of local department — Bond.

(1) In the case of city-county health departments, the county treasurer shall serve as treasurer of the local health department.

(2) In the case of district health departments, the county treasurer of the county in which the headquarters of the district is located shall serve as treasurer of the district health department. The board and the governing body of the county of which the treasurer is serving may agree on an equitable reimbursement to the county for such services.

(3) The official bond of a county treasurer shall extend to and cover the duties as treasurer of a local health department.

History: C. 1953, 26-24-17, enacted by L. 1981, ch. 126, § 23.

Cross-References. — County treasurer, Chapter 24 of Title 17.

— Bond, §§ 17-16-11, 52-1-12.

26-24-18. Health department fund — Sources — Uses.

The treasurer of a health department shall, on organization of the department, create a health department fund to which shall be credited any moneys appropriated or otherwise made available by participating counties, cities, or other local political subdivisions and any moneys received from the state, federal government, or from surpluses, grants, fees or donations for local health purposes. Any moneys credited to this fund shall be expended only for maintenance and operation of the local health department and claims or demands against the fund shall be allowed on certification by the health officer or other employee of the local health department designated by the board.

History: C. 1953, 26-24-18, enacted by L. 1981, ch. 126, § 23.

26-24-19. County attorney to represent and advise department, board, officers and employees.

The county attorney of the county in which a civil or criminal claim may arise, shall bring any action requested by a local health department to abate a condition which exists in violation of, or to restrain or enjoin any action which is in violation of, or to prosecute for the violation of or for the enforcement of, the public health laws and the standards, orders, and rules of the department, a local health department or other laws, ordinances, regulations, rules, and standards pertaining to health and sanitary matters. The county attorney of a county in which an action arises shall act as legal adviser to the local health department and the board and shall defend all actions and proceedings brought against the local health department, the board or the officers and employees thereof.

History: C. 1953, 26-24-19, enacted by L. 1981, ch. 126, § 23.

Cross-References. — County attorney, Chapter 18 of Title 17.

26-24-20. Regulations adopted by local board — Procedure — Administrative and judicial review of actions.

(1) The board may adopt rules, regulations, and standards, not in conflict with rules of the department, necessary for the promotion of public health, environmental health quality, injury control and the prevention of outbreaks and spread of communicable and infectious diseases, that shall have the affect of law. Such rules, regulations and standards when adopted shall supersede existing local rules, regulations, standards and ordinances pertaining to similar subject matter.

(2) The board shall provide public hearings prior to the adoption of any rule, regulation or standard. Notice of any such public hearing shall be published at least twice in a newspaper of general circulation in the area within the jurisdiction of the local health department.

(3) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers, who shall have power and authority to conduct hearings in the name of the board at a designated time

and place. A record or summary of the proceedings of any hearing shall be taken and filed with the board, together with findings of fact, conclusions of law, and the order of the board or hearing officer. In any hearing, a member of the board or the hearing officer shall have power to administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to any matter in the hearing.

(4) Any person aggrieved by any action or inaction of the local health department shall have an opportunity for an informal hearing with the health officer or a designated representative of the local health department. Further hearings before the board shall be granted upon request in writing.

(5) Judicial review of a final determination of the local board may be secured by any person adversely affected thereby, or by the department, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination. The petition, which shall be served upon a member of the board, shall state the grounds upon which review is sought. The board, in its answer, shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact, conclusions of law, and order. The appellant and the board shall be parties to the appeal. The department may become a party by intervention as in a civil action upon showing cause therefor.

(6) A further appeal may be taken to the Supreme Court.

History: C. 1953, 26-24-20, enacted by L. 1981, ch. 126, § 23.

ANALYSIS

"Final determination."

Findings of fact and conclusions of law.

—Failure to file.

"Final determination."

Although Subsection (5), permitting judicial review of "a final determination of the local board," does not confer jurisdiction upon a district court to review a regulation promulgated by a county health board, the section of the Declaratory Judgment Act, § 78-33-2, giving district courts jurisdiction over any case brought to determine a question of construction or validity arising under a "municipal or-

dinance" gives a district court such jurisdiction since a "municipal ordinance" includes rules of local health agencies such as a county health board. *Utah Restaurant Ass'n v. Davis County Bd. of Health*, 709 P.2d 1159 (Utah 1985).

Findings of fact and conclusions of law.

—Failure to file.

Failure of the board to comply with the provisions of Subsection (3), requiring the filing of findings of fact, conclusions of law, and the order of the board or hearing officer, renders invalid any regulation or standard adopted at the defective proceeding. *Utah Restaurant Ass'n v. Davis County Bd. of Health*, 709 P.2d 1159 (Utah 1985).

26-24-21. Counties joining existing department — Abolition of department — Withdrawal of political subdivision from department.

(1) In the case of additional or adjacent counties joining an existing local health department, provisions shall be made for the appointment and terms of new board members in accordance with the applicable parts of this chapter.

(2) No local health department established under this chapter shall be abolished until the local health department has been in existence at least two years, and no participating political subdivision may withdraw from a local health department until such political subdivision has participated in mainte-

nance of the local health department for at least two years, provided that the effective date of any withdrawal shall be December 31, and 90 days prior written notice of such withdrawal shall be given to the board.

(3) If a local health department is abolished, the participating political subdivisions shall establish, at least 30 days prior to abolishment, local health departments, as provided in Section 26-24-4, 26-24-5, 26-24-6, or 26-24-7.

History: C. 1953, 26-24-21, enacted by L. 1981, ch. 126, § 23.

26-24-22. Unlawful acts enumerated — Criminal and civil liability.

(1) It shall be unlawful for any person, association, or corporation, and the officers thereof:

(a) to violate, disobey, or disregard the provisions of the public health laws or the requirements of any lawful notice, order, standard, rule, or regulation issued pursuant thereto;

(b) to violate, disobey, or disregard the provisions of any notice or order issued by a local health department pursuant to any law, ordinance, rule, or regulations relating to health or sanitation;

(c) to fail to make or file reports required by law or rule of the board relating to the existence of disease or other facts and statistics relating to the public health;

(d) to willfully and falsely make or alter any certificate or certified copy thereof issued pursuant to the public health laws;

(e) to fail to remove or abate from private property under the control of the person, association or corporation at their own expense, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the jurisdiction of the local health department whether such person, association, or corporation shall be the owner, tenant, or occupant of such private property. Such removal or abatement shall be ordered by the local health department and accomplished within a reasonable time to be determined by the local health department not exceeding 30 days after issuance of an order to remove or abate, provided, when such condition is due to an act of God, it shall be removed at public expense; or

(f) to pay, give, present, or otherwise convey to any officer or employee of a local health department or any member of a local board of health any gift, remuneration or other consideration, directly or indirectly, which such officer or employee is forbidden to receive by the provisions of this chapter.

(2) It shall be unlawful for any officer or employee of any local health department or member of any local board of health to accept any gift, remuneration, or other consideration, directly or indirectly, for the performance of the duties imposed upon the officer, employee, or member by or on behalf of such health department or by the provisions of this chapter.

(3) It shall be unlawful for any officer or employee of a local health department, during the hours of the officer's or employee's regular employment by the department, to perform any work, labor, or services other than duties

assigned to the officer or employee by or on behalf of the local health department.

(4) Any person, association, or corporation or the officers thereof, who violates this section, or rules or regulations adopted by local boards of health is, on the first violation, guilty of a class B misdemeanor, and on a subsequent similar violation within two years, guilty of a class A misdemeanor. In addition such person, association, or corporation, or the officers thereof, shall be liable for any expense incurred in removing or abating any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation.

(5) Conviction under this section or any other public health law shall not relieve the person convicted from civil liability for any act which was also a violation of the public health laws.

(6) Each day of violation of this section or rules or regulations adopted by local boards of health may be a separate violation.

History: C. 1953, 26-24-22, enacted by L. 1981, ch. 126, § 23.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

26-24-23. Religious exemptions.

Nothing in this chapter shall authorize a local health department to impose on any person any mode of treatment inconsistent with the creed or tenets of any religious denomination of which he is an adherent, provided that sanitary and quarantine laws, rules, and regulations are complied with by such persons.

History: C. 1953, 26-24-23, enacted by L. 1981, ch. 126, § 23.

26-24-24. Powers and duties of departments as to schools.

(1) The local health department shall have jurisdiction in all matters pertaining to the preservation of the health of those in attendance at public and private schools, within the jurisdiction served by the local health department and shall:

(a) exclude from school any person, including teachers, suffering with any communicable or infectious disease, whether acute or chronic, or liable to convey such disease to those in attendance; and

(b) make regular inspection of all school buildings and premises and report, on forms furnished by the department, the hygienic condition of such school to those having charge and control of such schools, with instructions for the correction of any conditions which impairs or endangers the health or life of those attending the school. A copy of the report shall at the same time be sent to the department.

(2) If those having charge and control of such schools do not carry out instructions given by the local health department, the board shall cause such faulty conditions to be corrected at the expense of those having charge and control of the school.

History: C. 1953, 26-24-24, enacted by L. 1981, ch. 126, § 23.

Cross-References. — Health of school children, § 53A-11-201 et seq.

History: C. 1953, 26-25-1, enacted by L. 1981, ch. 126, § 24; 1988, ch. 130, § 1.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former §§ 26-25-1 to 26-25-5 (L. 1967, ch. 48, §§ 1 to 5; 1969, ch. 197, §§ 76 to 79), the Radiation Protection Act. Present §§ 26-25-1 to 26-25-5 were enacted by § 24 of the act. For present provisions regulating radiation sources, see § 26-1-27 et seq.

Amendment Notes. — The 1988 amendment, effective April 25, 1988, rewrote this sec-

tion, making a detailed comparison impracticable.

Cross-References. — Attorney of patient, access to medical records, § 78-25-25.

Child abuse reporting requirements, § 62A-4-501 et seq.

Medical examiner's records, § 26-4-17.

Physician-patient privilege, § 78-24-8.

State hospital mental health records, confidentiality, § 62A-12-247.

COLLATERAL REFERENCES

A.L.R. — Patient's right to disclosure of his or her own medical or hospital records, 26 A.L.R.4th 701.

26-25-2. Restrictions on use of data.

The department, the Division of Mental Health within the Department of Social Services, scientific and health care research organizations affiliated with institutions of higher education, the Utah State Medical Association or any of its allied medical societies, peer review committees, professional review organizations, professional societies and associations, or any health facility's in-house staff committee may only use or publish the material received or gathered under Section 26-25-1 for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of studies conducted in accordance with Section 26-25-1 may be released by those groups for general publication.

History: C. 1953, 26-25-2, enacted by L. 1981, ch. 126, § 24; 1988, ch. 130, § 2.

Amendment Notes. — The 1988 amendment, effective April 25, 1988, inserted "within the Department of Social Services, scientific and health care research organizations affli-

ated with institutions of higher education," "received or gathered under Section 26-25-1" and "conducted in accordance with Section 26-25-1," and substituted "health facility's in-house" for "in-hospital," and made various minor stylistic changes.

26-25-3. Data and findings as privileged communications.

All information, interviews, reports, statements, memoranda, or other data furnished by reason of this chapter and any findings or conclusions resulting from such studies are privileged communications which may not be used or received in evidence in any legal proceeding of any kind or character.

History: C. 1953, 26-25-3, enacted by L. 1981, ch. 126, § 24.

COLLATERAL REFERENCES

A.L.R. — Discovery of hospital's internal records or communications as to qualifications

or evaluations of individual physician, 81 A.L.R.3d 944.

26-25-4. Data held in confidence — Protection of identities.

All information, interviews, reports, statements, memoranda, or other data so provided shall be held in strict confidence by the person or organization to which it is provided, and any use, release or publication resulting therefrom shall be made so as to preclude identification of any person or persons studied.

History: C. 1953, 26-25-4, enacted by L. 1981, ch. 126, § 24.

26-25-5. Violation of chapter as misdemeanor — Civil liability.

(1) Any use, release or publication, negligent or otherwise, contrary to the provisions of this chapter shall be a class A misdemeanor.

(2) Subsection (1) shall not relieve the person or organization responsible for such use, release or publication from civil liability.

History: C. 1953, 26-25-5, enacted by L. 1981, ch. 126, § 24.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

CHAPTER 26 EXPERIMENTAL ANIMALS

Section	Section
26-26-1. "Institution" defined.	26-26-4. Liability for expenses — Restrictions of use.
26-26-2. Authorization for institutions to obtain impounded animals.	26-26-5. Records of animals required.
26-26-3. Period of impoundment and effort to find owner prerequisite to delivery of animals to institution.	26-26-6. Revocation of authorization.
	26-26-7. Adoption of rules by department — Inspection and investigation of institutions.

26-26-1. "Institution" defined.

As used in this chapter, "institution" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry or other educational, hospital or scientific establishment properly concerned with the investigation of or instruction concerning the structure or functions of living organisms, the cause, prevention, control or cure of diseases or abnormal condition of human beings or animals.

History: C. 1953, 26-26-1, enacted by L. 1981, ch. 126, § 25.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former §§ 26-26-1 to 26-26-8 (L. 1969, ch. 64, §§ 1 to 8), the Anatomical Gift Act. Present §§ 26-26-1 to 26-26-7 were enacted by § 25 of the act. For the

present Anatomical Gift Act, see Chapter 28 of this title.

Cross-References. — City pounds, § 10-8-64.

Cruelty to animals as misdemeanor, § 76-9-301.

COLLATERAL REFERENCES

Am. Jur. 2d. — 4 Am. Jur. 2d Animals § 48.
C.J.S. — 3A C.J.S. Animals § 342.

26-26-2. Authorization for institutions to obtain impounded animals.

Institutions may apply to the department for authorization to obtain animals from establishments maintained for the impounding, care and disposal of animals seized by lawful authority. If, after investigation, the department finds that the institution meets the requirements of this chapter and its rules and that the public interest will be served thereby, it may authorize the institution to obtain animals under this chapter.

History: C. 1953, 26-26-2, enacted by L.
1981, ch. 126, § 25.

26-26-3. Period of impoundment and effort to find owner prerequisite to delivery of animals to institution.

The supervisor of any establishment referred to in Section 26-26-2 shall make available to an authorized institution, as many impounded animals as the institution may request; provided, however, that such animals shall have been impounded at least five days or for such other minimum period as may be specified by municipal ordinance and remain unclaimed and unredeemed by their owners or by any other person entitled to do so. The establishment shall first make a reasonable effort to find the rightful owner of such animal, and if such owner is not found, to make the animal available to others during the five-day period.

History: C. 1953, 26-26-3, enacted by L.
1981, ch. 126, § 25.

26-26-4. Liability for expenses — Restrictions of use.

The authorized institution shall provide, at its own expense, for the transportation of such animals from the establishment to the institution and shall use them only in the conduct of scientific and educational activities and for no other purpose. The institution may reimburse the establishment for actual expenses incurred in holding the animals beyond the five-day period.

History: C. 1953, 26-26-4, enacted by L.
1981, ch. 126, § 25.

26-26-5. Records of animals required.

Each establishment referred to in Section 26-26-2 shall keep a public record of all animals received and disposed of.

History: C. 1953, 26-26-5, enacted by L.
1981, ch. 126, § 25.

26-26-6. Revocation of authorization.

The department upon 15 days written notice and an opportunity to be heard, may revoke an institution's authorization if the institution has violated any provision of this chapter, or has failed to comply with the conditions required by the department in respect to the issuance of authorization.

History: C. 1953, 26-26-6, enacted by L.
1981, ch. 126, § 25.

26-26-7. Adoption of rules by department — Inspection and investigation of institutions.

The department may adopt rules necessary to carry out the provisions of this chapter, for controlling the humane use of animals for the diagnosis and treatment of human and animal diseases, the advancement of veterinary, dental, medical, and biological sciences and the testing, improvement, and standardization of laboratory specimens, biologic projects, pharmaceuticals, and drugs, and may inspect or investigate any institution which applies for or is authorized to obtain animals.

History: C. 1953, 26-26-7, enacted by L.
1981, ch. 126, § 25.

CHAPTER 27

MOSQUITO ABATEMENT DISTRICTS

Section		Section	
26-27-1.	Organization authorized.	26-27-8.	Powers of board of trustees.
26-27-2.	District may include county, municipality or portion thereof — Minimum population.	26-27-9.	Taxation — Limit of levy.
26-27-3.	Petition — Signers — Contents — Publication.	26-27-10.	Taxation — Additional levy — Election.
26-27-4.	Petition — Hearing — Notice.	26-27-11.	Collection and disbursement of taxes.
26-27-5.	Findings — Order thereon — Name — When incorporation complete.	26-27-12.	Annexation of area into mosquito abatement district — Conditions — Procedures — Petition — Resolution — Protests.
26-27-6.	Board of trustees — Appointment — Number — Term.	26-27-13.	Dissolution — Election — Apportionment of property.
26-27-7.	Board of trustees — Organization — Meetings — Vacancies — Quorum.	26-27-14.	Notices — Publication and posting.

26-27-1. Organization authorized.

Mosquito abatement districts may be organized, incorporated, and managed as provided in this chapter and may exercise the powers herein expressly granted or necessarily implied.

History: C. 1953, 26-27-1, enacted by L. 1981, ch. 126, § 26.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former §§ 26-27-1 to 26-27-4 (L. 1969, ch. 205, §§ 1 to 4; 1973, ch. 43, § 1; 1975, ch. 65, §§ 1 to 3; 1977, ch. 108,

§ 1), relating to elimination of architectural barriers to the handicapped. Present §§ 26-27-1 to 26-27-14 were enacted by § 26 of the act. For present provisions comparable to those repealed from this chapter, see Chapter 29 of this title.

26-27-2. District may include county, municipality or portion thereof — Minimum population.

Any municipality or county or portion of a municipality or county having a population of not less than 100 inhabitants, whether such portion includes incorporated territory or not, may be created a mosquito abatement district.

History: C. 1953, 26-27-2, enacted by L. 1981, ch. 126, § 26.

26-27-3. Petition — Signers — Contents — Publication.

(1) A petition, which may consist of any number of separate instruments, shall be presented to the board of commissioners of the county in which the proposed mosquito abatement district is located at a regular meeting thereof, signed by registered voters within the boundaries of the proposed district, equal in number to at least 10% of the number of votes cast in the proposed district for the office of governor at the last general election prior to the presenting of the petition.

(2) Where all or part of one or more municipalities is included in the proposed district, the petition shall be signed by at least 10% of the registered voters of such municipality, or parts thereof, and of the unincorporated territory included in the proposed district, and in addition thereto the governing body of each municipality shall by resolution request the inclusion of such municipality or part thereof in the proposed district.

(3) The petition shall describe the proposed boundaries of the district and pray that it be created a mosquito abatement district.

(4) The text of the petition shall be published, for at least two weeks before the time when it is to be presented, in a newspaper published in the county, and also in a newspaper published in each municipality or part thereof included in the proposed district, or if there is no such newspaper the text of the petition shall be posted for the same length of time in three public places within the county and within each municipality or part thereof included in the proposed district. When contained in more than one instrument, only one copy of the petition need be published and posted. Not more than five of the names attached to the petition need appear in the publication or posting, but the number of signers shall be stated.

History: C. 1953, 26-27-3, enacted by L. 1981, ch. 126, § 26.

26-27-4. Petition — Hearing — Notice.

(1) With the petition there shall be published, and, if posted, there shall be posted, a notice stating the time of the meeting of the board of county commissioners when the petition will be considered, and that all interested persons may appear and be heard.

(2) At that time the board shall hear the petition and all protests and objections to the same, and may adjourn such hearing from time to time, not exceeding two months in all.

(3) No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, shall vitiate any proceedings thereon, provided the petition has a sufficient number of qualified signatures attached thereto.

(4) On the final hearing the board may make changes in the proposed boundaries as it deems advisable, and shall define and establish such boundaries.

(5) If the board deems it proper to include any territory not included within the original proposed boundaries, it shall cause notice of its intention to be mailed to each owner of land within the additional territory whose name appears as such on the last completed assessment roll of the county. The notice shall be addressed to the owner at the address given on the assessment roll, or, if no address is given, then to the last known address, or, if it is not known, then to the owner at the county seat of the county in which the land lies. This notice shall describe the territory proposed to be included, and fix a time, not less than two weeks from the date of mailing, when all persons interested may appear before the board and be heard.

(6) Boundaries lying within a municipality shall not be altered under Subsection (5) unless the governing body of the municipality shall, by resolution, assent to the alterations.

History: C. 1953, 26-27-4, enacted by L. 1981, ch. 126, § 26.

26-27-5. Findings — Order thereon — Name — When incorporation complete.

(1) Upon the hearing the board shall determine whether or not public necessity or welfare of the proposed territory and of the inhabitants thereof, requires the formation of the district, and whether or not the petition complies with the provisions of this chapter. A finding of the board in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the state.

(2) If it appears to the board that public necessity or welfare requires the formation of the district, it shall, by order entered on its minutes, declare such to be its finding, and order that the territory within the boundaries so fixed be created a mosquito abatement district under an appropriate name selected by the board, which name shall contain the words "mosquito abatement district."

(3) The county clerk shall immediately cause to be filed with the lieutenant governor a certified copy of the order of the board, and thereafter the district

shall be deemed incorporated as a mosquito abatement district, with all the rights, privileges, and powers set forth in this chapter and necessarily incident thereto.

History: C. 1953, 26-27-5, enacted by L. 1981, ch. 126, § 26.

26-27-6. Board of trustees — Appointment — Number — Term.

(1) Within 30 days after the filing with the lieutenant governor of the certificate of incorporation a board of trustees shall be appointed for the mosquito abatement district. The board shall consist of one trustee appointed from the district at large by the board of county commissioners, and of one trustee appointed from each municipality therein by the governing body of such municipality; provided, that if the board of trustees consists of less than five members, the board of county commissioners shall appoint from such district at large enough additional members to make a board of five trustees, provided further, that if 75% or more of the lands in the district are wholly within the boundaries of a municipality, all five members of the board of trustees shall be appointed by the governing board of such municipality. The governing board of such district shall be known as "The board of trustees of _____ mosquito abatement district."

(2) Each trustee appointed by the governing body of a municipality shall be a registered voter of the municipality and each appointee of the board of county commissioners shall be an elector of the district.

(3) All trustees shall hold office for a term of two years from the second day of January following their appointment; provided, that the first board of trustees appointed shall at their first meeting classify themselves by lot so that one half of their number, if the total membership is an even number, and if uneven, that a bare majority of their number, shall go out of office at the expiration of one year and the remainder, at the expiration of two years, from the second day of January following their appointment.

History: C. 1953, 26-27-6, enacted by L. 1981, ch. 126, § 26.

26-27-7. Board of trustees — Organization — Meetings — Vacancies — Quorum.

(1) The members of the board of trustees shall meet on the first Monday subsequent to 30 days after the filing with the lieutenant governor of the certificate of incorporation, and shall organize by electing one of their members as president and one as secretary. The members of the board shall serve without compensation, except that the necessary expenses of each member for actual traveling expenses on meetings or business connected with the board shall be allowed and paid.

(2) In the event of the resignation, death, or disability of any trustee his successor shall be appointed by the board of county commissioners or governing body which originally appointed the member who resigned, died, or is disabled.

(3) The board of trustees shall provide for the time, place, and manner of calling its regular meetings, and shall establish rules for its proceedings. Special meetings may be called by three trustees, and notice thereof shall be given to each member at least three hours before the meeting. All meetings shall be open to the public, and the majority of the members of the board shall constitute a quorum for the transaction of business.

History: C. 1953, 26-27-7, enacted by L. 1981, ch. 126, § 26.

26-27-8. Powers of board of trustees.

The board of trustees may:

(1) take all necessary and proper steps for the extermination of mosquitoes, flies, crickets, grasshoppers, and other insects within the district and to abate as nuisances all stagnant pools of water and other breeding places for mosquitoes, flies, crickets, grasshoppers, or other insects anywhere in the state situated so that mosquitoes therefrom may migrate into the district;

(2) enter upon territory referred to in Subsection (1) to inspect and examine the same, and remove therefrom without notice, stagnant water or other breeding places for mosquitoes, flies, crickets, grasshoppers, or other insects;

(3) purchase such supplies and materials and employ labor necessary or proper in furtherance of the purposes of this chapter, and if necessary or proper, build, construct, repair, and maintain necessary levees, cuts, canals, or channels upon any land within the district, and acquire by purchase, condemnation, or other lawful means in the name of the district any necessary lands, rights of way, easements, property, or materials requisite or necessary for any of such purposes; and

(4) make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of its powers or arising out of the use, taking, or damage of property for any such purposes and generally to do any and all things necessary or incident to its powers and to carry out the purposes of this chapter.

History: C. 1953, 26-27-8, enacted by L. 1981, ch. 126, § 26; 1983, ch. 138, § 1.

Cross-References. — Eminent domain, § 78-34-1 et seq.

26-27-9. Taxation — Limit of levy.

(1) The board of trustees of each mosquito abatement district shall furnish to the county governing body and to the county auditor of the county in which the district is situated, in writing, an estimate of the amount of money necessary for all purposes required under this chapter during the next ensuing fiscal year. The estimate shall be furnished at least 15 days before the first day of the month in which the county governing body is required by law to levy the taxes required for county purposes.

(2) The county governing body shall, at the time and in the manner of levying other county or city and county taxes, but without additional compensation for assessing and collecting, levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the

"_____ mosquito abatement district tax." The maximum rate of the tax may not exceed that which is sufficient to raise the amount estimated to be necessary by the board of trustees, and may not exceed .0004 per dollar of taxable value of taxable property in the district.

History: C. 1953, 26-27-9, enacted by L. 1981, ch. 126, § 26; 1985, ch. 165, § 40; 1988, ch. 3, § 81.

Amendment Notes. — The 1985 amendment substituted "not exceed .0004" for "not exceed 20 cents on each 100 dollars" in Subsection (2).

The 1988 amendment, effective February 9, 1988, moved the subsection designation (1) from before "furnish" to the beginning of the

section; substituted "county governing body" for "board of county commissioners" in the first and second sentences of Subsection (1) and in the first sentence of Subsection (2); inserted "per dollar of taxable value" in the second sentence of Subsection (2); and made minor stylistic changes.

Cross-References. — County tax assessment, § 59-2-301 et seq.

26-27-10. Taxation — Additional levy — Election.

(1) When it appears to the board of trustees that the funds required during the next ensuing fiscal year will exceed the maximum amount which the county commissioners are authorized to levy for the annual district tax, the board of trustees may call an election and submit to the electors of the district the question of whether a tax shall be voted for raising the necessary additional funds.

(2) Notice of the election therefor shall be published for at least four weeks prior to the election in a newspaper published in the district.

(3) No particular form of ballot shall be required, and no informalities in conducting the election shall invalidate the same, if the election is otherwise fairly conducted.

(4) At the election the ballots shall contain the words, "Shall the district vote a tax to raise the additional sum of \$_____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the board of trustees shall report the same to the board of county commissioners, stating the additional amount of money required to be raised.

(6) The board of county commissioners shall at the time of levying general county taxes levy an additional tax upon all of the taxable property in the district voting such additional tax.

History: C. 1953, 26-27-10, enacted by L. 1981, ch. 126, § 26.

26-27-11. Collection and disbursement of taxes.

All taxes levied under this chapter shall be computed and entered on the assessment roll, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of the district. The funds shall be withdrawn from the county treasury upon the warrant of the board of trustees of the mosquito abatement district, signed by the president, or acting president, of the board and countersigned by its secretary.

History: C. 1953, 26-27-11, enacted by L. 1981, ch. 126, § 26.

26-27-12. Annexation of area into mosquito abatement district — Conditions — Procedures — Petition — Resolution — Protests.

(1) Any board of county commissioners, upon its own motion, may by resolution declare that the public health, convenience, and necessity requires the annexation of an area into a mosquito abatement district if either:

(a) there is presented to the board of county commissioners a petition setting forth the area and boundaries proposed to be annexed to the district, signed by (i) the legislative body of any city or town included or partially included within the area, or (ii) by 25% or more of the owners of real property included within the proposed area, or (iii) 10% of the registered voters of the area; or

(b) the annexing district is already providing district services for the proposed area, then it is the duty of the board of county commissioners to adopt the resolution.

(2) After the resolution has been adopted, the board shall give notice of its intention to annex the area to a specified mosquito abatement district. The notice shall define the area and the boundaries to be annexed and shall describe the services to be provided. The notice shall be published in a newspaper of general circulation for three successive weeks, and shall designate a time and place not more than 40 days nor less than 21 days after the first publication, where all interested parties may be heard in support or in opposition to the annexation. If a written protest signed by more than 25% in number of the real property owners according to the last assessment roll within the area proposed for annexation or by more than 30% of the registered voters in the area is filed with the county clerk within 30 days after the conclusion of the hearing, then the annexation shall not be completed. Upon completion, however, the county clerk shall notify the board of trustees of the district, together with any other notifications to the lieutenant governor and State Tax Commission required by law.

History: C. 1953, 26-27-12, enacted by L. 1985, ch. 65, § 1.

Repeals and Reenactments. — Laws 1985, ch. 65, § 1 repealed former § 26-27-12 (L. 1981,

ch. 126, § 26), relating to annexation of territory, and enacted the present section.

Effective Dates. — Laws 1985, ch. 65 became effective on April 29, 1985, pursuant to Utah Const., Art. VI, Sec. 25.

26-27-13. Dissolution — Election — Apportionment of property.

(1) A mosquito abatement district may at any time be dissolved upon the vote of a majority of the votes cast at an election called by its board of trustees on the question of dissolution. An election on the question of dissolution shall be called by the board of trustees if a petition requesting dissolution is presented to the board of trustees, signed by registered voters within the boundaries of the district equal in number to at least 30% of the votes cast in the district for the office of governor in the last general election prior to presentation of the petition.

(2) The proposition which shall be submitted to the electors shall be "Shall the _____ (naming district) mosquito abatement district be dissolved?"

(3) The election shall be held in conjunction with the next general election following the date a petition is presented to the board of trustees in accordance with Subsection (1). Notice of the election shall be published for at least four weeks prior to the election in a newspaper published in the district.

(4) Between the date a petition for dissolution is presented to the board of trustees and the date of the election, no capital expenditures may be made by the board of trustees.

(5) If a majority of the votes cast at the election are in favor of dissolution, the board of trustees shall certify that fact to the lieutenant governor, who shall issue a certificate reciting that the mosquito abatement district has been dissolved.

(6) A copy of the certificate shall be transmitted to and filed with the county clerk of the county in which the mosquito abatement district is located.

(7) From the date of the certificate, the district shall be considered discontinued, and the property of the district shall vest in the county in which the district is located if the district comprises unincorporated territory alone. If the district comprises partly incorporated and partly unincorporated territory, its property shall be ratably apportioned among the municipalities and the county in proportion to the taxable value of the property included within the district as shown upon the last county assessment roll. However, any real property, easements, or rights-of-way belonging to the district shall remain the property of the municipality where they are located; otherwise, they shall remain the property of the county.

History: C. 1953, 26-27-13, enacted by L. 1981, ch. 126, § 26; 1987, ch. 84, § 1; 1988, ch. 3, § 82.

Amendment Notes. — The 1987 amendment, in Subsection (1), substituted "a majority of the votes cast at" for "two thirds of the qualified electors thereof, upon" in the first sentence and added the present second sentence; in Subsection (3), inserted the present first sentence; inserted present Subsection (4)

and redesignated the subsequent subsections accordingly; in present Subsection (5), substituted "a majority" for "two thirds"; and made minor changes in phraseology and punctuation throughout the section.

The 1988 amendment, effective February 9, 1988, substituted "taxable value" for "assessed value" in the second sentence of Subsection (7) and made minor stylistic changes in Subsections (3) and (7).

26-27-14. Notices — Publication and posting.

Every notice required by this chapter to be published may be published in a daily or weekly newspaper. If there is no such newspaper published within the district or other territory wherein the notice is required to be published, the notice shall be posted in three public places therein for the length of time required for publication.

History: C. 1953, 26-27-14, enacted by L. 1981, ch. 126, § 26.