

28 other states, and interstate agencies, and with affected groups, political subdivisions, and industries
29 to further the purposes of this chapter;

30 (c) encourage, participate in, or conduct studies, investigations, research, and
31 demonstrations relating to water pollution and causes of water pollution as the board finds
32 necessary to discharge its duties;

33 (d) collect and disseminate information relating to water pollution and the prevention,
34 control, and abatement of water pollution;

35 (e) adopt, modify, or repeal standards of quality of the waters of the state and classify those
36 waters according to their reasonable uses in the interest of the public under conditions the board
37 may prescribe for the prevention, control, and abatement of pollution;

38 (f) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
39 Act, taking into account Subsection (2), to:

40 (i) implement the awarding of construction loans to political subdivisions and municipal
41 authorities under Section 11-8-2, including:

42 (A) requirements pertaining to applications for loans;

43 (B) requirements for determination of eligible projects;

44 (C) requirements for determination of the costs upon which loans are based, which costs
45 may include engineering, financial, legal, and administrative expenses necessary for the
46 construction, reconstruction, and improvement of sewage treatment plants, including major
47 interceptors, collection systems, and other facilities appurtenant to the plant;

48 (D) a priority schedule for awarding loans, in which the board may consider in addition
49 to water pollution control needs any financial needs relevant, including per capita cost, in making
50 a determination of priority; and

51 (E) requirements for determination of the amount of the loan[, ~~taking into consideration~~
52 ~~the availability of federal grants in determining the eligible project costs and in establishing~~
53 ~~priorities~~];

54 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
55 73-10c-4.5;

56 [(ii)] (iii) set effluent limitations and standards subject to Section 19-5-116;

57 [(iii)] (iv) implement or effectuate the powers and duties of the board; and

58 [(iv)] (v) protect the public health for the design, construction, operation, and maintenance

- 59 of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit
60 privies;
- 61 (g) issue, modify, or revoke orders:
- 62 (i) prohibiting or abating discharges;
- 63 (ii) requiring the construction of new treatment works or any parts of them, or requiring
64 the modification, extension, or alteration of existing treatment works as specified by board rule or
65 any parts of them, or the adoption of other remedial measures to prevent, control, or abate
66 pollution;
- 67 (iii) setting standards of water quality, classifying waters or evidencing any other
68 determination by the board under this chapter; and
- 69 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 70 (h) review plans, specifications, or other data relative to disposal systems or any part of
71 disposal systems, and issue construction permits for the installation or modification of treatment
72 works or any parts of them;
- 73 (i) after public notice and opportunity for a public hearing, issue, continue in effect,
74 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe
75 to control the management of sewage sludge or to prevent or control the discharge of pollutants,
76 including effluent limitations for the discharge of wastes into the waters of the state;
- 77 (j) give reasonable consideration in the exercise of its powers and duties to the economic
78 impact of water pollution control on industry and agriculture;
- 79 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,
80 including delegation to the department of its duties as appropriate to improve administrative
81 efficiency;
- 82 (l) meet the requirements of federal law related to water pollution;
- 83 (m) establish and conduct a continuing planning process for control of water pollution
84 including the specification and implementation of maximum daily loads of pollutants;
- 85 (n) make rules governing inspection, monitoring, recordkeeping, and reporting
86 requirements for underground injections and require permits for them, to protect drinking water
87 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,
88 recognizing that underground injection endangers drinking water sources if:
- 89 (i) injection may result in the presence of any contaminant in underground water which

90 supplies or can reasonably be expected to supply any public water system, as defined in Section
91 19-4-102; and

92 (ii) the presence of the contaminant may result in the public water system not complying
93 with any national primary drinking water standards or may otherwise adversely affect the health
94 of persons;

95 (o) make rules governing sewage sludge management, including permitting, inspecting,
96 monitoring, recordkeeping, and reporting requirements;

97 (p) adopt and enforce rules and establish fees to cover the costs of testing for certification
98 of operators of treatment works and sewerage systems operated by political subdivisions; and

99 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design and
100 construction of irrigation systems which convey sewage treatment facility effluent of human origin
101 in pipelines under pressure, unless contained in surface pipes wholly on private property and for
102 agricultural purposes, and which are constructed after May 4, 1998.

103 (2) In determining eligible project costs and in establishing priorities pursuant to
104 Subsection (1)(f)(i), the board shall take into consideration the availability of federal grants.

105 [~~2~~] (3) In establishing certification rules under Subsection (1)(p), the board shall:

106 (a) base the requirements for certification on the size, treatment process type, and
107 complexity of the treatment works and sewerage systems operated by political subdivisions;

108 (b) allow operators until three years after the date of adoption of the rules to obtain initial
109 certification;

110 (c) allow new operators one year from the date they are hired by a treatment plant or
111 sewerage system or three years after the date of adoption of the rules, whichever occurs later, to
112 obtain certification;

113 (d) issue certification upon application and without testing, at a grade level comparable
114 to the grade of current certification to operators who are currently certified under the voluntary
115 certification plan for wastewater works operators as recognized by the board; and

116 (e) issue a certification upon application and without testing that is valid only at the
117 treatment works or sewerage system where that operator is currently employed if the operator:

118 (i) is in charge of and responsible for the treatment works or sewerage system on March
119 16, 1991;

120 (ii) has been employed at least ten years in the operation of that treatment works or

121 sewerage system prior to March 16, 1991; and

122 (iii) demonstrates to the board his capability to operate the treatment works or sewerage
123 system at which he is currently employed by providing employment history and references as
124 required by the board.

125 Section 2. Section **73-10b-2** is amended to read:

126 **73-10b-2. Definitions.**

127 As used in this chapter:

128 (1) "Drinking water project" means any work or facility necessary or desirable to provide
129 water for human consumption and other domestic uses which has at least 15 service connections
130 or serves an average of 25 individuals daily for at least 60 days of the year and includes collection,
131 treatment, storage, and distribution facilities under the control of the operator and used primarily
132 with the system, and collection pretreatment or storage facilities used primarily in connection with
133 the system but not under the operator's control.

134 (2) "Political subdivision" means any county, city, town, improvement district,
135 metropolitan water district, water conservancy district, special service district, drainage district,
136 irrigation district, separate legal or administrative entity created under [the] Title 11, Chapter 13,
137 Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws
138 of Utah.

139 (3) "Sinking fund" means the 1983 general obligation water, wastewater, and drinking
140 water bonds sinking fund created by Section 73-10b-12.

141 (4) "Waters of this state" means any stream, lake, pond, marsh, watercourse, waterway,
142 well, spring, irrigation system, drainage system, or other body or accumulation of water, whether
143 surface, underground, natural, artificial, public, or private, or other water resource of the state,
144 which is contained within or flows in or through Utah.

145 (5) "Water project" means any work or facility necessary or desirable to conserve, develop,
146 protect, or treat the waters of this state including, without limitation, any reservoir, diversion dam,
147 irrigation dam and system, culinary water system, water work, water treatment facility, canal, ditch,
148 aqueduct, pipeline, and related structures and facilities.

149 (6) "Water project costs" or "wastewater project costs" or "drinking water project costs"
150 means, as appropriate, the cost of acquiring and constructing any water project, wastewater project
151 or drinking water project, including:

152 (a) the cost of acquisition and construction of any facility or any modification,
153 improvement, or extension of a facility;

154 (b) any cost incident to the acquisition of any necessary property, easement, or
155 right-of-way;

156 (c) engineering or architectural fees, legal fees, fiscal agents', and financial advisors' fees;

157 (d) any cost incurred for any preliminary planning to determine the economic and
158 engineering feasibility of a proposed project;

159 (e) costs of economic investigations and studies, surveys, preparation of designs, plans,
160 working drawings, specifications, and the inspection and supervision of the construction of any
161 facility;

162 (f) interest accruing on loans made under this chapter during acquisition and construction
163 of the water project, drinking water project, or wastewater project; and

164 (g) any other cost incurred by the political subdivision, the Board of Water Resources, the
165 Division of Water Resources, the Water Quality Board, the Drinking Water Board, or the
166 Department of Environmental Quality, in connection with the issuance of obligations of the
167 political subdivision to evidence any loan made to it under this chapter.

168 (7) "Wastewater project" means any sewer, storm or sanitary sewage system, sewage
169 treatment facility and system, lagoon, sewage collection facility and system, and related pipelines,
170 and all similar systems, works, and facilities necessary or desirable to collect, hold, cleanse, or
171 purify any sewage or other polluted waters of this state.

172 Section 3. Section **73-10c-2** is amended to read:

173 **73-10c-2. Definitions.**

174 As used in this chapter:

175 (1) "Board" means the Board of Water Resources of the Department of Natural Resources.

176 (2) "Council" means the Water Development Coordinating Council created pursuant to
177 Section 63-34-3, and this chapter.

178 (3) "Credit enhancement agreement" means any agreement entered into under this chapter
179 between the Drinking Water Board or Water Quality Board, on behalf of the state, and a political
180 subdivision, for the purpose of providing methods and assistance to political subdivisions to
181 improve the security for and marketability of drinking water project obligations and wastewater
182 project obligations.

183 (4) "Drinking Water Board" means the Drinking Water Board created in Title 19, Chapter
184 4, Safe Drinking Water Act.

185 (5) "Drinking water or wastewater project obligation" means, as appropriate, any bond,
186 note, or other obligation of a political subdivision issued to finance all or part of the cost of
187 acquiring, constructing, expanding, upgrading, or improving a drinking water project or
188 wastewater project.

189 (6) "Drinking water project" means any work or facility necessary or desirable to provide
190 water for human consumption and other domestic uses, which has at least 15 service connections
191 or serves an average of 25 individuals daily for at least 60 days of the year and includes collection,
192 treatment, storage, and distribution facilities under the control of the operator and used primarily
193 with the system and collection pretreatment or storage facilities used primarily in connection with
194 the system but not under its control.

195 (7) "Financial assistance programs" means the various programs administered by the state
196 whereby loans, grants, and other forms of financial assistance are made available to political
197 subdivisions of this state to finance the costs of water and wastewater projects.

198 (8) "Hardship Grant Assessment" means the charge the Water Quality Board or Drinking
199 Water Board assesses to recipients of [~~federal State Revolving Fund~~] loans under [~~33 U.S.C.A.~~
200 ~~1251 et seq., federal Clean Water Act, or 42 U.S.C.A. 300f et seq., federal Safe Drinking Water~~
201 ~~Act;~~] Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on
202 these loans.

203 (9) "Nonpoint source project" means any facility, system, practice, or mechanism to abate,
204 prevent, or reduce pollution of waters of this state caused by nonpoint sources.

205 [(9)] (10) "Political subdivision" means any county, city, town, improvement district, water
206 conservancy district, special service district, drainage district, metropolitan water district, irrigation
207 district, separate legal or administrative entity created under [the] Title 11, Chapter 13, Interlocal
208 Cooperation Act, or any other entity constituting a political subdivision under the laws of this state.

209 [(10)] (11) "Security account" means the Water Development Security Account within the
210 General Fund created by this chapter.

211 [(11)] (12) "Wastewater project" means any sewer, storm or sanitary sewage system,
212 sewage treatment facility, lagoon, sewage collection facility and system and related pipelines and
213 all similar systems, and works and facilities necessary or desirable to collect, hold, cleanse, or

214 purify any sewage or other polluted waters of this state.

215 [(12)] (13) "Waters of this state" means any stream, lake, pond, marsh, watercourse,
216 waterway, well, spring, irrigation system, drainage system, or other body or accumulation of water
217 whether surface, underground, natural, artificial, public, private, or other water resource of the state
218 which is contained within or flows in or through the state.

219 [(13)] (14) "Water Quality Board" means the Water Quality Board created in Title 19,
220 Chapter 5, Water Quality Act.

221 Section 4. Section 73-10c-4.5 is enacted to read:

222 **73-10c-4.5. Nonpoint source project loans -- Project objectives -- Water Quality**
223 **Board duties.**

224 (1) The Water Quality Board may make loans from the Utah State Revolving Fund for
225 Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(b) to political subdivisions,
226 individuals, corporations, associations, or other private entities to acquire, construct, or implement
227 nonpoint source projects.

228 (2) The Water Quality Board may award the loans only for nonpoint source projects that
229 will achieve one or more of the following objectives:

230 (a) abate or reduce raw sewage discharges;

231 (b) repair or replace failing individual on-site wastewater disposal systems;

232 (c) abate or reduce untreated or uncontrolled runoff;

233 (d) improve critical aquatic habitat resources;

234 (e) conserve soil, water, or other natural resources;

235 (f) protect and improve ground water quality;

236 (g) preserve and protect the beneficial uses of waters of the state;

237 (h) reduce the number of water bodies not achieving water quality standards;

238 (i) improve watershed management; or

239 (j) prepare and implement total maximum daily load (TMDL) assessments.

240 (3) The Water Quality Board shall:

241 (a) determine the amount, term, and interest rate for each loan made under this section;

242 (b) assure that adequate security is obtained for each loan;

243 (c) establish criteria and procedures for determining priority nonpoint source projects and
244 award loans in accordance with those priorities; and

245 (d) make rules to implement this section in accordance with Title 63, Chapter 46a, Utah
 246 Administrative Rulemaking Act.

247 Section 5. Section **73-10c-5** is amended to read:

248 **73-10c-5. Water Development Security Account created -- Water Quality Security**
 249 **and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds -- Hardship**
 250 **grants.**

251 (1) There is established a restricted account within the General Fund known as the Water
 252 Development Security Account which includes the Water Quality Security Subaccount and the
 253 Drinking Water Security Subaccount.

254 (2) The Water Quality Security Subaccount consists of three subaccounts:

255 (a) the Utah Wastewater Loan Program subaccount, which consists of:

256 (i) money appropriated to the subaccount by the Legislature;

257 (ii) money received from the ~~[principal]~~ repayment of the principal of loans made by the
 258 Water Quality Board under Sections 73-10b-5, 73-10c-4, 73-10c-6, 73-10g-4, and 73-10h-4 from
 259 the Utah Wastewater Loan Program subaccount;

260 (iii) except for payments, if any, necessary to comply with Section 148(f), Internal
 261 Revenue Code of 1986, income earned after June 30, 1984, on proceeds of bonds authorized by
 262 Sections 73-10b-5, 73-10g-4, and 73-10h-4 ~~[from the Utah Wastewater Loan subaccount]~~; and

263 (iv) money deposited in the subaccount under any other law~~[-]~~;

264 (b) the Utah State Revolving Fund for Wastewater Projects subaccount, which consists of:

265 (i) money appropriated to the subaccount by the Legislature;

266 (ii) money received from the Utah Wastewater Loan Program subaccount applied to meet
 267 match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean Water Act;

268 (iii) money received from the repayment of loans made by the Water Quality Board under
 269 ~~[this section]~~ Section 73-10c-4 from the Utah State Revolving Fund for Wastewater Projects
 270 subaccount;

271 (iv) money received from the repayment of loans made by the Water Quality Board under
 272 Section 73-10c-4.5;

273 ~~[(iv)]~~ (v) money deposited in the subaccount under any other law;

274 ~~[(v)]~~ (vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq.,
 275 federal Clean Water Act, and which is eligible for use in state revolving loan funds established to

276 meet the requirements of the act; and

277 [(vi)] (vii) all investment income derived from money in the Utah State Revolving Fund
278 for Wastewater Projects subaccount[-]; and

279 (c) the Hardship Grant Program for Wastewater Projects subaccount, which consists of:

280 (i) money appropriated to the subaccount by the Legislature;

281 (ii) money received as interest [payment] payments on loans made by the Water Quality
282 Board under Sections 73-10b-5, 73-10c-4, 73-10c-6, 73-10g-4, and 73-10h-4, from the Utah
283 Wastewater Loan Program subaccount;

284 (iii) money deposited in the subaccount under any other law;

285 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and

286 (v) all investment income derived from money in the Utah Wastewater Loan Program
287 subaccount or the Hardship Grant Program for Wastewater Projects subaccount.

288 (3) The Drinking Water Security Subaccount consists of three subaccounts:

289 (a) the Drinking Water Loan Program subaccount, which consists of:

290 (i) money appropriated to the subaccount by the Legislature;

291 (ii) money received from the [principal] repayment of the principal of loans made by the
292 Drinking Water Board under Sections 73-10b-6, 73-10c-4, 73-10c-6, 73-10g-5[-] and 73-10h-5,
293 from the Drinking Water Loan Program subaccount;

294 (iii) except for payments, if any, necessary to comply with Section 148(f), Internal
295 Revenue Code of 1986, income earned after June 30, 1984, on proceeds of bonds authorized by
296 Sections 73-10b-6, 73-10g-5, and 73-10h-5 [~~from the Drinking Water Loan Program subaccount~~];
297 and

298 (iv) money deposited in the subaccount under any other law[-];

299 (b) the State Revolving Fund for Drinking Water Projects subaccount, which consists of:

300 (i) money appropriated to the subaccount by the Legislature;

301 (ii) money received from the Utah Drinking Water Loan Program subaccount and applied
302 to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal Safe Drinking
303 Water Act;

304 (iii) money received from the repayment of loans made by the Drinking Water Board under
305 [~~this section~~] Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects
306 subaccount;

- 307 (iv) money deposited in the subaccount under any other law;
- 308 (v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq.,
- 309 federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds
- 310 established to meet the requirements of the act; and
- 311 (vi) all investment income derived from money in the State Revolving Fund for Drinking
- 312 Water Projects subaccount~~[-]; and~~
- 313 (c) the Hardship Grant Program for Drinking Water Projects subaccount, which consists
- 314 of:
- 315 (i) money appropriated to the subaccount by the Legislature;
- 316 (ii) money received from ~~[the] interest [repayment of]~~ payments on loans made by the
- 317 Drinking Water Board under Sections 73-10b-6, ~~[73-10c-5]~~ 73-10c-4, 73-10c-6, 73-10g-5, and
- 318 73-10h-5, from the Drinking Water Loan Program subaccount;
- 319 (iii) money deposited in the subaccount under any other law;
- 320 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and
- 321 (v) all investment income derived from money in the Drinking Water Loan Program
- 322 subaccount or the Hardship Grant Program for Drinking Water Projects subaccount.
- 323 (4) State monies in the Water Quality Security Subaccount and the Drinking Water
- 324 Security Subaccount may be applied to meet match requirements for federal funds under 33
- 325 U.S.C.A. 1251 et seq., federal Clean Water Act and 42 U.S.C.A. 300f et seq., federal Safe
- 326 Drinking Water Act.
- 327 (5) If the money in the security account is insufficient for the purposes for which the
- 328 security account is established, the council shall ask the governor to request the Legislature to
- 329 appropriate additional money to the account.
- 330 (6) (a) The Drinking Water Board and Water Quality Board may use the money in the
- 331 appropriate security account subaccount only to the extent of the money available in the account,
- 332 for the support of drinking water projects and wastewater projects in accordance with the terms
- 333 of credit enhancement agreements, grant agreements, and loan agreements.
- 334 (b) Repayments to the security account from loans made by the acting board, monies
- 335 allocated by the Legislature, and interest accrued on these monies shall remain available for use
- 336 by that board for further project funding.
- 337 (7) Funds received under Section 1452 of the federal Safe Drinking Water Act, 42

338 U.S.C.A. 300f et seq., may be used for providing financial assistance to community water systems
339 and nonprofit noncommunity water systems as defined and within the limits of that act.

Legislative Review Note
as of 1-20-00 2:54 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel