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1 **ELECTRONIC GOVERNMENT SERVICES**
2 **AMENDMENTS - ENVIRONMENTAL QUALITY**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Richard M. Siddoway**

6 **This act modifies the Environmental Quality Code. The act makes technical changes to**
7 **facilitate the provision of government services electronically.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **19-2-103**, as last amended by Chapter 243, Laws of Utah 1996

11 **19-2-124**, as last amended by Chapter 314, Laws of Utah 1999

12 **19-4-103**, as last amended by Chapters 27 and 243, Laws of Utah 1996

13 **19-5-103**, as last amended by Chapter 243, Laws of Utah 1996

14 **19-6-320**, as renumbered and amended by Chapter 112, Laws of Utah 1991

15 **19-6-813**, as renumbered and amended by Chapter 51, Laws of Utah 2000

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **19-2-103** is amended to read:

18 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**
19 **and expenses.**

20 (1) The board comprises 11 members, one of whom shall be the executive director and ten
21 of whom shall be appointed by the governor with the advice and consent of the Senate.

22 (2) The members shall be knowledgeable of air pollution matters and shall be:

23 (a) a practicing physician and surgeon licensed in the state not connected with industry;

24 (b) a registered professional engineer who is not from industry;

25 (c) a representative from municipal government;

26 (d) a representative from county government;

27 (e) a representative from agriculture;

28 (f) a representative from the mining industry;
29 (g) a representative from manufacturing;
30 (h) a representative from the fuel industry; and
31 (i) two representatives of the public not representing or connected with industry, at least
32 one of whom represents organized environmental interests.

33 (3) No more than five of the appointed members shall belong to the same political party.

34 (4) The majority of the members may not derive any significant portion of their income
35 from persons subject to permits or orders under this chapter. Any potential conflict of interest of
36 any member or the executive secretary, relevant to the interests of the board, shall be adequately
37 disclosed.

38 (5) Members serving on the Air Conservation Committee created by Chapter 126, Laws
39 of Utah 1981, as amended, shall serve as members of the board throughout the terms for which
40 they were appointed.

41 (6) (a) Except as required by Subsection (6)(b), members shall be appointed for a term of
42 four years.

43 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the time
44 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
45 members are staggered so that approximately half of the board is appointed every two years.

46 (7) Members may serve more than one term.

47 (8) Members shall hold office until the expiration of their terms and until their successors
48 are appointed, but not more than 90 days after the expiration of their terms.

49 (9) When a vacancy occurs in the membership for any reason, the replacement shall be
50 appointed for the unexpired term.

51 (10) The board shall elect annually a chair and a vice chair from its members.

52 (11) (a) The board shall meet at least quarterly, and special meetings may be called by the
53 chair upon his own initiative, upon the request of the executive secretary, or upon the [written]
54 request of three members of the board.

55 (b) Three days' notice shall be given to each member of the board prior to any meeting.

56 (12) Six members constitute a quorum at any meeting, and the action of a majority of
57 members present is the action of the board.

58 (13) (a) (i) Members who are not government employees shall receive no compensation

59 or benefits for their services, but may receive per diem and expenses incurred in the performance
60 of the member's official duties at the rates established by the Division of Finance under Sections
61 63A-3-106 and 63A-3-107.

62 (ii) Members may decline to receive per diem and expenses for their service.

63 (b) (i) State government officer and employee members who do not receive salary, per
64 diem, or expenses from their agency for their service may receive per diem and expenses incurred
65 in the performance of their official duties from the board at the rates established by the Division
66 of Finance under Sections 63A-3-106 and 63A-3-107.

67 (ii) State government officer and employee members may decline to receive per diem and
68 expenses for their service.

69 (c) (i) Local government members who do not receive salary, per diem, or expenses from
70 the entity that they represent for their service may receive per diem and expenses incurred in the
71 performance of their official duties at the rates established by the Division of Finance under
72 Sections 63A-3-106 and 63A-3-107.

73 (ii) Local government members may decline to receive per diem and expenses for their
74 service.

75 Section 2. Section **19-2-124** is amended to read:

76 **19-2-124. Application for certification of pollution control facility -- Refunds --**
77 **Interest.**

78 (1) (a) A person who qualifies under Subsection (2) may apply to the board for
79 certification of a pollution control facility or facilities erected, constructed, or installed, or to be
80 erected, constructed, or installed in the state on or after July 1, 1986, but on or before June 30,
81 2004.

82 (b) An application may be filed at any time after a firm construction contract has been
83 entered or construction has commenced.

84 (2) (a) (i) A person who applies under Subsection (1) shall be the owner of a trade or
85 business that uses property in the state requiring a pollution control facility to prevent or minimize
86 pollution or a person who, as a lessee or pursuant to an agreement, conducts the trade or business
87 that operates or uses the property.

88 (ii) For purposes of this Subsection (2), "owner" includes a contract purchaser.

89 (b) The facility shall be owned, operated, or leased during a part of the tax year in which

90 the exemption is claimed.

91 (c) A person who obtains certification for a pollution control facility may claim an
92 exemption from sales and use taxes as provided in Sections 19-2-123 and 59-12-104 only during
93 the time period beginning on or after July 1, 1986, and ending on or before June 30, 2004.

94 (d) A person who pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a
95 purchase of tangible personal property or services used in the construction of or incorporated into
96 a pollution control facility that:

97 (i) is not certified under Section 19-2-125, may obtain a refund of the tax if:

98 (A) the board subsequently certifies the pollution control facility;

99 (B) the tangible personal property or services meet the requirements for exemption
100 provided in Subsections 19-2-123(2) and 59-12-104(11), except for the certification requirement;
101 and

102 (C) the person files a claim for the refund with the State Tax Commission within the lesser
103 of:

104 (I) three years after the day on which the pollution control facility is certified under Section
105 19-2-125; or

106 (II) six years after the day on which the person pays the tax under Title 59, Chapter 12,
107 Sales and Use Tax Act; or

108 (ii) is certified under Section 19-2-125, may obtain a refund of the tax if:

109 (A) the tangible personal property or services meet the requirements for exemption
110 provided in Subsections 19-2-123(2) and 59-12-104(11); and

111 (B) the person files a claim for the refund with the State Tax Commission within three
112 years after the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use Tax
113 Act.

114 (e) (i) If a person files a claim for a refund of taxes under Subsection (2)(d)(i) paid on a
115 purchase of tangible personal property or services used in the construction of or incorporated into
116 a pollution control facility that was not certified under Section 19-2-125 at the time of the
117 purchase:

118 (A) within 180 days after the day on which the board certifies the pollution control facility,
119 interest shall accrue to the amount of the refund granted by the State Tax Commission:

120 (I) at the rate prescribed in Section 59-1-402; and

121 (II) beginning on the day on which the person pays the tax under Title 59, Chapter 12,
122 Sales and Use Tax Act, for which the person is claiming a refund; or

123 (B) more than 180 days after the day on which the board certifies the pollution control
124 facility, interest shall be added to the amount of the refund granted by the State Tax Commission:

125 (I) at the rate prescribed in Section 59-1-402; and

126 (II) beginning 30 days after the day on which the person files the claim for a refund under
127 Subsection (2)(d).

128 (ii) If a person files a claim for a refund of taxes under Subsection (2)(d)(ii) paid on a
129 purchase of tangible personal property or services used in the construction of or incorporated into
130 a pollution control facility that was certified under Section 19-2-125 at the time of the purchase,
131 interest shall accrue to the amount of the refund granted by the State Tax Commission:

132 (A) at the rate prescribed in Section 59-1-402; and

133 (B) beginning 30 days after the day on which the person files a claim for a refund under
134 Subsection (2)(d).

135 (3) (a) Each application shall be in [~~writing on a form~~] a format prescribed by the board,
136 contain a description of the facilities and materials incorporated in them, the machinery and
137 equipment, the existing or proposed operational procedure, and a statement of the purpose of
138 pollution prevention, control, or reduction served or to be served by the facility.

139 (b) The board may require any further information it finds necessary before issuance of
140 a certificate.

141 Section 3. Section **19-4-103** is amended to read:

142 **19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem**
143 **and expenses.**

144 (1) The board created under Section 19-1-106 comprises 11 members, one of whom is the
145 executive director and the remainder of whom shall be appointed by the governor, with the advice
146 and consent of the Senate.

147 (2) No more than five appointed members shall be from the same political party.

148 (3) The appointed members shall be knowledgeable about drinking water and public water
149 systems and shall represent different geographical areas within the state insofar as practicable.

150 (4) The ten appointed members shall be appointed from the following areas:

151 (a) two elected officials of municipal government or their representatives involved in

152 management or operation of public water systems;

153 (b) two representatives of improvement districts, water conservancy districts, or
154 metropolitan water districts;

155 (c) one representative from an industry which manages or operates a public water system;

156 (d) one registered professional engineer with expertise in civil or sanitary engineering;

157 (e) one representative from the state water research community or from an institution of
158 higher education which has comparable expertise in water research;

159 (f) two representatives of the public who do not represent other interests named in this
160 section and who do not receive, and have not received during the past two years, a significant
161 portion of their income, directly or indirectly, from suppliers; and

162 (g) one representative from a local health department.

163 (5) (a) Members of the Utah Safe Drinking Water Committee created by Chapter 126,
164 Laws of Utah 1981, shall serve as members of the board throughout the terms for which they were
165 appointed.

166 (b) Except as required by Subsection (5)(c), as terms of current board members expire, the
167 governor shall appoint each new member or reappointed member to a four-year term.

168 (c) Notwithstanding the requirements of Subsection (5)(b), the governor shall, at the time
169 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
170 members are staggered so that approximately half of the board is appointed every two years.

171 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
172 appointed for the unexpired term.

173 (7) Each member holds office until the expiration of the member's term, and until a
174 successor is appointed, but not for more than 90 days after the expiration of the term.

175 (8) The board shall elect annually a chair and a vice chair from its members.

176 (9) (a) The board shall meet at least quarterly.

177 (b) Special meetings may be called by the chair upon his own initiative, upon the request
178 of the executive secretary, or upon the ~~written~~ request of three members of the board.

179 (c) Reasonable notice shall be given each member of the board prior to any meeting.

180 (10) Six members constitute a quorum at any meeting and the action of the majority of the
181 members present is the action of the board.

182 (11) (a) (i) Members who are not government employees shall receive no compensation

183 or benefits for their services, but may receive per diem and expenses incurred in the performance
184 of the member's official duties at the rates established by the Division of Finance under Sections
185 63A-3-106 and 63A-3-107.

186 (ii) Members may decline to receive per diem and expenses for their service.

187 (b) (i) State government officer and employee members who do not receive salary, per
188 diem, or expenses from their agency for their service may receive per diem and expenses incurred
189 in the performance of their official duties from the board at the rates established by the Division
190 of Finance under Sections 63A-3-106 and 63A-3-107.

191 (ii) State government officer and employee members may decline to receive per diem and
192 expenses for their service.

193 (c) (i) Local government members who do not receive salary, per diem, or expenses from
194 the entity that they represent for their service may receive per diem and expenses incurred in the
195 performance of their official duties at the rates established by the Division of Finance under
196 Sections 63A-3-106 and 63A-3-107.

197 (ii) Local government members may decline to receive per diem and expenses for their
198 service.

199 Section 4. Section **19-5-103** is amended to read:

200 **19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms --**
201 **Organization -- Meetings -- Per diem and expenses.**

202 (1) Committee members currently serving on the Water Pollution Control Committee
203 created under Chapter 126, Laws of Utah 1981, shall serve on the board throughout the terms for
204 which they were appointed.

205 (2) The board comprises the executive director and ten members appointed by the
206 governor, with the advice and consent of the Senate.

207 (3) No more than five of the appointed members may be from the same political party.

208 (4) The appointed members, insofar as practicable, shall include the following:

209 (a) one member representing the mineral industries;

210 (b) one member representing the food processing industries;

211 (c) one member representing other manufacturing industries;

212 (d) two members who are officials of municipal government or their representatives
213 involved in the management or operation of wastewater treatment facilities;

214 (e) one member representing agricultural and livestock interests;
215 (f) one member representing fish, wildlife, and recreation interests;
216 (g) one member representing improvement and service districts; and
217 (h) two members at large, one of whom represents organized environmental interests,
218 selected with due consideration of the areas of the state affected by water pollution and not
219 representing other interests named in this Subsection (4).

220 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
221 appointed for the unexpired term with the advice and consent of the Senate.

222 (6) (a) Except as required by Subsection (6)(b), members shall be appointed for terms of
223 four years and are eligible for reappointment.

224 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the time
225 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
226 members are staggered so that approximately half of the board is appointed every two years.

227 (7) Members shall hold office until the expiration of their terms and until their successors
228 are appointed, not to exceed 90 days after the formal expiration of their terms.

229 (8) The board shall:

230 (a) organize and annually select one of its members as chair and one of its members as vice
231 chair;

232 (b) hold at least four regular meetings each calendar year; and

233 (c) keep minutes of its proceedings which shall be open to the public for inspection.

234 (9) Special meetings may be called by the chair and must be called by him upon ~~receipt~~
235 ~~of a written~~ the request ~~[for a special meeting signed by]~~ of three or more members of the board.

236 (10) Each member of the board and the executive secretary shall be notified ~~[in writing]~~
237 of the time and place of each meeting.

238 (11) Six members of the board constitute a quorum for the transaction of business, and the
239 action of a majority of members present is the action of the board.

240 (12) (a) Members shall receive no compensation or benefits for their services, but may
241 receive per diem and expenses incurred in the performance of the member's official duties at the
242 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

243 (b) Members may decline to receive per diem and expenses for their service.

244 (c) Local government members who do not receive salary, per diem, or expenses from the

245 entity that they represent for their service may receive per diem and expenses incurred in the
246 performance of their official duties at the rates established by the Division of Finance under
247 Sections 63A-3-106 and 63A-3-107.

248 (d) Local government members may decline to receive per diem and expenses for their
249 service.

250 Section 5. Section **19-6-320** is amended to read:

251 **19-6-320. Remedial action completion procedures -- Legal remedies.**

252 (1) A party who has entered an agreement or who has been issued a final order under the
253 authority of Sections 19-6-317 through this section shall send [~~written~~] notice to the executive
254 director when the remedial action for the facility is completed.

255 (2) Upon notice that remedial action at a facility is complete, the executive director shall
256 inspect the facility to determine if the remedial action plan as implemented meets the substantive
257 requirements of CERCLA.

258 (3) If the executive director determines that the remedial action plan as implemented meets
259 the substantive requirements of CERCLA, except for any ongoing activities at the facility,
260 including operation, maintenance, or monitoring, he shall issue a notice of agency action declaring
261 that remedial action at the facility is complete and removing the facility from the hazardous
262 substances priority list.

263 (4) (a) If the executive director determines that the remedial action plan for a national
264 priority list site, as implemented, does not meet the substantive requirements of CERCLA, he may
265 issue an order directing the responsible parties to take additional actions to implement the remedial
266 action plan.

267 (b) If the responsible parties refuse to comply with the order the executive director may
268 take enforcement action.

269 (5) (a) If the executive director determines that the remedial action plan for a proposed
270 national priority list site or a scored site has not been properly and completely implemented
271 according to the agreement between the executive director and the responsible parties, or is not
272 consistent with the substantive requirements of CERCLA, he shall request that the responsible
273 parties take additional actions to fulfill the agreement to implement the remedial action plan.

274 (b) If the responsible parties refuse to comply with the request, the executive director may
275 take action to enforce the agreement.

276 Section 6. Section **19-6-813** is amended to read:

277 **19-6-813. Application for partial reimbursement -- Penalty.**

278 (1) An application for partial reimbursement shall be [~~on the form~~] in the format
279 prescribed by the local health department or the executive secretary, as is appropriate under Section
280 19-6-809, and shall include:

- 281 (a) the recycler's name and a brief description of the recycler's business;
- 282 (b) the quantity, in tons, of waste tires recycled or used in a beneficial use;
- 283 (c) originals or copies of log books, receipts, bills of lading, or other similar documents

284 to establish the tonnage of waste tires recycled or used in a beneficial use;

285 (d) a description of how the waste tires were recycled;

286 (e) proof that is satisfactory to the local health department or the executive secretary, as
287 is appropriate under Section 19-6-809, that the waste tires were recycled or used in a beneficial
288 use; and

289 (f) the affidavit of the recycler warranting that the recycled waste tires or waste tires used
290 for a beneficial use for which reimbursement is sought meet requirements of Subsection
291 19-6-809(4).

292 (2) In addition to any other penalty imposed under Section 19-6-821 or 19-6-822 or by any
293 other law, any person who knowingly or intentionally provides false information to the local health
294 department or to the executive secretary under Subsection (1):

295 (a) is ineligible to receive any further reimbursement under this part; and

296 (b) shall return to the Division of Finance any reimbursement previously received for
297 deposit in the trust fund.

Legislative Review Note
as of 11-28-00 8:53 AM

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

Office of Legislative Research and General Counsel

Committee Note

The Public Utilities and Technology Interim Committee recommended this bill.