

Senator David L. Thomas proposes the following substitute bill:

WASTE WATER AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Thomas

LONG TITLE

General Description:

This bill modifies provisions related to the treatment and use of sewage effluent.

Highlighted Provisions:

This bill:

- ▶ defines a public water supply agency for purposes related to the use of sewage effluent that has been collected and treated by a publicly owned treatment works;
- ▶ provides that a public water supply agency may use sewage effluent;
- ▶ provides limited conditions under which a publicly owned treatment works may use sewage effluent supplied under a public water supply agency's water rights;
- ▶ provides an application procedure for a sewage effluent use or change in the point of discharge; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3c-1, as enacted by Chapter 39, Laws of Utah 1995



- 26 **73-3c-2**, as enacted by Chapter 39, Laws of Utah 1995
- 27 **73-3c-3**, as enacted by Chapter 39, Laws of Utah 1995
- 28 **73-3c-4**, as enacted by Chapter 39, Laws of Utah 1995
- 29 **73-3c-7**, as enacted by Chapter 39, Laws of Utah 1995
- 30 **73-3c-8**, as enacted by Chapter 39, Laws of Utah 1995

31 ENACTS:

- 32 **73-3c-9**, Utah Code Annotated 1953

33 REPEALS:

- 34 **73-3c-6**, as enacted by Chapter 39, Laws of Utah 1995



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

37 Section 1. Section **73-3c-1** is amended to read:

38 **73-3c-1. Definitions.**

39 As used in this chapter:

- 40 (1) "DEQ" means the Department of Environmental Quality.
- 41 (2) "POTW" means a publicly owned treatment works as defined by Section 19-5-102,
42 except that for purposes of this chapter it does not apply to a municipally owned POTW.

43 ~~[(3) "Regional POTW" means a publicly-owned treatment works that serves more than~~
44 ~~one governmental entity.]~~

45 (3) "Public water supply agency" means a municipality, water conservancy district,
46 water special service district, or other water supply agency of the United States or of the state
47 or a political subdivision of the state, which supplies municipal water to the public under valid
48 Utah water rights.

49 (4) "Sewage effluent" means the [~~product~~] water resulting from the treatment of
50 sewage and other pollutants by a POTW pursuant to discharge limitations set under the Clean
51 Water Act of 1977, 33 U.S.C. Sec. 1251 et seq. and Title 19, Chapter 5, Water Quality Act.

52 (5) "Water right" means:

- 53 (a) a right to use water evidenced by any means identified in Section 73-1-10;
- 54 (b) a right to use water under an approved application:
 - 55 (i) to appropriate;
 - 56 (ii) for a change of use; or

- 57 (iii) for the exchange of water; or
58 (c) a contract authorizing the use of water from a water wholesaler or other water
59 supplier having a valid water right under Utah law.

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

61 **73-3c-2. Public water supply agency may use sewage effluent in a manner**
62 **consistent with its water rights -- Change application to be filed for uses inconsistent with**
63 **water rights.**

64 (1) [~~Any municipality or other governmental entity owning and operating a POTW that~~
65 ~~treats sewage and other pollutants contained in water]~~ A public water supply agency may use
66 that portion of the sewage effluent that has been collected and treated by a POTW from water
67 supplied under the [~~governmental entity's~~] public water supply agency's water rights and may
68 apply the resulting sewage effluent to a beneficial use consistent with, and without enlargement
69 of, those water rights.

70 (2) The [~~governmental entity must~~] public water supply agency shall file a change
71 application with the state engineer if it proposes to use sewage effluent:

- 72 (a) outside the defined place of use or for purposes other than those authorized in the
73 underlying water rights; or
74 (b) in a manner otherwise inconsistent with the underlying water rights.

75 Section 3. Section **73-3c-3** is amended to read:

76 **73-3c-3. Conditions under which a POTW may use sewage effluent -- Change**
77 **application to be filed for uses inconsistent with water rights.**

78 (1) [~~(a) Any municipality or other governmental entity served by a regional]~~ Except as
79 provided in Subsection (3), the owner of a POTW that treats sewage and other pollutants
80 contained in water collected from water supplied under [the governmental entity's water rights
81 may contract with the person responsible for administration of the regional POTW to act as its
82 agent for the purpose of using sewage effluent discharged from the regional POTW] a public
83 water supply agency's water rights may use that portion of the sewage effluent from water
84 supplied under the public agency's water rights and may apply the resulting sewage effluent to a
85 beneficial use consistent with, and without enlargement of, those water rights only if:

- 86 (a) a public water supply agency is not using or planning to use the sewage effluent;
87 (b) the POTW owner obtains written approval from the public water supply agency that

88 owns the underlying water rights; and

89 (c) if the use by the POTW owner otherwise complies with law.

90 ~~[(b) The sewage effluent may be applied to a beneficial use consistent with, and~~
91 ~~without enlargement of, the governmental entity's water rights referred to in Subsection (a).]~~

92 ~~(2) [The person administering the regional POTW, as agent for an individual~~
93 ~~municipality or other governmental entity served by it, must] If a public water supply agency~~
94 ~~which owns the underlying water rights grants written approval to the POTW owner, the public~~
95 ~~water supply agency shall file a change application with the state engineer if [the person~~
96 ~~administering] the POTW owner proposes to use sewage effluent:~~

97 ~~(a) outside the defined place of use or for purposes other than those authorized in the~~
98 ~~underlying water rights; or~~

99 ~~(b) in a manner otherwise inconsistent with the underlying water rights.~~

100 (3) A POTW owner may use sewage effluent if:

101 (a) the use is on property owned by the POTW owner; and

102 (b) the use is part of wastewater treatment or disposal or for landscape irrigation at the
103 wastewater treatment plan site.

104 (4) Except as provided in this section:

105 (a) no POTW owner or operator owns the water component of sewage prior to
106 treatment; and

107 (b) a POTW owner or operator has no right to use the water component of sewage prior
108 to treatment.

109 Section 4. Section **73-3c-4** is amended to read:

110 **73-3c-4. Consideration of a change application to effect the use of sewage**
111 **effluent.**

112 ~~[Any]~~ (1) A change application filed to effect the use of sewage effluent shall be
113 considered and [approved] acted on in accordance with [Section 73-3-3] Title 73, Chapter 3,
114 Appropriation, and the related provisions of Title 63, Chapter 46b, Administrative Procedures
115 Act.

116 (2) If a change application is required to be filed under this chapter, the state engineer
117 must approve the change application before the sewage effluent is used.

118 Section 5. Section **73-3c-7** is amended to read:

119 **73-3c-7. Change of point of discharge of sewage effluent.**

120 (1) The point of discharge of sewage effluent from a POTW may be changed, if:

121 (a) the change in point of discharge is required for treatment purposes as a matter of
122 public health, safety, or welfare under DEQ rules and the POTW's discharge permit; and123 (b) (i) the sewage effluent is discharged into waters of the state and not applied to a
124 beneficial use; or125 (ii) the sewage effluent is applied to a beneficial use consistent with, and without
126 enlargement of, the underlying water rights as provided in Subsection 73-3c-2(1) or 73-3c-3(1).127 (2) If a change in the point of discharge is to be made in conjunction with a proposed
128 use of sewage effluent that is specified in Subsection 73-3c-2(2) or 73-3c-3(2), a change
129 application must be filed and approved as provided in those subsections.130 Section 6. Section **73-3c-8** is amended to read:131 **73-3c-8. Application for a sewage effluent use or change in point of discharge --**
132 **State engineer to make rules.**133 (1) (a) [Any person] An entity intending to apply sewage effluent to a beneficial use
134 pursuant to Subsection 73-3c-2(1) [or], 73-3c-3(1), or 73-3c-3(3), or change the point of
135 discharge of sewage effluent pursuant to Subsection 73-3c-7(1) shall ~~[notify]~~ make application
136 to the state engineer [of the use] describing the proposed use of sewage effluent or change in
137 point of discharge as provided by rules of the state engineer.138 (b) If sewage effluent is to be applied to a beneficial use under Subsection 73-3c-2(1)
139 or 73-3c-3(1), the public water supply agency shall file the application with the state engineer.140 (2) The applicant shall pay a filing fee to the state engineer in the amount set by rule.141 ~~[(2)]~~ (3) (a) The state engineer shall publish notice of the [notification] application in a
142 newspaper of general circulation in the county where downstream water users may be affected
143 by the use or change in point of discharge.144 (b) [The notification] Notice of the application:145 (i) shall be published once a week for two successive weeks; and146 (ii) may be published in more than one newspaper.147 (c) (i) An interested person may file a protest within 20 days after the notice is
148 published.149 (ii) The state engineer may hold a hearing.

150 (d) After reviewing and investigating the application, the state engineer shall issue a
151 decision that states whether the application is approved or rejected, and, if approved, the
152 conditions of approval.

153 (e) A person may seek judicial review of the state engineer's decision as provided for in
154 Section 73-3-14.

155 Section 7. Section **73-3c-9** is enacted to read:

156 **73-3c-9. Ownership interest or water rights in sewage effluent.**

157 No person owns, and nothing in this chapter shall be construed to establish an
158 ownership interest or water right in sewage effluent, the water component of sewage prior to
159 treatment, or any other sewage water, except as provided in this chapter, and Title 73, Chapter
160 3, Appropriation.

161 Section 8. **Repealer.**

162 This bill repeals:

163 Section **73-3c-6, Sewage inflow that consists of unappropriated water --**
164 **Application to appropriate may be made.**