

**CHANGES TO QUALITY GROWTH
COMMISSION**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig W. Buttars

Senate Sponsor: Darin G. Peterson

LONG TITLE

General Description:

This bill modifies provisions related to the Quality Growth Commission.

Highlighted Provisions:

This bill:

- ▶ designates the director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food as commission members;
- ▶ modifies the composition of the commission; and
- ▶ requires the commission to report to the Legislative Management Committee before making certain loans or grants of money from the LeRay McAllister Critical Land Conservation Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-38-201, as last amended by Chapter 176, Laws of Utah 2002

11-38-302, as enacted by Chapter 24, Laws of Utah 1999

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

Section 1. Section **11-38-201** is amended to read:

**11-38-201. Quality Growth Commission -- Term of office -- Vacancy --
Organization -- Expenses -- Staff.**

(1) (a) There is created a Quality Growth Commission consisting of:

~~[(a) two persons at the state government level, one of whom shall be from]~~

(i) the director of the Department of Natural Resources;

(ii) the commissioner of the Department of Agriculture and Food;

~~[(b) (iii) six elected officials at the local government level, three of whom may not be~~
residents of a county of the first or second class; and

~~[(c) (iv) five persons from the profit and nonprofit private sector, two of whom may not~~
be residents of a county of the first or second class and no more than three of whom may be from
the same political party and one of whom shall be from the residential construction industry,
nominated by the Utah Home Builders Association, and one of whom shall be from the real
estate industry, nominated by the Utah Association of Realtors.

(b) (i) The director of the Department of Natural Resources and the commissioner of the
Department of Agriculture and Food may not assume their positions on the commission until:

(A) after May 1, 2005; and

(B) the term of the respective predecessor in office, who is a state government level
appointee, expires.

(ii) The term of a commission member serving on May 1, 2005 as one of the six elected
local officials or five private sector appointees may not be shortened because of application of
the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees from counties of
the first or second class.

(2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be
appointed by the governor with the consent of the Senate.

(b) The governor shall select three of the six members under Subsection (1)~~[(b)]~~ (a)(iii)
from a list of names provided by the Utah League of Cities and Towns, and shall select the
remaining three from a list of names provided by the Utah Association of Counties.

(c) Two of the persons appointed under Subsection (1) shall be from the agricultural

community from a list of names provided by Utah farm organizations.

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)~~(c)~~ (a)(iv) to an initial two-year term.

(b) No member of the commission may serve more than two consecutive four-year terms.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) Commission members shall elect a chair from their number and establish rules for the organization and operation of the commission.

(6) (a) No member may receive compensation or benefits for the member's service on the commission.

(b) (i) A member who is not a government officer or employee may be reimbursed for reasonable expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member who is a government officer or employee and who does not receive expenses from the member's agency may be reimbursed for reasonable expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(c) A member may decline to be reimbursed for reasonable expenses incurred in the performance of the member's official duties.

(d) A member is not required to give bond for the performance of official duties.

(7) Staff services to the commission:

(a) shall be provided by OPB; and

(b) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns, with funds approved by the commission from those identified as available to local entities under Subsection 11-38-203(1)(a).

Section 2. Section **11-38-302** is amended to read:

11-38-302. Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the commission may authorize the use of money in the fund, by grant or loan, to:

- (a) a local entity;
- (b) the Department of Natural Resources created under Section 63-34-3;
- (c) the Department of Agriculture and Food created under Section 4-2-1; or
- (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)

of the Internal Revenue Code.

(2) (a) The money in the fund shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the fund may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(A) the parcel to be purchased is no more than 20 acres in size; and

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A county, city, town, department, or organization under Subsection (1) may not receive money from the fund unless it provides matching funds equal to or greater than the amount of money received from the fund.

(d) In loaning or granting money from the fund, the commission may impose conditions on the recipient as to how the money is to be spent.

(e) The commission shall give priority to requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the fund if the money is used for the protection of wildlife or watershed.

(f) (i) The commission may not make a grant or loan from the fund that exceeds \$1,000,000 until after making a report to the Legislative Management Committee about the grant or loan.

(ii) The Legislative Management Committee may make a recommendation to the commission concerning the intended grant or loan, but the recommendation is not binding on the commission.

(3) (a) If money from the fund is distributed in the form of a loan, the commission may require interest to be paid and shall establish other terms of each loan, including a repayment schedule.

(b) Each payment on a loan from the fund shall be returned to the fund and shall be applied first to interest and then to principal.

(4) In determining the amount and type of financial assistance to provide an entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the commission:

(a) if the assistance is in the form of a loan, shall consider the borrower's ability to repay the loan; and

(b) shall consider:

(i) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(ii) the qualities of the open land and agricultural land proposed to be preserved or restored;

(iii) the cost effectiveness of the project to preserve or restore open land or agricultural land;

- (iv) the funds available;
 - (v) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;
 - (vi) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;
 - (vii) the effects on housing affordability and diversity; and
 - (viii) whether the project protects against the loss of private property ownership.
- (5) If a county, city, town, department, or organization under Subsection (1) seeks money from the fund for a project whose purpose is to protect critical watershed, the commission shall require that the needs and quality of that project be verified by the state engineer.
- (6) Each interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.