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**WATER QUALITY BOARD AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrick Painter**

Senate Sponsor: Dennis E. Stowell

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to water quality.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Water Quality Board to:
  - issue an operating permit; and
  - delegate authority to issue an operating permit to a local health department; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-5-103**, as last amended by Laws of Utah 2002, Chapter 176

**19-5-104**, as last amended by Laws of Utah 2006, Chapter 179

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

Section 1. Section **19-5-103** is amended to read:

**19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms --**

H.B. 222



28 **Organization -- Meetings -- Per diem and expenses.**

29 ~~[(1) Committee members currently serving on the Water Pollution Control Committee~~  
30 ~~created under Chapter 126, Laws of Utah 1981, shall serve on the board throughout the terms~~  
31 ~~for which they were appointed.]~~

32 ~~[(2)]~~ (1) The board comprises the executive director and ~~[ten]~~ 11 members appointed  
33 by the governor with the consent of the Senate.

34 ~~[(3)]~~ (2) No more than ~~[five]~~ six of the appointed members may be from the same  
35 political party.

36 ~~[(4)]~~ (3) The appointed members, insofar as practicable, shall include the following:

37 (a) one member representing the mineral ~~[industries]~~ industry;

38 (b) one member representing the food processing ~~[industries]~~ industry;

39 (c) one member representing ~~[other]~~ another manufacturing ~~[industries]~~ industry;

40 (d) two members who are officials of a municipal government or ~~[their representatives]~~  
41 the officials' representative involved in the management or operation of a wastewater treatment  
42 ~~[facilities]~~ facility;

43 (e) one member representing agricultural and livestock interests;

44 (f) one member representing fish, wildlife, and recreation interests;

45 (g) one member representing an improvement ~~[and]~~ or special service ~~[districts]~~  
46 district; ~~[and]~~

47 (h) two members at large, one of whom represents organized environmental interests,  
48 selected with due consideration of the areas of the state affected by water pollution and not  
49 representing other interests named in this Subsection ~~[(4)-]~~ (3); and

50 (i) one member representing a local health department.

51 ~~[(5)]~~ (4) When a vacancy occurs in the membership for any reason, the replacement  
52 shall be appointed for the unexpired term with the consent of the Senate.

53 ~~[(6)]~~ (5) (a) Except as required by Subsection ~~[(6)]~~ (5)(b), ~~[members]~~ a member shall be  
54 appointed for ~~[terms]~~ a term of four years and ~~[are]~~ is eligible for reappointment.

55 (b) Notwithstanding the requirements of Subsection ~~[(6)]~~ (5)(a), the governor shall, at  
56 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
57 board members are staggered so that approximately half of the board is appointed every two  
58 years.

59           ~~[(7) Members]~~ (6) A member shall hold office until the expiration of ~~[their terms]~~ the  
 60 member's term and until ~~[their successors are]~~ the member's successor is appointed, not to  
 61 exceed 90 days after the formal expiration of ~~[their terms]~~ the term.

62           ~~[(8)]~~ (7) The board shall:

63           (a) organize and annually select one of its members as chair and one of its members as  
 64 vice chair;

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

66           (c) keep minutes of its proceedings which ~~[shall be]~~ are open to the public for  
 67 inspection.

68           ~~[(9)]~~ (8) ~~[Special meetings may be called by the]~~ The chair ~~[and must be called by him]~~  
 69 may call a special meeting upon the request of three or more members of the board.

70           ~~[(10)]~~ (9) Each member of the board and the executive secretary shall be notified of the  
 71 time and place of each meeting.

72           ~~[(11) Six]~~ (10) Seven members of the board constitute a quorum for the transaction of  
 73 business, and the action of a majority of members present is the action of the board.

74           ~~[(12)]~~ (11) (a) ~~[Members shall]~~ A member who is not a government employee may not  
 75 receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's service, but may receive  
 76 per diem and expenses incurred in the performance of the member's official duties at the rates  
 77 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

78           (b) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the  
 79 member's service.

80           (c) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive salary,  
 81 per diem, or expenses from the entity that ~~[they represent]~~ the member represents for ~~[their]~~ the  
 82 member's service may receive per diem and expenses incurred in the performance of ~~[their]~~ the  
 83 member's official duties at the rates established by the Division of Finance under Sections  
 84 63A-3-106 and 63A-3-107.

85           (d) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem  
 86 and expenses for ~~[their]~~ the member's service.

87           Section 2. Section **19-5-104** is amended to read:

88           **19-5-104. Powers and duties of board.**

89           (1) The board ~~[has the following powers and duties, but the board shall give priority to~~

90 ~~pollution that results in hazards to the public health]~~ may:

91 (a) develop programs for the prevention, control, and abatement of new or existing  
92 pollution of the waters of the state;

93 (b) advise, consult, and cooperate with other agencies of the state, the federal  
94 government, other states, and interstate agencies, and with affected groups, political  
95 subdivisions, and industries to further the purposes of this chapter;

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

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

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

104 (f) make rules in accordance with Title 63, Chapter 46a, Utah Administrative  
105 Rulemaking Act, taking into account Subsection [~~(2)~~] (3), to:

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

108 (A) requirements pertaining to applications for loans;

109 (B) requirements for determination of eligible projects;

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

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

117 (E) requirements for determination of the amount of the loan;

118 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section  
119 73-10c-4.5;

120 (iii) set effluent limitations and standards subject to Section 19-5-116;

- 121 (iv) implement or effectuate the powers and duties of the board; and
- 122 (v) protect the public health for the design, construction, operation, and maintenance of
- 123 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen
- 124 pit privies;
- 125 (g) issue, modify, or revoke orders:
- 126 (i) prohibiting or abating discharges;
- 127 (ii) requiring the construction of new treatment works or any parts of them, or requiring
- 128 the modification, extension, or alteration of existing treatment works as specified by board rule
- 129 or any parts of them, or the adoption of other remedial measures to prevent, control, or abate
- 130 pollution;
- 131 (iii) setting standards of water quality, classifying waters or evidencing any other
- 132 determination by the board under this chapter; and
- 133 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 134 (h) (i) review plans, specifications, or other data relative to disposal systems or any part
- 135 of disposal systems~~[, and]~~;
- 136 (ii) issue construction or operating permits for the installation or modification of
- 137 treatment works or any parts of ~~[them;]~~ the treatment works; and
- 138 (iii) delegate the authority to issue an operating permit to a local health department;
- 139 (i) after public notice and opportunity for a public hearing, issue, continue in effect,
- 140 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe
- 141 to:
- 142 (i) control the management of sewage sludge; or ~~[to]~~
- 143 (ii) prevent or control the discharge of pollutants, including effluent limitations for the
- 144 discharge of wastes into the waters of the state;
- 145 (j) give reasonable consideration in the exercise of its powers and duties to the
- 146 economic impact of water pollution control on industry and agriculture;
- 147 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,
- 148 including delegation to the department of its duties as appropriate to improve administrative
- 149 efficiency;
- 150 (l) meet the requirements of federal law related to water pollution;
- 151 (m) establish and conduct a continuing planning process for control of water pollution

152 including the specification and implementation of maximum daily loads of pollutants;

153 (n) make rules governing inspection, monitoring, recordkeeping, and reporting

154 requirements for underground injections and require permits for them, to protect drinking water

155 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,

156 recognizing that underground injection endangers drinking water sources if:

157 (i) injection may result in the presence of any contaminant in underground water

158 [~~which~~] that supplies or can reasonably be expected to supply any public water system, as

159 defined in Section 19-4-102; and

160 (ii) the presence of the contaminant may:

161 (A) result in the public water system not complying with any national primary drinking

162 water standards; or [~~may~~]

163 (B) otherwise adversely affect the health of persons;

164 (o) make rules governing sewage sludge management, including permitting, inspecting,

165 monitoring, recordkeeping, and reporting requirements;

166 (p) adopt and enforce rules and establish fees to cover the costs of testing for

167 certification of operators of treatment works and sewerage systems operated by political

168 subdivisions;

169 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design

170 and construction of irrigation systems [~~which~~] that:

171 (i) convey sewage treatment facility effluent of human origin in pipelines under

172 pressure, unless contained in surface pipes wholly on private property and for agricultural

173 purposes[;]; and [~~which~~]

174 (ii) are constructed after May 4, 1998; and

175 (r) (i) approve, approve in part, approve with conditions, or deny, in writing, an

176 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

177 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater

178 Reuse Act.

179 (2) In performing the duties listed in Subsection (1), the board shall give priority to

180 pollution that results in a hazard to the public health.

181 [~~(2) In~~] (3) The board shall take into consideration the availability of federal grants:

182 (a) in determining eligible project costs; and

183 (b) in establishing priorities pursuant to Subsection (1)(f)(i) ~~[, the board shall take into~~  
184  ~~consideration the availability of federal grants].~~

185  ~~[(3)]~~ (4) In establishing certification rules under Subsection (1)(p), the board shall:

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

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

190 (c) allow a new  ~~[operators]~~ operator one year from the date  ~~[they are]~~ the operator is  
191 hired by a treatment plant or sewerage system or three years after the date of adoption of the  
192 rules, whichever occurs later, to obtain certification;

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

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

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

200 (ii) has been employed at least ten years in the operation of that treatment works or  
201 sewerage system prior to March 16, 1991; and

202 (iii) demonstrates to the board  ~~[his]~~ the operator's capability to operate the treatment  
203 works or sewerage system at which  ~~[he]~~ the operator is currently employed by providing  
204 employment history and references as required by the board.

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Legislative Review Note  
as of 1-31-08 10:49 AM

Office of Legislative Research and General Counsel

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**H.B. 222 - Water Quality Board Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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