

**AMENDMENTS TO DEPARTMENT OF
ENVIRONMENTAL QUALITY**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provision relating to the authority of the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- adds two members to the Air Quality Board;
- updates the chapters for which a division is responsible for administering;
- gives a title name to a part; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-105, as enacted by Laws of Utah 1991, Chapter 112

19-2-103, as last amended by Laws of Utah 2008, Chapter 250

19-6-601, as enacted by Laws of Utah 1991, Chapter 122 and renumbered and amended by Laws of Utah 1991, Chapter 112



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

Section 1. Section **19-1-105** is amended to read:

19-1-105. Divisions of department -- Control by division directors.

(1) The following divisions are created within the department:

(a) the Division of Air Quality, to administer [~~Title 19,~~] Chapter 2, Air Conservation Act;

(b) the Division of Drinking Water, to administer [~~Title 19,~~] Chapter 4, Safe Drinking Water Act;

(c) the Division of Environmental Response and Remediation, to administer [~~Title 19,~~ Chapter 6, Parts 3 and 4,];

(i) the following parts in Chapter 6, Hazardous Substances:

(A) Part 3, Hazardous Substances Mitigation Act;

(B) Part 4, Underground Storage Tank Act; and

(C) Part 9, Illegal Drug Operations Site Reporting and Decontamination Act;

(ii) Chapter 8, Voluntary Cleanup Program; and

(iii) Chapter 10, Environmental Institutional Control Act;

(d) the Division of Radiation Control, to administer [~~Title 19,~~] Chapter 3, Radiation Control Act;

(e) the Division of Solid and Hazardous Waste, to administer [~~Title 19, Chapter 6,~~ Parts 1, 2, and 5, and];

(i) the following parts in Chapter 6, Hazardous Substances:

(A) Part 1, Solid and Hazardous Waste Act;

(B) Part 2, Hazardous Waste Facility Siting Act;

(C) Part 5, Solid Waste Management Act;

(D) Part 6, Lead Acid Battery Disposal Act;

(E) Part 7, Used Oil Management Act;

(F) Part 8, Waste Tire Recycling Act; and

(G) Part 10, Mercury Switch Removal Act; and

(ii) Chapter 9, Hazardous Waste Facilities Management Act; and

(f) the Division of Water Quality, to administer [~~Title 19,~~] Chapter 5, Water Quality

59 Act.

60 (2) Each division is under the immediate direction and control of a division director
61 appointed by the executive director.

62 (3) (a) Each division director shall possess the necessary administrative skills and
63 training to adequately qualify ~~[him for his]~~ the division director for the position. ~~[He]~~

64 (b) The division director shall have graduated from an accredited college or university
65 with:

66 ~~[(a)]~~ (i) a four-year degree in physical or biological science or engineering;

67 ~~[(b)]~~ (ii) a related degree; or

68 ~~[(c)]~~ (iii) a degree in law.

69 (4) Each director may be removed at the will of the executive director.

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

71 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**
72 **and expenses.**

73 (1) The board comprises ~~[11]~~ 13 members, one of whom shall be the executive director
74 and ~~[ten]~~ 12 of whom shall be appointed by the governor with the consent of the Senate.

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

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

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

78 (c) a representative from municipal government;

79 (d) a representative from county government;

80 (e) a representative from agriculture;

81 (f) a representative from the mining industry;

82 (g) a representative from manufacturing;

83 (h) a representative from the fuel industry; ~~[and]~~

84 (i) ~~[two]~~ three representatives of the public not representing or connected with
85 industry, at least one of whom represents organized environmental interests~~[-]; and~~

86 (j) a representative from a local health department.

87 (3) No more than ~~[five]~~ six of the appointed members shall belong to the same political
88 party.

89 (4) (a) The majority of the members may not derive any significant portion of their

income from persons subject to permits or orders under this chapter.

(b) Any potential conflict of interest of any member or the executive secretary, relevant to the interests of the board, shall be adequately disclosed.

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

~~[(6)]~~ (5) (a) Except as required by Subsection ~~[(6)]~~ (5)(b), members shall be appointed for a term of four years.

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

~~[(7)]~~ (6) A member may serve more than one term.

~~[(8)]~~ (7) A member shall hold office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

~~[(9)]~~ (8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~[(10)]~~ (9) The board shall elect annually a chair and a vice chair from its members.

~~[(11)]~~ (10) (a) The board shall meet at least quarterly, and special meetings may be called by the chair upon his own initiative, upon the request of the executive secretary, or upon the request of three members of the board.

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

~~[(12) Six]~~ (11) Seven members constitute a quorum at any meeting, and the action of a majority of members present is the action of the board.

~~[(13)]~~ (12) (a) (i) A member who is not a government employee ~~[shall]~~ may not receive ~~[no]~~ compensation or benefits for the member's ~~[services]~~ service, but may receive per diem and 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 may decline to receive per diem and expenses for the member's service.

(b) (i) A state government officer and employee member who does not receive salary, per diem, or expenses from the agency the member represents for the member's service may

121 receive per diem and expenses incurred in the performance of the member's official duties
122 [~~from the board~~] at the rates established by the Division of Finance under Sections 63A-3-106
123 and 63A-3-107.

124 (ii) A state government officer and employee member may decline to receive per diem
125 and expenses for the member's service.

126 (c) (i) A local government member who does not receive salary, per diem, or expenses
127 from the entity that the member represents for the member's service may receive per diem and
128 expenses incurred in the performance of the member's official duties at the rates established by
129 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

130 (ii) A local government member may decline to receive per diem and expenses for the
131 member's service.

132 Section 3. Section **19-6-601** is amended to read:

133 **Part 6. Lead Acid Battery Disposal Act**

134 **19-6-601. Definition.**

135 (1) This part is known as the "Lead Acid Battery Disposal Act."

136 (2) As used in this part, "board" means the Solid and Hazardous Waste Control Board
137 appointed under [Title 19,] Chapter 6, Hazardous Substances.

Legislative Review Note

as of 2-23-09 10:21 AM

Office of Legislative Research and General Counsel