

1 **WASTEWATER SYSTEM AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Patrick Painter**

5 Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

7 **General Description:**

8 This bill repeals provisions related to a loan and the negotiation of a loan for a  
9 municipal sewage treatment facility.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ repeals provisions related to a loan and the negotiation of a loan for a municipal
- 13 sewage treatment facility; and
- 14 ▶ makes technical corrections.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides an effective date.

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **19-5-104 (Superseded 07/01/12)**, as last amended by Laws of Utah 2008, Chapters 336  
22 and 382

23 **19-5-104 (Effective 07/01/12)**, as last amended by Laws of Utah 2011, Chapter 304

24 REPEALS:

25 **11-8-2**, as last amended by Laws of Utah 2005, Chapter 105

26 **11-8-3**, as last amended by Laws of Utah 2000, Chapter 222



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

Section 1. Section **19-5-104 (Superseded 07/01/12)** is amended to read:

**19-5-104 (Superseded 07/01/12). Powers and duties of board.**

(1) The board has the following powers and duties:

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

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

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

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

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

(f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, taking into account Subsection (3), to:

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

(A) requirements pertaining to applications for loans;

(B) requirements for determination of eligible projects;

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

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

- 59 (E) requirements for determination of the amount of the loan;
- 60 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
- 61 73-10c-4.5;
- 62 (iii) set effluent limitations and standards subject to Section 19-5-116;
- 63 (iv) implement or effectuate the powers and duties of the board; and
- 64 (v) protect the public health for the design, construction, operation, and maintenance of
- 65 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen
- 66 pit privies;
- 67 (g) issue, modify, or revoke orders:
- 68 (i) prohibiting or abating discharges;
- 69 (ii) requiring the construction of new treatment works or any parts of them, or requiring
- 70 the modification, extension, or alteration of existing treatment works as specified by board rule
- 71 or any parts of them, or the adoption of other remedial measures to prevent, control, or abate
- 72 pollution;
- 73 (iii) setting standards of water quality, classifying waters or evidencing any other
- 74 determination by the board under this chapter; and
- 75 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 76 (h) (i) review plans, specifications, or other data relative to disposal systems or any part
- 77 of disposal systems;
- 78 (ii) issue construction or operating permits for the installation or modification of
- 79 treatment works or any parts of the treatment works; and
- 80 (iii) delegate the authority to issue an operating permit to a local health department;
- 81 (i) after public notice and opportunity for a public hearing, issue, continue in effect,
- 82 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe
- 83 to:
- 84 (i) control the management of sewage sludge; or
- 85 (ii) prevent or control the discharge of pollutants, including effluent limitations for the
- 86 discharge of wastes into the waters of the state;
- 87 (j) give reasonable consideration in the exercise of its powers and duties to the
- 88 economic impact of water pollution control on industry and agriculture;
- 89 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,

90 including delegation to the department of its duties as appropriate to improve administrative  
91 efficiency;

92 (l) meet the requirements of federal law related to water pollution;

93 (m) establish and conduct a continuing planning process for control of water pollution  
94 including the specification and implementation of maximum daily loads of pollutants;

95 (n) make rules governing inspection, monitoring, recordkeeping, and reporting  
96 requirements for underground injections and require permits for them, to protect drinking water  
97 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,  
98 recognizing that underground injection endangers drinking water sources if:

99 (i) injection may result in the presence of any contaminant in underground water that  
100 supplies or can reasonably be expected to supply any public water system, as defined in Section  
101 19-4-102; and

102 (ii) the presence of the contaminant may:

103 (A) result in the public water system not complying with any national primary drinking  
104 water standards; or

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

106 (o) make rules governing sewage sludge management, including permitting, inspecting,  
107 monitoring, recordkeeping, and reporting requirements;

108 (p) adopt and enforce rules and establish fees to cover the costs of testing for  
109 certification of operators of treatment works and sewerage systems operated by political  
110 subdivisions;

111 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design  
112 and construction of irrigation systems that:

113 (i) convey sewage treatment facility effluent of human origin in pipelines under  
114 pressure, unless contained in surface pipes wholly on private property and for agricultural  
115 purposes; and

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

117 (r) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
118 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

119 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
120 Reuse Act.

121 (2) In performing the duties listed in Subsection (1), the board shall give priority to  
122 pollution that results in a hazard to the public health.

123 (3) The board shall take into consideration the availability of federal grants:

124 (a) in determining eligible project costs; and

125 (b) in establishing priorities pursuant to Subsection (1)(f)(i).

126 (4) In establishing certification rules under Subsection (1)(p), the board shall:

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

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

131 (c) allow a new operator one year from the date the operator is hired by a treatment  
132 plant or sewerage system or three years after the date of adoption of the rules, whichever occurs  
133 later, to obtain certification;

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

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

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

141 (ii) has been employed at least 10 years in the operation of that treatment works or  
142 sewerage system prior to March 16, 1991; and

143 (iii) demonstrates to the board the operator's capability to operate the treatment works  
144 or sewerage system at which the operator is currently employed by providing employment  
145 history and references as required by the board.

146 Section 2. Section **19-5-104 (Effective 07/01/12)** is amended to read:

147 **19-5-104 (Effective 07/01/12). Powers and duties of board.**

148 (1) The board has the following powers and duties:

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

151 (b) advise, consult, and cooperate with other agencies of the state, the federal

152 government, other states, and interstate agencies, and with affected groups, political  
153 subdivisions, and industries to further the purposes of this chapter;

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

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

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

162 (f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
163 Rulemaking Act, taking into account Subsection (3), to:

164 (i) implement the awarding of construction loans to political subdivisions and  
165 municipal authorities [~~under Section 11-8-2~~], including:

166 (A) requirements pertaining to applications for loans;

167 (B) requirements for determination of eligible projects;

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

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

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

176 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section  
177 73-10c-4.5;

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

179 (iv) implement or effectuate the powers and duties of the board; and

180 (v) protect the public health for the design, construction, operation, and maintenance of  
181 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen  
182 pit privies;

- 183 (g) issue, modify, or revoke orders:  
184 (i) prohibiting or abating discharges;  
185 (ii) requiring the construction of new treatment works or any parts of them, or requiring  
186 the modification, extension, or alteration of existing treatment works as specified by board rule  
187 or any parts of them, or the adoption of other remedial measures to prevent, control, or abate  
188 pollution;  
189 (iii) setting standards of water quality, classifying waters or evidencing any other  
190 determination by the board under this chapter; and  
191 (iv) requiring compliance with this chapter and with rules made under this chapter;  
192 (h) (i) review plans, specifications, or other data relative to disposal systems or any part  
193 of disposal systems;  
194 (ii) issue construction or operating permits for the installation or modification of  
195 treatment works or any parts of the treatment works; and  
196 (iii) delegate the authority to issue an operating permit to a local health department;  
197 (i) after public notice and opportunity for a public hearing, issue, continue in effect,  
198 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe  
199 to:  
200 (i) control the management of sewage sludge; or  
201 (ii) prevent or control the discharge of pollutants, including effluent limitations for the  
202 discharge of wastes into the waters of the state;  
203 (j) give reasonable consideration in the exercise of its powers and duties to the  
204 economic impact of water pollution control on industry and agriculture;  
205 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,  
206 including delegation to the department of its duties as appropriate to improve administrative  
207 efficiency;  
208 (l) meet the requirements of federal law related to water pollution;  
209 (m) establish and conduct a continuing planning process for control of water pollution  
210 including the specification and implementation of maximum daily loads of pollutants;  
211 (n) make rules governing inspection, monitoring, recordkeeping, and reporting  
212 requirements for underground injections and require permits for them, to protect drinking water  
213 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,

214 recognizing that underground injection endangers drinking water sources if:

215 (i) injection may result in the presence of any contaminant in underground water that  
216 supplies or can reasonably be expected to supply any public water system, as defined in Section  
217 19-4-102; and

218 (ii) the presence of the contaminant may:

219 (A) result in the public water system not complying with any national primary drinking  
220 water standards; or

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

222 (o) make rules governing sewage sludge management, including permitting, inspecting,  
223 monitoring, recordkeeping, and reporting requirements;

224 (p) adopt and enforce rules and establish fees to cover the costs of testing for  
225 certification of operators of treatment works and sewerage systems operated by political  
226 subdivisions;

227 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design  
228 and construction of irrigation systems that:

229 (i) convey sewage treatment facility effluent of human origin in pipelines under  
230 pressure, unless contained in surface pipes wholly on private property and for agricultural  
231 purposes; and

232 (ii) are constructed after May 4, 1998;

233 (r) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
234 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act;

235 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
236 Reuse Act; and

237 (s) (i) review all total daily maximum load reports and recommendations for water  
238 quality end points and implementation strategies developed by the division before submission  
239 of the report, recommendation, or implementation strategy to the EPA;

240 (ii) disapprove, approve, or approve with conditions all staff total daily maximum load  
241 recommendations; and

242 (iii) provide suggestions for further consideration to the Division of Water Quality in  
243 the event a total daily maximum load strategy is rejected.

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



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

246 (3) The board shall take into consideration the availability of federal grants:

247 (a) in determining eligible project costs; and

248 (b) in establishing priorities pursuant to Subsection (1)(f)(i).

249 (4) In establishing certification rules under Subsection (1)(p), the board shall:

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

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

254 (c) allow a new operator one year from the date the operator is hired by a treatment  
255 plant or sewerage system or three years after the date of adoption of the rules, whichever occurs  
256 later, to obtain certification;

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

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

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

264 (ii) has been employed at least 10 years in the operation of that treatment works or  
265 sewerage system prior to March 16, 1991; and

266 (iii) demonstrates to the board the operator's capability to operate the treatment works  
267 or sewerage system at which the operator is currently employed by providing employment  
268 history and references as required by the board.

269 **Section 3. Repealer.**

270 This bill repeals:

271 **Section 11-8-2, State loans for sewage treatment facilities -- Rules of Water Quality**  
272 **Board.**

273 **Section 11-8-3, Department of Environmental Quality to negotiate loans for**  
274 **sewage facilities.**

275 **Section 4. Effective date.**

276            This bill takes effect on May 8, 2012, except that Section 19-5-104 (Effective 07/01/12)  
277 takes effect on July 1, 2012.

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**Legislative Review Note**  
as of **2-9-12 8:19 AM**

**Office of Legislative Research and General Counsel**