

DIVISION OF OIL, GAS, AND MINING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: John G. Mathis

LONG TITLE

General Description:

This bill amends provisions relating to the Division of Oil, Gas, and Mining.

Highlighted Provisions:

This bill:

▶ modifies provisions relating to expiration of the term of office of a member of the Board of Oil, Gas, and Mining;

▶ modifies provisions relating to Division of Oil, Gas, and Mining adjudication proceedings; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-4, as last amended by Laws of Utah 2010, Chapter 286

40-8-13, as last amended by Laws of Utah 2009, Chapter 388

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

Section 1. Section **40-6-4** is amended to read:



28 **40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of**
 29 **members -- Terms -- Chair -- Quorum -- Expenses.**

30 (1) (a) There is created within the Department of Natural Resources the Board of Oil,
 31 Gas, and Mining.

32 (b) The board shall be the policy making body for the Division of Oil, Gas, and
 33 Mining.

34 (2) (a) The board shall consist of seven members appointed by the governor with the
 35 consent of the Senate.

36 (b) No more than four members shall be from the same political party.

37 (c) In ~~[addition to]~~ accordance with the requirements of Section 79-2-203, the members
 38 appointed under Subsection (2)(a) shall [have the] include the following [qualifications]:

39 ~~[(a)]~~ (i) two members who are knowledgeable in mining matters;

40 ~~[(b)]~~ (ii) two members who are knowledgeable in oil and gas matters;

41 ~~[(c)]~~ (iii) one member who is knowledgeable in ecological and environmental matters;

42 ~~[(d)]~~ (iv) one member who:

43 (A) is a private land owner~~[-owns]~~;

44 (B) owns a mineral or royalty interest; and ~~[is]~~

45 (C) is knowledgeable in ~~[those]~~ mineral or royalty interests; and

46 ~~[(e)]~~ (v) one member who is knowledgeable in geological matters.

47 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
 48 expire, the governor shall appoint each new member or reappointed member to a four-year
 49 term.

50 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
 51 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 52 board members are staggered so that approximately half of the board is appointed every two
 53 years.

54 (c) A member shall hold office until the expiration of the member's term and until the
 55 member's successor is appointed, but not more than 90 days after the expiration of the
 56 member's term.

57 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
 58 be appointed for the unexpired term by the governor with the consent of the Senate.

59 (b) The person appointed shall have the same qualifications as [his] the person's
60 predecessor.

61 (5) (a) The board shall appoint its chair from the membership.

62 (b) Four members of the board shall constitute a quorum for the transaction of business
63 and the holding of hearings.

64 (6) A member may not receive compensation or benefits for the member's service, but
65 may receive per diem and travel expenses in accordance with:

66 (a) Section 63A-3-106;

67 (b) Section 63A-3-107; and

68 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
69 63A-3-107.

70 Section 2. Section **40-8-13** is amended to read:

71 **40-8-13. Notice of intention required prior to mining operations -- Assurance of**
72 **reclamation required in notice of intention -- When contents confidential -- Approval of**
73 **notice of intention not required for small mining operations -- Procedure for reviewing**
74 **notice of intention.**

75 (1) (a) Before any operator begins mining operations, or continues mining operations
76 pursuant to Section 40-8-23, the operator shall file a notice of intention for each individual
77 mining operation with the division.

78 (b) The notice of intention referred to in Subsection (1)(a) shall include:

79 (i) identification of all owners of any interest in a mineral deposit, including any
80 ownership interest in surface land affected by the notice;

81 (ii) copies of underground and surface mine maps;

82 (iii) locations of drill holes;

83 (iv) accurate area maps of existing and proposed operations; and

84 (v) information regarding the amount of material extracted, moved, or proposed to be
85 moved, relating to the mining operation.

86 (c) The notice of intention for small mining operations shall include a statement that
87 the operator shall conduct reclamation as required by rules promulgated by the board.

88 (d) The notice of intention for mining operations, other than small mining operations,
89 shall include a plan for reclamation of the lands affected as required by rules promulgated by

90 the board.

91 (2) The division may require that the operator rehabilitate, close, or mitigate the
92 impacts of each drill hole, shaft, or tunnel when no longer needed as part of the mining
93 operation.

94 (3) Information provided in the notice of intention, and its attachments relating to the
95 location, size, or nature of the deposit that is marked confidential by the operator shall be
96 protected as confidential information by the board and the division and is not a matter of public
97 record unless the board or division obtains a written release from the operator, or until the
98 mining operation has been terminated as provided in Subsection 40-8-21(2).

99 (4) (a) Within 30 days from the receipt of a notice of intention, the division shall
100 complete its review of the notice and shall make further inquiries, inspections, or examinations
101 that are necessary to properly evaluate the notice.

102 (b) The division shall notify the operator of any objections to the notice and shall grant
103 the operator a reasonable opportunity to take action that may be required to remove the
104 objections or obtain a ruling relative to the objections from the board.

105 (5) Except for the form and amount of surety, an approval of a notice of intention for
106 small mining operations is not required.

107 (6) The notice of intention for mining operations other than small mining operations,
108 shall be reviewed as provided in this Subsection (6).

109 (a) Within 30 days after receipt of a notice of intention or within 30 days following the
110 last action of the operator or the division on the notice of intention, the division shall make a
111 tentative decision to approve or disapprove the notice of intention.

112 (b) The division shall:

113 (i) mail the information relating to the land affected and the tentative decision to the
114 operator; and

115 (ii) publish the information and the decision, in abbreviated form:

116 (A) one time only, in all newspapers of general circulation published in the county
117 where the land affected is situated; and

118 (B) in a daily newspaper of general circulation in Salt Lake City, Utah; and

119 (C) as required in Section 45-1-101.

120 (c) The division shall also mail a copy of the abbreviated information and tentative

121 decision to the zoning authority of the county in which the land affected is situated and to the
122 owner of record of the land affected.

123 (d) (i) Any person or agency aggrieved by the tentative decision may file a request for
124 agency action with the division.

125 (ii) If no requests for agency action are received by the division within 30 days after the
126 last date of publication, the tentative decision on the notice of intention is final and the division
127 shall notify the operator.

128 (iii) If written objections of substance are received, the division shall hold [~~a formal~~] an
129 informal adjudicative proceeding.

130 (e) This Subsection (6) does not apply to exploration.

131 (7) Within 30 days after receipt of a notice of intention concerning exploration
132 operations other than small mining operations, the division will review the notice of intention
133 and approve or disapprove it.

Legislative Review Note
as of 2-8-13 9:28 AM

Office of Legislative Research and General Counsel