

WATER RIGHTS AND RESOURCES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill deals with the accuracy of water use data.

Highlighted Provisions:

This bill:

▶ instructs the Drinking Water Board to require a certified water operator of a public water supplier, or professional engineer performing the duties of an operator, to verify the accuracy of water use and supply data submitted to the Division of Drinking Water;

▶ authorizes the Division of Water Rights, in conjunction with the Division of Water Resources and the Division of Drinking Water, to collect and validate water use data;

▶ requires the director of the Division of Water Resources to oversee any validation of water use data;

▶ requires the Division of Water Resources to validate, as funding allows, the accuracy of water use data reported by public water suppliers; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **19-4-104**, as last amended by Laws of Utah 2012, Chapter 360

31 **73-5-8**, as last amended by Laws of Utah 2005, Chapter 215

32 **73-10-18**, as last amended by Laws of Utah 1969, Chapter 198

33 **73-10-19**, as last amended by Laws of Utah 1983, Chapter 318

34 **73-10-20**, as last amended by Laws of Utah 1977, Chapter 281

35

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

37 Section 1. Section **19-4-104** is amended to read:

38 **19-4-104. Powers of board.**

39 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah
40 Administrative Rulemaking Act:

41 (i) establishing standards that prescribe the maximum contaminant levels in any public
42 water system and provide for monitoring, record-keeping, and reporting of water quality related
43 matters;

44 (ii) governing design, construction, operation, and maintenance of public water
45 systems;

46 (iii) granting variances and exemptions to the requirements established under this
47 chapter that are not less stringent than those allowed under federal law;

48 (iv) protecting watersheds and water sources used for public water systems; [~~and~~]

49 (v) governing capacity development in compliance with Section 1420 of the federal
50 Safe Drinking Water Act, 42 U.S.C.A. Sec. 300f et seq.; and

51 (vi) specifying:

52 (A) what data a public water supplier shall provide to the division, pursuant to

53 Subsection (1)(c)(iv); and

54 (B) how the division shall validate the data described in Subsection (1)(a)(vi)(A).

55 (b) The board may:

56 (i) order the director to:

57 (A) issue orders necessary to enforce the provisions of this chapter;

58 (B) enforce the orders by appropriate administrative and judicial proceedings; or

- 59 (C) institute judicial proceedings to secure compliance with this chapter;
- 60 (ii) (A) hold a hearing that is not an adjudicative proceeding relating to the
61 administration of this chapter; or
- 62 (B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
63 or
- 64 (iii) request and accept financial assistance from other public agencies, private entities,
65 and the federal government to carry out the purposes of this chapter.
- 66 (c) The board shall:
- 67 (i) require the submission to the director of plans and specifications for construction of,
68 substantial addition to, or alteration of public water systems for review and approval by the
69 board before that action begins and require any modifications or impose any conditions that
70 may be necessary to carry out the purposes of this chapter;
- 71 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into
72 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,
73 municipalities, local health departments, educational institutions, and others necessary to carry
74 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of
75 local jurisdictions;
- 76 (iii) develop and implement an emergency plan to protect the public when declining
77 drinking water quality or quantity creates a serious health risk and issue emergency orders if a
78 health risk is imminent; ~~and~~
- 79 (iv) require a certified operator of a public water supplier to verify by signature and
80 certification number, or a professional engineer performing the duties of a certified water
81 operator to verify by signature and stamp, the accuracy of any data on water use and water
82 supply submitted by the public water supplier to the division; and
- 83 ~~(iv)~~ (v) meet the requirements of federal law related or pertaining to drinking water.
- 84 (2) (a) The board may adopt and enforce standards and establish fees for certification
85 of operators of any public water system.
- 86 (b) The board may not require certification of operators for a water system serving a
87 population of 800 or less except:
- 88 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking
89 Water Act, 42 U.S.C.A. Sec. 300f et seq.; and

90 (ii) for a system that is required to treat its drinking water.

91 (c) The certification program shall be funded from certification and renewal fees.

92 (3) Routine extensions or repairs of existing public water systems that comply with the
93 rules and do not alter the system's ability to provide an adequate supply of water are exempt
94 from the provisions of Subsection (1)(c)(i).

95 (4) (a) The board may adopt and enforce standards and establish fees for certification
96 of persons engaged in administering cross connection control programs or backflow prevention
97 assembly training, repair, and maintenance testing.

98 (b) The certification program shall be funded from certification and renewal fees.

99 (5) A board member may not speak or act for the board unless the board member is
100 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

101 Section 2. Section 73-5-8 is amended to read:

102 **73-5-8. Audits -- Reports by users to engineer.**

103 (1) The Division of Water Rights shall, in accordance with Title 63G, Chapter 3, Utah
104 Administrative Rulemaking Act, make rules specifying:

105 (a) what water use data a person shall report, pursuant to this section; and

106 (b) how the Division of Water Rights shall validate the data described in Subsection
107 (1)(a).

108 (2) The Division of Water Rights, in conjunction with the Division of Water Resources
109 and the Division of Drinking Water, may collect and validate water use data:

110 (a) submitted by a public water supplier pursuant to a rule issued by the Drinking
111 Water Board, as described in Subsection 19-4-104(2)(c)(iv); and

112 (b) as described in this section.

113 (3) Every person using water from any river system or water source, when requested by
114 the state engineer, shall within 30 days after such request report to the state engineer in writing:

115 [(1)] (a) the nature of the use of any such water;

116 [(2)] (b) the area on which used;

117 [(3)] (c) the kind of crops to be grown; [and]

118 [(4)] (d) water elevations on wells or tunnels; and

119 (e) quantity of [underground] water used.

120 (4) A request made under provisions of this section has the same legal effect as a

121 written distribution order of the state engineer.

122 Section 3. Section **73-10-18** is amended to read:

123 **73-10-18. Division of Water Resources -- Creation -- Power and authority.**

124 (1) There is created the Division of Water Resources, which shall be within the
125 Department of Natural Resources under the administration and general supervision of the
126 executive director of natural resources and under the policy direction of the Board of Water
127 Resources.

128 (2) The Division of Water Resources shall:

129 (a) be the water [~~resource(s)~~] resource authority for the state [~~of Utah, shall~~]; and

130 (b) assume all of the functions, powers, duties, rights₂ and responsibilities of the Utah
131 water and power board except those which are delegated to the board by this act and is vested
132 with such other functions, powers, duties, rights and responsibilities as provided in this act and
133 other law.

134 Section 4. Section **73-10-19** is amended to read:

135 **73-10-19. Director's power and authority.**

136 The director shall:

137 (1) be the executive and administrative head of the Division of Water Resources;

138 (2) [~~and shall be a person~~] be selected with special reference to [~~his~~] training,
139 experience₂ and interest in the field of water conservation and development[~~-~~];

140 [~~The director of the Division of Water Resources shall~~]

141 (3) administer the Division of Water Resources [~~and shall~~];

142 (4) succeed to all of the powers and duties conferred upon the executive secretary of
143 the Utah water and power board pursuant to Title 73, Chapter 10, Board of Water Resources -
144 Division of Water Resources[~~-The director shall~~]; and

145 (5) have the power, within [~~policies~~] rules established by the Board of Water
146 Resources₂ to:

147 [~~(1)~~] (a) make studies, investigations, and plans for the full development and utilization
148 and promotion of the water and power resources of the state, including preliminary surveys,
149 stream gauging, examinations, tests, and other estimates either separately or in consultation
150 with federal, state₂ and other agencies;

151 [~~(2)~~] (b) initiate and conduct water resource investigations, surveys and studies,

152 prepare plans and estimates, make reports thereon, and perform necessary work to develop an
153 over-all state water plan;

154 ~~[(3)]~~ (c) file applications in the name of the division for the appropriation of water[-
155 All pending water applications heretofore filed in behalf of the state or any agency thereof for
156 the use and benefit of the state are transferred to the board, and it is authorized to take such
157 action thereon as it may deem proper];

158 [(4)] (d) take all action necessary to acquire or perfect water rights for projects
159 sponsored by the board;

160 [(5)] (e) accept, execute, and deliver deeds and all other conveyances[-]; and

161 (f) oversee any validation of water use data, as described in Subsection 73-10-20(2).

162 Section 5. Section 73-10-20 is amended to read:

163 **73-10-20. Loans for water systems -- Legislative declaration -- Authority of**
164 **Division of Water Resources to audit water data.**

165 (1) The Legislature recognizes and declares that:

166 (a) the development, protection, and maintenance of adequate and safe water supplies
167 for human consumption is vital to public health, safety, and welfare;

168 (b) ~~that~~ there exists within the state a need to assist cities, towns, improvement
169 districts, and special service districts in providing an adequate and safe water supply for those
170 users from municipal and district systems; and

171 (c) ~~that~~ the acquisition or construction of systems and the improvement and extension
172 of existing systems, based on proper planning and sound engineering, will not only provide
173 safer water supplies, but will also serve to ensure that the water resources of the state are used
174 in an efficient manner and will avoid wasteful practices.

175 (2) The Division of Water Resources shall, as funding allows, validate the accuracy of
176 annual water use data reported by public water suppliers to the Division of Water Rights and
177 the Division of Drinking Water.