

HB0365S01 compared with HB0365

~~text~~ shows text that was in HB0365 but was deleted in HB0365S01.

Inserted text shows text that was not in HB0365 but was inserted into HB0365S01.

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Representative Keven J. Stratton proposes the following substitute bill:

DEPARTMENT OF ENVIRONMENTAL QUALITY

AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the Water Quality Board.

Highlighted Provisions:

This bill:

- ▶ provides for review of certain Water Quality Board rules or standards;
- ▶ modifies the duties of the Administrative Rules Review Committee; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

19-5-104.5, as enacted by Laws of Utah 2011, Chapter 304

63G-3-501, as last amended by Laws of Utah 2016, Chapter 193

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

Section 1. Section **19-5-104.5** is amended to read:

19-5-104.5. Legislative approval.

(1) Before sending a board-approved report, strategy, or recommendation that will recommend a total maximum daily load end point and implementation strategy to the EPA for review and approval, ~~[the Water Quality Board]~~ or before the board adopts a state established nitrogen, phosphorus, or ammonia rule or standard, the ~~{Water Quality Board}board~~ shall submit the report, strategy, ~~{{rule, standard, or}}~~ recommendation ~~{, rule, or standard}~~:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the report, strategy, ~~{{or} recommendation, rule, or standard will require a}~~ rule, standard, or recommendation will require [a] an individual facility with an approved Utah pollutant discharge elimination system permit to make a public or private expenditure ~~{, during the life of an impacted facility,}~~ in excess of \$10,000,000 but less than \$100,000,000 for compliance either through an initial capital investment or through operational costs over a 20-year period; or

(b) for approval to the Legislature if the ~~{report,}~~ strategy ~~{, recommendation}~~, rule, or standard will require ~~{a}~~ [a] an individual facility with an approved Utah pollutant discharge elimination system permit to make a public or private expenditure ~~{, during the life of an impacted facility,}~~ of \$100,000,000 or more ~~{.~~

~~———— (2) Determination of an expenditure under Subsections (1)(a) and (b) shall be based on a cost estimate determined by the impacted facility or facilities.~~

~~———— [(2)] (3) either through an initial capital investment or through operational costs over a 20-year period.~~

~~[(2)]~~ In reviewing a report, strategy, ~~{{} or {}}~~ recommendation, ~~{ rule, or standard under Subsection (1)(a),}~~ the Natural Resources, Agriculture, and Environment Interim Committee

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may:]

~~[(a) suggest additional areas of consideration; or]~~

~~[(b) recommend the report, strategy, or recommendation be re-evaluated by the Water Quality Board { and returned to the committee for further review. }]~~

(2) (a) An impacted facility, using an independent licensed engineer employed by a facility, shall determine an expenditure under Subsection (1)(a) or (b) using industry accepted project budgetary cost estimate methods.

(b) The board may evaluate and report on an expenditure estimate determined under Subsection (2)(a).

(3) In conducting a review under Subsection (1)(a), the Natural Resources, Agriculture, and Environment Interim Committee:

(a) shall consider the impact of the report, strategy, rule, standard, or recommendation on:

(i) economic costs and benefits;

(ii) public health; and

(iii) the environment; and

(b) may refer the report, strategy, rule, standard, or recommendation to the board:

(i) for final action; or

(ii) for re-evaluation followed by further review by the committee.

Section 2. Section **63G-3-501** is amended to read:

63G-3-501. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the

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Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; ~~and~~

(iv) the rule's impact on affected persons~~[-]~~;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefits to the citizens of the state; and

(~~vi~~ vii) whether adoption of the rule requires legislative notice or approval.

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(c) To carry out these duties, the committee may examine any other issues that the committee considers necessary. The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews existing rules, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(5) (a) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(b) If the fiscal impact of a rule is greater than \$10,000,000 to a single entity or \$100,000,000 to a group of entities, as determined by the Office of the Legislative Fiscal Analyst under Subsection (5)(a), the rule shall be referred to the relevant appropriations subcommittee for review.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule and may include any recommendations, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings, if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

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(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) any findings and recommendations the committee made under Subsection (7);

(ii) any action an agency took in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~