

**Senator David P. Hinkins** proposes the following substitute bill:

**WATERSHED COUNCILS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Timothy D. Hawkes**

Senate Sponsor: Ralph Okerlund

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**LONG TITLE**

**General Description:**

This bill addresses the creation of watershed councils.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Watershed Council Act, including;
  - addressing interpretation of the act;
  - defining terms;
  - outlining watersheds;
  - providing for the creation of the Utah Watersheds Council;
  - granting rulemaking authority to the Division of Water Resources;
  - establishing the role of the Utah Watersheds Council;
  - providing for the creation of local watershed councils;
  - establishing the roles and governance of local watershed councils;
  - outlining conditions applicable to all watershed councils; and
  - providing for the review of the act; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **79-2-201**, as last amended by Laws of Utah 2017, Chapter 451

31 ENACTS:

32 **73-10g-301**, Utah Code Annotated 1953

33 **73-10g-302**, Utah Code Annotated 1953

34 **73-10g-303**, Utah Code Annotated 1953

35 **73-10g-304**, Utah Code Annotated 1953

36 **73-10g-305**, Utah Code Annotated 1953

37 **73-10g-306**, Utah Code Annotated 1953

38 **73-10g-307**, Utah Code Annotated 1953

39 **73-10g-308**, Utah Code Annotated 1953

40 **73-10g-309**, Utah Code Annotated 1953



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

43 Section 1. Section **73-10g-301** is enacted to read:

44 **Part 3. Watershed Councils Act**

45 **73-10g-301. Title -- Implementation of part.**

46 (1) This part is known as the "Watershed Councils Act."

47 (2) This part shall be liberally construed to:

48 (a) develop diverse and balanced stakeholder forums for discussion of water policy and  
49 resource issues at watershed and state levels that are not vested with regulatory, infrastructure  
50 financing, or enforcement powers or responsibilities; and

51 (b) use local expertise and resources found in universities and other research  
52 institutions or in regional, state, and federal agencies.

53 Section 2. Section **73-10g-302** is enacted to read:

54 **73-10g-302. Definitions.**

55 As used in this part:

56 (1) "Council" means the state council or a local council created under this part.

57 (2) "Local council" means a local watershed council created in accordance with Section  
58 73-10g-306.

59 (3) "State council" means the Utah Watersheds Council created in Section 73-10g-304.

60 (4) "Utah Water Task Force" means a task force created by the Department of Natural  
61 Resources to review and make recommendations regarding water issues.

62 Section 3. Section **73-10g-303** is enacted to read:

63 **73-10g-303. Watersheds.**

64 For the purposes of this part, the state is divided into the following watersheds,

65 corresponding to those found on hydrologic basin maps maintained by the division:

66 (1) the Bear River Watershed, comprised of the portions of Box Elder, Cache, Rich,  
67 and Summit counties that drain into the Bear River or Great Salt Lake;

68 (2) the Weber River Watershed, comprised of the portions of Weber, Davis, Morgan,  
69 and Summit counties that drain into the Weber River or Great Salt Lake;

70 (3) the Jordan River Watershed, comprised of the portions of Salt Lake and Utah  
71 counties that drain into the Jordan River or Great Salt Lake;

72 (4) the Utah Lake Watershed, comprised of the portions of Utah, Wasatch, Juab, and  
73 Summit counties that drain into Utah Lake;

74 (5) the West Desert Watershed, comprised of the portions of Box Elder, Tooele, Juab,  
75 Millard, Beaver, and Iron counties that drain into Great Salt Lake or have no outlet, as well as  
76 the portion of Box Elder County that drains into the Columbia River watershed;

77 (6) the Sevier River Watershed, comprised of the portions of Kane, Garfield, Wayne,  
78 Piute, Emery, Sevier, Sanpete, Carbon, Utah, Juab, Tooele, Millard, and Beaver counties that  
79 drain into the Sevier River;

80 (7) the Cedar-Beaver Watershed, comprised of the portions of Washington, Iron,  
81 Beaver, Garfield, Piute, and Millard counties that historically drained into Sevier Lake;

82 (8) the Uintah Watershed, comprised of the portions of Daggett, Summit, Duchesne,  
83 Uintah, Wasatch, Carbon, Grand, and Emery counties that drain into the Green and Colorado  
84 ivers;

85 (9) the West Colorado River Watershed, comprised of the portions of Duchesne,  
86 Wasatch, Carbon, Sanpete, Sevier, Emery, Grand, Wayne, San Juan, Garfield, and Kane  
87 counties that drain into the Colorado River;

88 (10) the Southeast Colorado River Watershed, comprised of the portions of Grand,  
89 Wayne, San Juan, and Garfield counties that drain into the San Juan and Colorado rivers;

90 (11) the Kanab Creek-Virgin River Watershed, comprised of the portions of Iron,  
91 Washington, and Kane counties that drain into the Colorado River; and

92 (12) the Great Salt Lake Watershed, comprised of the West Desert, Bear River, Weber  
93 River, Jordan River, and Utah Lake watersheds.

94 Section 4. Section **73-10g-304** is enacted to read:

95 **73-10g-304. Utah Watersheds Council -- Creation and governance.**

96 (1) Within the Department of Natural Resources, there is created the "Utah Watersheds  
97 Council" consisting of the following members who are residents of the state:

98 (a) the executive director of the Department of Natural Resources;

99 (b) the executive director of the Department of Environmental Quality;

100 (c) the commissioner of the Department of Agriculture and Food;

101 (d) the director of the Utah Division of Indian Affairs;

102 (e) the Utah State University Extension vice president;

103 (f) the director of the Division of Emergency Management within the Department of

104 Public Safety;

105 (g) the president of the Utah Association of Conservation Districts;

106 (h) a representative designated by the Utah Association of Counties;

107 (i) a representative designated by the Utah League of Cities and Towns;

108 (j) a representative designated by the Utah Association of Special Districts;

109 (k) a representative of reclamation projects located in the state selected by the governor

110 from a list of three persons nominated jointly by the local sponsors of reclamation projects

111 located in the state and the executive director of the Department of Natural Resources;

112 (l) a representative of agricultural interests selected by the governor from a list of three

113 persons nominated jointly by the commissioner of the Department of Agriculture and Food, the

114 president of the Utah Farm Bureau, and the Utah State University Extension vice president;

115 (m) a representative of environmental conservation interests selected by the governor

116 from a list of three persons nominated jointly by the executive directors of the Department of

117 Environmental Quality and Department of Natural Resources;

118 (n) a representative of business and industry water interests selected by the governor

119 from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah  
120 Mining Association, and Utah Petroleum Association; and

121 (o) the designated individual selected by a local watershed council certified under  
122 Section 73-10g-306.

123 (2) (a) The division is directed, by no later than July 1, 2020, to organize a meeting of  
124 the individuals identified in Subsections (1)(a) through (n), in which those individuals shall:

125 (i) organize the state council as provided in this part;

126 (ii) select a chair and at least one vice-chair from among the members of the state  
127 council to have powers and duties provided in the organizing documents adopted by the state  
128 council; and

129 (iii) adopt policies to govern the state council's activities, including policies for the  
130 creation of subcommittees that may be less than a quorum of the state council and may include  
131 persons of suitable expertise who are not state council members.

132 (b) The state council shall make the organizing documents and policies created under  
133 Subsection (2)(a) available:

134 (i) to the public;

135 (ii) at each meeting of the state council; and

136 (iii) on a public website maintained by the division for council business.

137 (3) The state council may invite federal agencies to name representatives as liaisons to  
138 the state council.

139 (4) The state council shall stagger the initial terms of the state council members listed  
140 in Subsections (1)(h) through (n), after which members will be replaced according to policies  
141 adopted by the state council.

142 (5) After the state council's initial organization, the state council may hold regular and  
143 special meetings at such locations within the state and on a schedule as the state council  
144 determines, provided that the state council shall meet at least semi-annually.

145 (6) A majority of the members of the state council constitutes a quorum.

146 (7) The action of the majority of the council constitutes the action of the state council.

147 (8) (a) The state council policies may allow that a properly authorized representative of  
148 a voting member of the state council may act in the place of that voting member if the voting  
149 member is absent or unable to act.

150 (b) The state council shall enter in the record of a meeting proper documentation of a  
151 representative's authority to act on behalf of the voting member under this Subsection (8).

152 (c) Authorization to act on behalf of a voting member may be given for more than one  
153 meeting.

154 (d) Authorization to act on behalf of a voting member shall comply with the policies  
155 adopted by the state council.

156 (9) (a) The division shall staff the state council.

157 (b) The division may make rules in accordance with Title 63G, Chapter 3, Utah  
158 Administrative Rulemaking Act, to facilitate the creation and operation of the state council.

159 Section 5. Section **73-10g-305** is enacted to read:

160 **73-10g-305. Role of the state council.**

161 (1) The state council is directed to:

162 (a) serve as a forum to encourage and facilitate discussion and collaboration by and  
163 among the stakeholders relative to the water-related interests of the state and the state's people  
164 and institutions;

165 (b) facilitate communication and coordination between the Department of Natural  
166 Resources, the Department of Agriculture and Food, the Department of Environmental Quality,  
167 and other state and federal agencies in the administration and implementation of water-related  
168 activities;

169 (c) facilitate the establishment of local watershed councils by certifying a local council:

170 (i) for the watersheds defined in Section [73-10g-303](#); and

171 (ii) after reviewing the proceedings and documents submitted by proposed local  
172 councils, to ensure that the local council meets the certification requirements in Section  
173 [73-10g-306](#);

174 (d) provide resources and support for the administration of local councils;

175 (e) consult and seek guidance from local councils; and

176 (f) provide advice to the governor and Legislature on water issues.

177 (2) The state council shall provide updates on the state council's activities annually, or  
178 as invited, to:

179 (a) the Natural Resources, Agriculture, and Environment Interim Committee;

180 (b) the Legislative Water Development Commission; and

181 (c) the Utah Water Task Force.

182 Section 6. Section **73-10g-306** is enacted to read:

183 **73-10g-306. Local watershed councils -- Creation.**

184 (1) A proposed local watershed council may be certified by the Utah Watersheds

185 Council under Subsection [73-10g-305\(1\)\(c\)](#) if:

186 (a) the organizing documents and policies of the proposed local watershed council:

187 (i) provide for an open and equitable system of governance;

188 (ii) encourage participation by a water user or group of water users, other watershed

189 groups, mutual irrigation companies, distribution system committees, and other stakeholders

190 within the watershed; and

191 (iii) require that:

192 (A) a majority of the members of the local council constitutes a quorum; and

193 (B) an action of the local council be approved by no less than a majority of the

194 members of the local council;

195 (b) in a balance appropriate for the watershed, the proposed local council membership

196 includes watershed stakeholders who reside or work within the watershed or own or control the

197 right to divert or use water within the watershed and is representative, where feasible, of at

198 least these interests:

199 (i) agriculture;

200 (ii) industry;

201 (iii) Indian tribes;

202 (iv) public water suppliers, as defined in Section [73-1-4](#);

203 (v) water planning and research institutions;

204 (vi) water quality;

205 (vii) fish and wildlife;

206 (viii) water dependent habitat and environments;

207 (ix) watershed management, such as distribution system committees functioning within

208 the watershed;

209 (x) mutual irrigation companies; and

210 (xi) local sponsors of reclamation projects;

211 (c) for each of the five watersheds that drain into Great Salt Lake, the proposed local

212 council includes a person designated by the Great Salt Lake local watershed council, if the  
213 Great Salt Lake local watershed council is certified; and

214 (d) for the Great Salt Lake watershed, the proposed local council includes a person  
215 designated by each of the five watersheds that drain into Great Salt Lake that has a certified  
216 local watershed council.

217 (2) A local council may invite state and federal agencies to name representatives as  
218 liaisons to the local council.

219 Section 7. Section **73-10g-307** is enacted to read:

220 **73-10g-307. Local watershed councils -- Roles and governance.**

221 (1) A local council shall provide a forum to encourage and facilitate discussion of and  
222 collaboration on local watershed issues.

223 (2) A local council shall:

224 (a) select the local council's representative to the state council;

225 (b) hold meetings at times and locations as the local council determines; and

226 (c) make the local council's policies available to the public:

227 (i) at each meeting of the local council; and

228 (ii) on a public website maintained by the division for council business.

229 Section 8. Section **73-10g-308** is enacted to read:

230 **73-10g-308. Conditions applicable to all watershed councils.**

231 (1) A council:

232 (a) is a public body as defined in Section [52-4-103](#) and shall comply with Title 52,  
233 Chapter 4, Open and Public Meetings Act; and

234 (b) shall comply with Title 63G, Chapter 2, Government Records Access and  
235 Management Act.

236 (2) A member of a council may not receive compensation or benefits for the member's  
237 service, but may receive per diem and travel expenses in accordance with:

238 (a) Section [63A-3-106](#);

239 (b) Section [63A-3-107](#); and

240 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
241 [63A-3-107](#).

242 (3) Creation of the state council or a local council does not:

243 (a) supersede, usurp, or replace any other watershed oriented organization within the  
244 relevant watershed unless otherwise agreed upon by the watershed oriented organization; or

245 (b) create a stakeholder for purposes of compliance with any state or federal law,  
246 including the National Environmental Policy Act, 42 U.S.C. Sec. 4321 et seq.

247 (4) A council does not have separate or inherent adjudicative, regulatory, infrastructure  
248 development, infrastructure financing, enforcement, or other powers or responsibilities beyond  
249 those stated in this part.

250 Section 9. Section **73-10g-309** is enacted to read:

251 **73-10g-309. Review of Watershed Councils Act.**

252 (1) The Natural Resources, Agriculture, and Environment Interim Committee shall  
253 direct a review of this part, which shall begin no later than October 1, 2024, and end before  
254 September 30, 2025.

255 (2) The state council shall clearly identify for the Natural Resources, Agriculture, and  
256 Environment Interim Committee the public purposes and interests for which the councils were  
257 originally created and whether those public purposes and interests are still relevant and are  
258 being adequately addressed through the councils.

259 (3) The Natural Resources, Agriculture, and Environment Interim Committee shall  
260 consider the extent to which the councils have operated in the public interest and served as  
261 valuable forums for water-related discussions among stakeholders.

262 (4) The interim committee shall submit a report of its recommendations, including  
263 proposed legislation and recommendations concerning the part to the Legislature before  
264 January 1, 2026.

265 Section 10. Section **79-2-201** is amended to read:

266 **79-2-201. Department of Natural Resources created.**

267 (1) There is created the Department of Natural Resources.

268 (2) The department comprises the following:

269 (a) Board of Water Resources, created in Section [73-10-1.5](#);

270 (b) Board of Oil, Gas, and Mining, created in Section [40-6-4](#);

271 (c) Board of Parks and Recreation, created in Section [79-4-301](#);

272 (d) Wildlife Board, created in Section [23-14-2](#);

273 (e) Board of the Utah Geological Survey, created in Section [79-3-301](#);

- 274 (f) Water Development Coordinating Council, created in Section [73-10c-3](#);
- 275 (g) Division of Water Rights, created in Section [73-2-1.1](#);
- 276 (h) Division of Water Resources, created in Section [73-10-18](#);
- 277 (i) Division of Forestry, Fire, and State Lands, created in Section [65A-1-4](#);
- 278 (j) Division of Oil, Gas, and Mining, created in Section [40-6-15](#);
- 279 (k) Division of Parks and Recreation, created in Section [79-4-201](#);
- 280 (l) Division of Wildlife Resources, created in Section [23-14-1](#);
- 281 (m) Utah Geological Survey, created in Section [79-3-201](#);
- 282 (n) Heritage Trees Advisory Committee, created in Section [65A-8-306](#);
- 283 (o) Recreational Trails Advisory Council, authorized by Section [79-5-201](#);
- 284 (p) Boating Advisory Council, authorized by Section [73-18-3.5](#);
- 285 (q) Wildlife Board Nominating Committee, created in Section [23-14-2.5](#); [~~and~~]
- 286 (r) Wildlife Regional Advisory Councils, created in Section [23-14-2.6](#)[~~;~~]; and
- 287 (s) Utah Watersheds Council, created in Section [73-10g-304](#).