

## HB0166S01 compared with HB0166

~~{deleted text}~~ shows text that was in HB0166 but was deleted in HB0166S01.

inserted text shows text that was not in HB0166 but was inserted into HB0166S01.

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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;

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- 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

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

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

#### ENACTS:

73-10g-301, Utah Code Annotated 1953

73-10g-302, Utah Code Annotated 1953

73-10g-303, Utah Code Annotated 1953

73-10g-304, Utah Code Annotated 1953

73-10g-305, Utah Code Annotated 1953

73-10g-306, Utah Code Annotated 1953

73-10g-307, Utah Code Annotated 1953

73-10g-308, Utah Code Annotated 1953

73-10g-309, Utah Code Annotated 1953

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

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

### **Part 3. Watershed Councils Act**

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

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

(2) This part shall be liberally construed to:

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

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

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

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

As used in this part:

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

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

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

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

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

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

For the purposes of this part, the state is divided into the following watersheds, corresponding to those found on hydrologic basin maps maintained by the division:

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

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

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

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

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

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

(7) the Cedar-Beaver Watershed, comprised of the portions of Washington, Iron, Beaver, Garfield, ~~{Paiute}~~Piute, and Millard counties that historically drained into Sevier

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### Lake;

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

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

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

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

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

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

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

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

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

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

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

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

(e) the Utah State University Extension vice president;

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

### Public Safety;

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

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

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

(h|i) a representative designated by the Utah Association of Special Districts;

(i|k) a representative of reclamation projects located in the state selected by the governor from a list of three persons nominated jointly by the local sponsors of reclamation projects located in the state and the executive director of the Department of Natural Resources;

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(~~ff~~l) a representative of agricultural interests selected by the governor from a list of three persons nominated jointly by the commissioner of the Department of Agriculture and Food, the president of the Utah Farm Bureau, and the Utah State University Extension vice president;

(~~fk~~m) a representative of environmental conservation interests selected by the governor from a list of three persons nominated jointly by the executive directors of the Department of Environmental Quality and Department of Natural Resources;

(~~ff~~n) a representative of business and industry water interests selected by the governor from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah Mining Association, and Utah Petroleum Association; and

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

(2) (a) The division is directed, by no later than ~~May 12~~July 1, ~~2021~~2020, to organize a meeting of the individuals identified in Subsections (1)(a) through (~~ff~~n), in which those individuals shall:

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

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

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

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

(i) to the public;

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

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

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

(4) The state council shall stagger the initial terms of the state council members listed in Subsections (1)(~~ff~~h) through (~~ff~~n), after which members will be replaced according to

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policies adopted by the state council.

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

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

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

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

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

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

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

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

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

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

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

(1) The state council is directed to:

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

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

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

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

(ii) after reviewing the proceedings and documents submitted by proposed local

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councils, to ensure that the local council meets the certification requirements in Section 73-10g-306;

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

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

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

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

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

(b) the Legislative Water Development Commission; and

(c) the Utah Water Task Force.

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

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

(1) A proposed local watershed council may be certified by the Utah Watersheds Council under Subsection 73-10g-305(1)(c) if:

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

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

(ii) encourage participation by a water user or group of water users, other watershed groups, mutual irrigation companies, distribution system committees, and other stakeholders within the watershed; and

(iii) require that:

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

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

(b) in a balance appropriate for the watershed, the proposed local council membership includes watershed stakeholders who reside or work within the watershed or own or control the right to divert or use water within the watershed and is representative, where feasible, of at least these interests:

(i) agriculture;

(ii) industry;

(iii) Indian tribes;

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

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(v) water planning and research institutions;

(vi) water quality;

(vii) fish and wildlife;

(viii) water dependent habitat and environments;

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

(x) mutual irrigation companies; and

(xi) local sponsors of reclamation projects;

(c) for each of the five watersheds that drain into Great Salt Lake, the proposed local council includes a person ~~from~~ **designated by** the Great Salt Lake local watershed council, if the Great Salt Lake local watershed council is certified; and

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

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

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

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

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

(2) A local council shall:

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

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

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

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

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

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

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

(1) A council:

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) There is created the Department of Natural Resources.
- (2) The department comprises the following:
  - (a) Board of Water Resources, created in Section 73-10-1.5;
  - (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
  - (c) Board of Parks and Recreation, created in Section 79-4-301;
  - (d) Wildlife Board, created in Section 23-14-2;
  - (e) Board of the Utah Geological Survey, created in Section 79-3-301;
  - (f) Water Development Coordinating Council, created in Section 73-10c-3;
  - (g) Division of Water Rights, created in Section 73-2-1.1;
  - (h) Division of Water Resources, created in Section 73-10-18;
  - (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
  - (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
  - (k) Division of Parks and Recreation, created in Section 79-4-201;
  - (l) Division of Wildlife Resources, created in Section 23-14-1;
  - (m) Utah Geological Survey, created in Section 79-3-201;
  - (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
  - (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
  - (p) Boating Advisory Council, authorized by Section 73-18-3.5;
  - (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; [~~and~~]
  - (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6[~~;~~]; and
  - (s) Utah Watersheds Council, created in Section 73-10g-304.