

S.B. 144
WATER RELATED PROCESS AMENDMENTS

Senator **Ralph Okerlund** proposes the following amendments:

1. Page 1, Line 12:

12 {~~→ addresses judicial review of a state engineer order;~~}

2. Page 1, Line 24:

24 {~~73-3-14, as last amended by Laws of Utah 2008, Chapters 165 and 382~~}

3. Page 2, Line 31 through Page 3, Line 75:

31 {~~Section 1. Section 73-3-14 is amended to read:~~
32 ~~73-3-14. Judicial review of state engineer order.~~
33 ~~(1) (a) [A] Except as provided in Subsection (1)(c), a person aggrieved by an order of~~
34 ~~the state engineer may obtain judicial review in accordance with Title 63G, Chapter 4,~~
35 ~~Administrative Procedures Act, and this section.~~
36 ~~(b) Venue for judicial review of an informal adjudicative proceeding is in the county in~~
37 ~~which the water source or a portion of the water source is located.~~
38 ~~(c) Judicial review of an adjudicative proceeding approving or rejecting an application~~
39 ~~filed under this title may only be obtained by an aggrieved person who:~~
40 ~~(i) requested the adjudicative proceeding; or~~
41 ~~(ii) timely filed a protest to the application in accordance with Section 73-3-7.~~
42 ~~(2) The state engineer shall be joined as a respondent in a petition to review the state~~
43 ~~engineer's decision, but no judgment for costs or expenses of the litigation may be rendered~~
44 ~~against the state engineer.~~
45 ~~(3) A person who files a petition for judicial review as authorized in this section shall:~~
46 ~~(a) name the state engineer as a respondent; and~~
47 ~~(b) provide written notice in accordance with Subsection (5) to each person who filed a~~
48 ~~protest in accordance with Section 73-3-7 of:~~
49 ~~(i) the filing of the petition for judicial review; and~~
50 ~~(ii) the opportunity to intervene in accordance with Utah Rules of Civil Procedure;~~
51 ~~Rule 24.~~
52 ~~(4) In addition to the requirements of Subsection (3), a protestant in the adjudicative~~
53 ~~proceeding who files a petition for judicial review shall also name as a respondent the person:~~
54 ~~(a) who requested the adjudicative proceeding; or~~
55 ~~(b) against whom the state engineer brought the adjudicative proceeding.~~

56 ~~— (5) The written notice required by this section shall:~~
57 ~~— (a) be mailed:~~
58 ~~— (i) within the time provided for by Utah Rules of Civil Procedure, Rule 4(b); and~~
59 ~~— (ii) to the address on record with the state engineer's office at the time the order is~~
60 ~~issued; and~~
61 ~~— (b) include:~~
62 ~~— (i) a copy of the petition; and~~
63 ~~— (ii) the address of the court in which the petition is pending.~~
64 ~~— (6) If a person who files a petition for judicial review fails to provide notice as required~~
65 ~~by this section, the court shall dismiss the petition without prejudice upon:~~
66 ~~— (a) the motion of a party;~~
67 ~~— (b) the special appearance of a person who:~~
68 ~~— (i) participated in the adjudicative proceeding; and~~
69 ~~— (ii) is not a party; or~~
70 ~~— (c) the court's own motion.~~
71 ~~— (7) A person who files a petition for judicial review is not required to:~~
72 ~~— (a) notwithstanding Subsection 63G-4-401(3)(b), name a respondent that is not~~
73 ~~required by this section; and~~
74 ~~— (b) notwithstanding Subsection 63G-4-402(2)(a)(iv), identify all parties to the~~
75 ~~adjudicative proceeding. }~~

Renumber remaining sections accordingly