

WATERSHED COUNCILS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Ralph Okerlund

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

Other Special Clauses:

None

Utah Code Sections Affected:

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

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, 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, Piute, and Millard counties that historically drained into Sevier 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) a representative designated by the Utah Association of Counties;

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

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

(j) 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;

(k) 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;

114 (l) a representative of environmental conservation interests selected by the governor
115 from a list of three persons nominated jointly by the executive directors of the Department of
116 Environmental Quality and Department of Natural Resources;

117 (m) a representative of business and industry water interests selected by the governor
118 from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah
119 Mining Association, and Utah Petroleum Association; and

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

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

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

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

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

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

133 (i) to the public;

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

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

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

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

141 (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 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:

- 198 (i) agriculture;
199 (ii) industry;
200 (iii) Indian tribes;
201 (iv) public water suppliers, as defined in Section 73-1-4;
202 (v) water planning and research institutions;
203 (vi) water quality;
204 (vii) fish and wildlife;
205 (viii) water dependent habitat and environments;
206 (ix) watershed management, such as distribution system committees functioning within
207 the watershed;
208 (x) mutual irrigation companies; and
209 (xi) local sponsors of reclamation projects;
210 (c) for each of the five watersheds that drain into Great Salt Lake, the proposed local
211 council includes a person designated by the Great Salt Lake local watershed council, if the
212 Great Salt Lake local watershed council is certified; and
213 (d) for the Great Salt Lake watershed, the proposed local council includes a person
214 designated by each of the five watersheds that drain into Great Salt Lake that has a certified
215 local watershed council.
216 (2) A local council may invite state and federal agencies to name representatives as
217 liaisons to the local council.
218 Section 7. Section **73-10g-307** is enacted to read:
219 **73-10g-307. Local watershed councils -- Roles and governance.**
220 (1) A local council shall provide a forum to encourage and facilitate discussion of and
221 collaboration on local watershed issues.
222 (2) A local council shall:
223 (a) select the local council's representative to the state council;
224 (b) hold meetings at times and locations as the local council determines; and
225 (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

(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.

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;

- 282 (o) Recreational Trails Advisory Council, authorized by Section [79-5-201](#);
- 283 (p) Boating Advisory Council, authorized by Section [73-18-3.5](#);
- 284 (q) Wildlife Board Nominating Committee, created in Section [23-14-2.5](#); [~~and~~]
- 285 (r) Wildlife Regional Advisory Councils, created in Section [23-14-2.6](#)[~~;~~]; and
- 286 (s) Utah Watersheds Council, created in Section [73-10g-304](#).