

**Representative Joel K. Briscoe** proposes the following substitute bill:

**WATER RIGHTS AND RESOURCES AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel K. Briscoe**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill deals with the accuracy of water use data.

**Highlighted Provisions:**

This bill:

▶ instructs the Drinking Water Board to require a certified water operator of a public water supplier, or professional engineer performing the duties of an operator, to verify the accuracy of water use and supply data submitted to the Division of Drinking Water;

▶ authorizes the Division of Water Rights to collect and validate water use data; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-4-104**, as last amended by Laws of Utah 2012, Chapter 360

**73-5-8**, as last amended by Laws of Utah 2005, Chapter 215



26 73-10-18, as last amended by Laws of Utah 1969, Chapter 198  
27 73-10-19, as last amended by Laws of Utah 1983, Chapter 318  
28 73-10-20, as last amended by Laws of Utah 1977, Chapter 281

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

31 Section 1. Section 19-4-104 is amended to read:

32 **19-4-104. Powers of board.**

33 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah  
34 Administrative Rulemaking Act:

35 (i) establishing standards that prescribe the maximum contaminant levels in any public  
36 water system and provide for monitoring, record-keeping, and reporting of water quality related  
37 matters;

38 (ii) governing design, construction, operation, and maintenance of public water  
39 systems;

40 (iii) granting variances and exemptions to the requirements established under this  
41 chapter that are not less stringent than those allowed under federal law;

42 (iv) protecting watersheds and water sources used for public water systems; and

43 (v) governing capacity development in compliance with Section 1420 of the federal  
44 Safe Drinking Water Act, 42 U.S.C.A. Sec. 300f et seq.;

45 (b) The board may:

46 (i) order the director to:

47 (A) issue orders necessary to enforce the provisions of this chapter;

48 (B) enforce the orders by appropriate administrative and judicial proceedings; or

49 (C) institute judicial proceedings to secure compliance with this chapter;

50 (ii) (A) hold a hearing that is not an adjudicative proceeding relating to the  
51 administration of this chapter; or

52 (B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

53 or

54 (iii) request and accept financial assistance from other public agencies, private entities,  
55 and the federal government to carry out the purposes of this chapter.

56 (c) The board shall:

57 (i) require the submission to the director of plans and specifications for construction of,  
58 substantial addition to, or alteration of public water systems for review and approval by the  
59 board before that action begins and require any modifications or impose any conditions that  
60 may be necessary to carry out the purposes of this chapter;

61 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into  
62 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,  
63 municipalities, local health departments, educational institutions, and others necessary to carry  
64 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of  
65 local jurisdictions;

66 (iii) develop and implement an emergency plan to protect the public when declining  
67 drinking water quality or quantity creates a serious health risk and issue emergency orders if a  
68 health risk is imminent; [~~and~~]

69 (iv) require a certified operator of a public water supplier to verify by signature and  
70 certification number, or a professional engineer performing the duties of a certified water  
71 operator to verify by signature and stamp, the accuracy of any data on water use and water  
72 supply submitted by the public water supplier to the division; and

73 [~~(iv)~~] (v) meet the requirements of federal law related or pertaining to drinking water.

74 (2) (a) The board may adopt and enforce standards and establish fees for certification  
75 of operators of any public water system.

76 (b) The board may not require certification of operators for a water system serving a  
77 population of 800 or less except:

78 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking  
79 Water Act, 42 U.S.C.A. Sec. 300f et seq.; and

80 (ii) for a system that is required to treat its drinking water.

81 (c) The certification program shall be funded from certification and renewal fees.

82 (3) Routine extensions or repairs of existing public water systems that comply with the  
83 rules and do not alter the system's ability to provide an adequate supply of water are exempt  
84 from the provisions of Subsection (1)(c)(i).

85 (4) (a) The board may adopt and enforce standards and establish fees for certification  
86 of persons engaged in administering cross connection control programs or backflow prevention  
87 assembly training, repair, and maintenance testing.

88 (b) The certification program shall be funded from certification and renewal fees.

89 (5) A board member may not speak or act for the board unless the board member is  
90 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

91 Section 2. Section 73-5-8 is amended to read:

92 **73-5-8. Audits -- Reports by users to engineer.**

93 (1) The Division of Water Rights shall, in accordance with Title 63G, Chapter 3, Utah  
94 Administrative Rulemaking Act, make rules specifying:

95 (a) what water use data a person shall report, pursuant to this section; and

96 (b) how the Division of Water Rights shall validate the data described in Subsection

97 (1)(a).

98 (2) The Division of Water Rights may collect and validate water use data.

99 (3) Every person using water from any river system or water source, when requested by  
100 the state engineer, shall within 30 days after such request report to the state engineer in writing:

101 ~~(1)~~ (a) the nature of the use of any such water;

102 ~~(2)~~ (b) the area on which used;

103 ~~(3)~~ (c) the kind of crops to be grown; ~~and~~

104 ~~(4)~~ (d) water elevations on wells or tunnels; and

105 (e) quantity of ~~underground~~ water used.

106 Section 3. Section 73-10-18 is amended to read:

107 **73-10-18. Division of Water Resources -- Creation -- Power and authority.**

108 (1) There is created the Division of Water Resources, which shall be within the  
109 Department of Natural Resources under the administration and general supervision of the  
110 executive director of natural resources and under the policy direction of the Board of Water  
111 Resources.

112 (2) The Division of Water Resources shall:

113 (a) be the water ~~resource(s)~~ resource authority for the state ~~[of Utah, shall]; and~~

114 (b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah  
115 water and power board except those which are delegated to the board by this act and is vested  
116 with such other functions, powers, duties, rights and responsibilities as provided in this act and  
117 other law.

118 Section 4. Section 73-10-19 is amended to read:

119 **73-10-19. Director's power and authority.**

120 The director shall:

121 (1) be the executive and administrative head of the Division of Water Resources;

122 (2) ~~[and shall be a person]~~ be selected with special reference to ~~[his]~~ training,

123 experience, and interest in the field of water conservation and development~~[-]~~;

124 ~~[The director of the Division of Water Resources shall]~~

125 (3) administer the Division of Water Resources ~~[and shall]~~;

126 (4) succeed to all of the powers and duties conferred upon the executive secretary of

127 the Utah water and power board pursuant to Title 73, Chapter 10, Board of Water Resources -

128 Division of Water Resources~~[- The director shall]~~; and

129 (5) have the power, within ~~[policies]~~ rules established by the Board of Water

130 Resources, to:

131 ~~[(1)]~~ (a) make studies, investigations, and plans for the full development and utilization

132 and promotion of the water and power resources of the state, including preliminary surveys,

133 stream gauging, examinations, tests, and other estimates either separately or in consultation

134 with federal, state, and other agencies;

135 ~~[(2)]~~ (b) initiate and conduct water resource investigations, surveys and studies,

136 prepare plans and estimates, make reports thereon, and perform necessary work to develop an

137 over-all state water plan;

138 ~~[(3)]~~ (c) file applications in the name of the division for the appropriation of water~~[-~~

139 ~~All pending water applications heretofore filed in behalf of the state or any agency thereof for~~

140 ~~the use and benefit of the state are transferred to the board, and it is authorized to take such~~

141 ~~action thereon as it may deem proper]~~;

142 ~~[(4)]~~ (d) take all action necessary to acquire or perfect water rights for projects

143 sponsored by the board; and

144 ~~[(5)]~~ (e) accept, execute, and deliver deeds and all other conveyances.

145 Section 5. Section 73-10-20 is amended to read:

146 **73-10-20. Loans for water systems -- Legislative declaration -- Authority of**

147 **Division of Water Resources to audit water data.**

148 (1) The Legislature recognizes and declares that:

149 (a) the development, protection, and maintenance of adequate and safe water supplies

150 for human consumption is vital to public health, safety, and welfare;

151 (b) [~~that~~] there exists within the state a need to assist cities, towns, improvement  
152 districts, and special service districts in providing an adequate and safe water supply for those  
153 users from municipal and district systems; and

154 (c) [~~that~~] the acquisition or construction of systems and the improvement and extension  
155 of existing systems, based on proper planning and sound engineering, will not only provide  
156 safer water supplies, but will also serve to ensure that the water resources of the state are used  
157 in an efficient manner and will avoid wasteful practices.