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2016 Utah Legislative Update for Environment, Energy & Natural Resources

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The Utah Legislature meets for 45 days each year, from the last week in January to mid-March. Given the short duration of the legislative session, policy issues can be proposed, debated, and passed as legislation very quickly. For those not actively engaged in the legislative process, this fast moving political process means that issues move from proposal to legislation without input from the industries or people affected by the change in law.

We try to watch all substantive issues, and alert clients when there are statutory changes that may be impactful. Additionally, we work closely and communicate issues with many associations and organizations. Below is a quick synopsis of legislation that may have an impact on the environmental regulatory arena in Utah. These laws will be in effect on May 10, 2016, unless they require funding, in which case the effective date will be July 1, 2016.

Air Quality:

- HB250 Air Quality Amendments (Rep. Ed Redd & Sen. Scott Jenkins): Requires that natural-gas-fired water heaters sold in Utah meet the requirements in the State Construction and Fire Code Act.
- SB186 Air Quality Incentives (Sen. Curt Bramble & Rep. Lowry Snow): Allows funds in the Industrial Assistance Account to be used for the purchase and installation of the best available control technology (BACT) in areas designated as non-attainment for the national ambient air quality standards (NAAQS).
- SB49 Statute of Limitations on Environmental Code (Sen. Luz Escamilla & Rep. Rebecca Chavez-Houck): Increases the state statute of limitations for violations under environmental statutes from one to two years.

Water:

- HB222 Nonuse Application Amendments (Rep. Timothy Hawkes & Sen. Margaret Dayton): Approval of one or more nonuse applications or successive overlapping nonuse applications do not protect a water right that is already subject to forfeiture. Approval of a nonuse application does not constitute beneficial use.
- SB110 Water Quality Amendments (Sen. David Hinkins & Rep. Mike McKell): Establishes an independent peer review process for challenges made to proposals from the Division of Water Quality

and the requirements, including selection of the independent experts.

- SB251 Water Infrastructure Funding Amendments (Sen. Stuart Adams & Rep. Timothy Hawkes): Requires the state to establish criteria for better water data and data reporting, establish new conservation targets, establish a process for independent verification of water data, and modifies the State Water Development Commission.

Waste:

- HB258 Solid Waste Amendments (Rep. Curtis Oda & Sen. Curtis Bramble) (VETOED by Governor Herbert): Clarifies that metal purchased as a valuable commercial commodity is not “solid waste” under state regulation. Additionally a “Solid waste management facility” does not mean a facility that recycles metal, paper, plastic, rubber, or textiles, if 90% of the material accepted is recycled through the facilities' process and at least 50% of all material is recycled within two calendar years.

Energy:

- SB102 High Cost Infrastructure Tax Credit Amendments (Sen. Ralph Okerlund & Rep. Francis Gibson): Authorizes the Office of Energy Development to make rules to implement a tax credit and establish criteria for a tax credit to be provided to an infrastructure cost-burdened entity for the construction of energy infrastructure.
- SB115 Sustainable Transportation and Energy Plan Act (Sen. Stuart Adams & Rep. Lowry Snow): Allows the Public Service Commission to authorize a large-scale electric utility to implement tariffs to provide funds for a sustainable transportation pilot program to recover 100% of the prudently incurred costs in an energy balancing account, and provides an incentive for reduced generation to improve air quality and for the creation of an electric vehicle infrastructure. The bill eliminates the solar incentive program and makes other changes to what the Public Service Commission may consider in rate cases.
- HB244 Independent Energy Producer Amendments (Rep. Francis Gibson & Sen. Wayne Harper): Under certain conditions, independent energy producers that provide energy to residential customers participating in a net metering program in an area served by an electrical corporation with more than 200,000 retail customers are exempted from the regulation of the Public Service Commission as a public utility.

In addition to the 45-day General Session, the Utah Legislature meets on the third Wednesday of the month (excluding April & December) for interim meetings where priority issues can be discussed and draft legislation presented.

It is our recommendation that, if you have an issue that needs legislative attention, use of the interim committee process to vet the issue and meet with relevant legislators can be a very useful tool in a state with such a

short annual legislative session.

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