

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 113

BY ENVIRONMENT, ENERGY AND TECHNOLOGY COMMITTEE

AN ACT

RELATING TO BIG PAYETTE AND CASCADE LAKES; REPEALING CHAPTER 66, TITLE 39, IDAHO CODE, RELATING TO THE BIG PAYETTE LAKE WATER QUALITY ACT; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 66, TITLE 39, IDAHO CODE, TO PROVIDE FOR THE BIG PAYETTE AND CASCADE LAKES WATER QUALITY ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE ESTABLISHMENT OF THE BIG PAYETTE LAKE WATER QUALITY COUNCIL AND LAKE CASCADE WATER QUALITY COUNCIL, TO PROVIDE FOR POWERS AND DUTIES OF WATER QUALITY COUNCILS, TO PROVIDE FOR MEMBERSHIP, TO PROVIDE FOR ORGANIZATION, AND TO PROVIDE FOR ACCOUNTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 66, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 66, Title 39, Idaho Code, and to read as follows:

CHAPTER 66

BIG PAYETTE AND CASCADE LAKES WATER QUALITY ACT

39-6601. SHORT TITLE. This chapter shall be known and may be cited as the "Big Payette and Cascade Lakes Water Quality Act."

39-6602. LEGISLATIVE INTENT. (1) The legislature finds that: The waters of Big Payette and Cascade lakes are threatened with or are now experiencing deterioration due to expanding residential development, greater public use, and growing land use activities and that these pressures endanger the drinkability, economic potential, fisheries, natural beauty, recreational use, swimability, wildlife values, and such other beneficial uses of waters within the lakes. The state holds all such public waters in trust for the use of all its citizens, and it is necessary to preserve and protect such public waters and to increase and enhance the use and enjoyment of such waters. The lakes form an important basis of the state's economy and local region's economy, and coordinated federal, state, and local action is necessary to protect, preserve, and improve the water quality of the lakes.

(2) This chapter is the successor to the Big Payette lake water quality act, chapter 66, title 39, Idaho Code, as enacted in 1993. The Big Payette lake water quality management plan and implementation program created pursuant to that act shall be reviewed and, as appropriate, modified by the Big Payette lake water quality council after the completion of a study of Big Payette lake by the university of Idaho that commenced in 2020. Thereafter, the modified plan shall be reviewed and modified as any other plan may be as provided for pursuant to section 39-6606, Idaho Code.

1 (3) Valley county and certain cities within it have proposed a county-  
2 wide waterway management plan to comprehensively coordinate various activi-  
3 ties upon and in waterways within the county. The actions contained in this  
4 chapter are intended to be complementary to and harmonious with any such wa-  
5 terway management plan.

6 (4) The legislature declares that this chapter authorizes the commis-  
7 sioning of studies and the creation of plans to protect, preserve, and, where  
8 necessary, improve water quality within the lakes while accommodating pri-  
9 vate, public, and commercial activities to the extent prudent and practica-  
10 ble. The studies and plans as set forth in this chapter shall require a work-  
11 ing partnership of federal, state, and local governmental agencies.

12 39-6603. DEFINITIONS. Whenever used or referred to in this chapter,  
13 the following terms shall have the following meanings:

14 (1) "Applicable water quality standard" means those water quality  
15 standards identified in the rules of the department.

16 (2) "Big Payette lake" means Big Payette lake and its watershed as de-  
17 scribed by hydrological unit code pursuant to the United States geological  
18 survey watershed boundary dataset.

19 (3) "County" means Valley county.

20 (4) "Department" means the department of environmental quality.

21 (5) "Lake Cascade" means the Lake Cascade watershed with tributary  
22 subwatersheds as described by hydrological unit code pursuant to the United  
23 States geological survey watershed boundary dataset.

24 (6) "Plan" means a comprehensive water quality management plan to be  
25 developed pursuant to scientific studies and as modified over time. Plan  
26 does not include any "total maximum daily load" (TMDL), as that term is de-  
27 fined in section 39-3602, Idaho Code. Plans adopted pursuant to this chapter  
28 relate to water quality and are distinct from any county and city waterway  
29 management plan.

30 (7) "Study" means a comprehensive, scientifically based study of water  
31 quality and applicable water quality standards.

32 (8) "Water pollution" has the meaning provided in section 39-3602,  
33 Idaho Code.

34 39-6604. ESTABLISHMENT OF THE BIG PAYETTE LAKE WATER QUALITY COUN-  
35 CIL. There is hereby established the Big Payette lake water quality council  
36 that shall exercise the powers and duties as provided for by this chapter as  
37 related to Big Payette lake.

38 39-6605. ESTABLISHMENT OF THE LAKE CASCADE WATER QUALITY COUN-  
39 CIL. There is hereby established the Lake Cascade water quality council that  
40 shall exercise the powers and duties as provided for by this chapter as re-  
41 lated to Lake Cascade.

42 39-6606. POWERS AND DUTIES OF WATER QUALITY COUNCILS. (1) The water  
43 quality councils established in this chapter shall have all necessary power  
44 to undertake the following duties within their respective jurisdictions as  
45 provided by this chapter:

46 (a) To assemble historical data on water quality studies;

1 (b) To assess present and projected land and water uses;

2 (c) To specify, authorize, or obtain comprehensive, scientifically  
3 based studies of water quality and applicable water quality standards.  
4 The studies will include but not be limited to all point and nonpoint  
5 sources of nutrients, bacteria, sediments, and potential water pollu-  
6 tion;

7 (d) To prepare plans upon completion of scientifically based studies as  
8 accepted by the council, with such plans to be updated regularly as new  
9 knowledge becomes available. A new plan shall be completed, or an ex-  
10 isting plan updated, within one hundred eighty (180) days of the receipt  
11 by the water quality council of a new applicable and accepted study.  
12 Such plans shall be updated not less than once every five (5) years.  
13 Plans shall specifically identify and address concerns where commerce,  
14 fisheries, industry, invasive aquatic species, land use, recreation,  
15 residential development, scenic values, water uses, wildlife habitat,  
16 and other forms of human activity may reasonably be expected to signif-  
17 icantly impact water quality or significantly impact compliance with  
18 applicable water quality standards. Plans shall identify sources of  
19 water pollution and make recommendations to appropriate regulatory  
20 agencies to mitigate or eliminate such pollution, including those spe-  
21 cific actions needed to control point and nonpoint sources of pollution  
22 within the lakes so that, within reasonable periods of time, designated  
23 beneficial uses are fully supported and other state water quality plan  
24 objectives are achieved and standards met;

25 (e) To promote the implementation of plans by serving in an advisory ca-  
26 pacity to those cities, planning and zoning, county, state, and federal  
27 authorities with responsibilities affecting watershed water quality.  
28 The water quality councils may recommend, as appropriate, the adoption  
29 of any statutes, ordinances, rules, and regulations needed to implement  
30 plans; and

31 (f) To form technical advisory groups to include representatives of lo-  
32 cal, state, and federal agencies as well as nongovernmental entities as  
33 needed.

34 (2) The water quality councils do not have regulatory authority of any  
35 type.

36 (3) The water quality councils shall conduct active public awareness  
37 and participation programs to educate the public on methods and responsi-  
38 bilities to protect water quality and to inform stakeholders and other in-  
39 terested parties in the preparation and implementation of all studies and  
40 plans.

41 (4) As funds may be available, each council may:

42 (a) Appoint an executive director, who shall undertake such duties and  
43 responsibilities as may be assigned by the respective council;

44 (b) Initiate studies;

45 (c) Retain consultants; and

46 (d) Enter into contracts with any other governmental or public agencies  
47 and nonpublic entities.

48 39-6607. MEMBERSHIP. (1) In the selection of members to each council,  
49 representation from the following shall be considered where appropriate:

1 agriculture, mining, point source dischargers, forest products, livestock,  
2 motorized and nonmotorized water-based recreation, soil conservation dis-  
3 tricts, and environmental interests.

4 (2) Membership of the Big Payette lake water quality council shall con-  
5 sist of eleven (11) members: one (1) member who shall be a Valley county com-  
6 missioner at the time of appointment; one (1) member who shall be an elected  
7 member of the McCall city government at the time of appointment; and nine (9)  
8 members from the general public.

9 (3) Membership of the Lake Cascade water quality council shall consist  
10 of eleven (11) members: one (1) member who shall be a Valley county commis-  
11 sioner at the time of appointment; one (1) member who shall be an elected mem-  
12 ber of the Cascade city government at the time of appointment; one (1) member  
13 who shall be an elected member of the Donnelly city government at the time of  
14 appointment; and eight (8) members from the general public.

15 (4) The terms of the members shall be three (3) years, with the ini-  
16 tial term to be staggered in terms of one (1), two (2), and three (3) years  
17 by the governor when he makes the appointment. Vacancies shall be filled by  
18 appointment by the governor upon recommendation by a water quality council.  
19 Six (6) general public members of each water quality council must maintain  
20 their primary residence in the county. Once established, each water quality  
21 council shall initially convene to adopt rules for its operation and there-  
22 after exercise its powers and duties as provided in this chapter.

23 39-6608. ORGANIZATION. (1) After appointment, the members of each wa-  
24 ter quality council shall choose one (1) member as chairman and one (1) mem-  
25 ber as vice chairman. A secretary and treasurer, who may or may not be mem-  
26 bers of a council, shall also be chosen. The secretary and the treasurer may  
27 be one (1) person. The secretary shall keep a record of all proceedings, min-  
28 utes of all meetings, certificates, contracts, and other documents, as nec-  
29 essary.

30 (2) The treasurer shall keep accounts of all moneys received by and dis-  
31 bursed for and on behalf of each council. The treasurer shall prepare or  
32 cause to be prepared annual financial statements on a fiscal year basis end-  
33 ing June 30 of each year. Such financial statements shall be available for  
34 inspection by any citizen.

35 (3) Members of the water quality councils shall serve without compensa-  
36 tion. No member shall receive any compensation and no member of a water qual-  
37 ity council shall be interested in any contract or transaction with the water  
38 quality council except in the member's official representative capacity.

39 (4) Each water quality council shall meet not less than four (4) times  
40 per year.

41 39-6609. ACCOUNTS. There are hereby created in the state treasury two  
42 (2) dedicated accounts: the Big Payette lake water quality council trust  
43 account and the Lake Cascade water quality council trust account. Moneys  
44 in the accounts may come from grants, gifts, donations, use fees, or other  
45 sources. Moneys in the accounts may be expended only as authorized by a res-  
46 olution duly adopted by a majority of a respective water quality council.  
47 Moneys in the accounts shall be used for defraying the costs of each council

1 fulfilling its purposes as provided for by this chapter and for the adminis-  
2 trative costs of operation of each council.