

TITLE 39
HEALTH AND SAFETY

CHAPTER 66
BIG PAYETTE LAKE WATER QUALITY ACT

39-6601. LEGISLATIVE INTENT. The legislature finds that the waters of Big Payette Lake and its watershed are threatened with deterioration due to expanding residential development, greater public use and growing land use activities, that these pressures may endanger the drinkability, economic potential, fisheries, natural beauty, recreational use, swimability and wildlife values of the lake; that the state holds all such public lakes in trust for the use of all its citizens; that to preserve and protect such public lakes and to increase and enhance the use and enjoyment of such lakes is in the best interest of all the citizens of the state; that natural lakes form an important basis of the state's economy and that the increasing demand upon the lake waters of this state require coordinated state and local action to protect, preserve and improve the water quality [quality] of the lakes.

The legislature declares that it is necessary to embark upon a program of water quality protection for the lake so that future generations of Idahoans may use and enjoy it. This act creates a program to protect, preserve and, where necessary, improve the water quality of the lake while accommodating private, public and commercial activities to the extent prudent and practicable. The program as set forth in this act shall require a working partnership of federal, state and local agencies.

[39-6601, added 1993, ch. 200, sec. 1, p. 550.]

39-6602. DEFINITIONS. Whenever used in this chapter:

(1) "Citizens committee" means the committee named by the council consisting of members of the public.

(2) "Council" means the "Big Payette Lake Water Quality Council" established in this chapter.

(3) "Lake" means the Big Payette Lake and its watershed which shall include all tributaries, and small lakes on those tributaries, to the North Fork of the Payette River above Big Payette Lake. The term "lake" shall also include all tributaries, and small lakes on those tributaries, that drain directly into Big Payette Lake before the dam on the North Fork of the Payette Lake as it leaves Big Payette Lake.

(4) "Plan" means the comprehensive water quality management plan for the lake to be developed after the initial study, and as modified over time.

(5) "Pollution" means water pollution as defined in section 39-103, Idaho Code.

(6) "Program" means all the actions to be performed by the council pursuant to this chapter.

(7) "Study" means the comprehensive, scientifically-based study of water quality in the lake.

(8) "Technical committee" means the advisory committee named by the council pursuant to this chapter.

[39-6602, added 1993, ch. 200, sec. 1, p. 550.]

39-6603. ESTABLISHMENT OF THE BIG PAYETTE LAKE WATER QUALITY COUNCIL. There is hereby created a Big Payette Lake water quality council for the lake. It shall be the responsibility of the council to develop and

implement the program created in this chapter. The council shall be assisted in carrying out its responsibilities by the department of environmental quality, the local public health district and other appropriate state and local agencies as needed.

[39-6603, added 1993, ch. 200, sec. 1, p. 551; am. 2001, ch. 103, sec. 61, p. 300.]

39-6604. DECLARATION OF POLICIES AND PURPOSES. The council shall develop and implement a program that includes:

(1) The assembly of all historical data on water quality studies in the lake.

(2) An assessment of present and projected land and water uses related to the lake.

(3) The performance of a comprehensive, scientifically-based study of water quality in the lake. This study will include, but not be limited to, all point and nonpoint sources of nutrients, bacteria, sediments and potential pollution.

(4) The continued collection of important data after the initial study is completed as required by and for use in a nutrient load/lake response predictive model which shall be developed as part of the initial study.

(5) The preparation of a water quality management plan upon completion of the initial study, such plan to be updated regularly as new knowledge becomes available.

(6) The submittal of such plan to the legislature which shall accept, modify or reject the plan. The council will assist and coordinate the implementation of the accepted plan with federal, state and local authorities for seven (7) years after acceptance, after which the council and its committees will disband and be succeeded by appropriate multiagency oversight of the plan, its modification, and maintenance of the nutrient load/lake response predictive model. The city council of McCall and the Valley county commission may establish appropriate public committees to advise in matters related to the implementation of the plan on a continuing basis.

(7) An active public participation program with stakeholders and other interested parties in the design of the study, and the preparation and implementation of the plan, from the beginning of the council's activities and until its disbandment. This program shall include regular reports to the public through forums, printed material and otherwise of lake conditions, findings of the study and progress in the development and implementation of the plan.

[39-6604, added 1993, ch. 200, sec. 1, p. 551; am. 2000, ch. 27, sec. 1, p. 52.]

39-6605. MEMBERSHIP. The council shall consist of nine (9) members appointed by the governor. The governor shall appoint one (1) member who shall be a Valley county commissioner at the time of their appointment, one (1) member who shall be an elected member of the McCall city government at the time of their appointment, one (1) local resident to represent sporting interests in the area, one (1) member to represent lumbering interests in the watershed, one (1) member to represent commercial interests in Valley county, and four (4) members at large who are full or part-time residents of Valley county. The terms of the members shall be three (3) years with the initial term to be staggered in terms of one (1), two (2), and three (3) years by the governor when he makes the appointment. Vacancies shall be filled by

appointment of the governor upon recommendation of the council. A majority of the members of the council must maintain their primary residence in Valley county. Once established, the council will convene to adopt rules for its operation.

[39-6605, added 1993, ch. 200, sec. 1, p. 552.]

39-6606. DUTIES OF COUNCIL. The council shall have the following duties:

(1) To coordinate activities related to the study of water quality in the lake, the development of a water quality management plan, and the implementation of that plan until disbandment as provided herein.

(2) To conduct a public awareness program to educate the general public on methods and responsibilities to protect the lake.

(3) To make an examination, as the council deems necessary, of environmental conditions in, upon and around the lake. The objective shall be to obtain a scientifically sound baseline study for planning future action by appropriate authorities.

(4) To undertake and complete a management plan with recommendations for the lake based upon such examination and study. The plan to be prepared shall specifically identify and address lake protection concerns upon the lake and within the surrounding watershed where land use, scenic values, water uses, residential development, wildlife habitat, fisheries, industry, commerce and other forms of human activity are both influenced by the lake and may reasonably be expected to significantly impact the water quality of the lake.

(5) To promote, until disbandment, the implementation of the plan by serving in an advisory capacity to those city, planning and zoning, county, state and federal authorities with responsibilities affecting lake management or lake water quality. The council may recommend, as appropriate, the adoption of any statutes, ordinances, rules and regulations needed to implement the plan.

(6) To consult with the public and keep the public informed through public forums and written reports of all activities of the council.

(7) The duties of the council are ongoing and continuous until its disbandment. The council shall have the authority to complete the examination and study and prepare the plan complete with recommendations for the lake and its tributaries.

(8) The council and all its committees will automatically disband seven (7) years after the plan, as and/or if, modified, is adopted by the legislature. Before disbandment, the council shall assist local, city, state and federal authorities in the establishment of a multiagency oversight capability to succeed the council.

(9) The council shall not have any regulatory or enforcement powers.

[39-6606, added 1993, ch. 200, sec. 1, p. 552; am. 2000, ch. 27, sec. 2, p. 53.]

39-6607. ORGANIZATION. (1) After appointment, the members of the council shall choose one (1) member as chairman of the council and shall elect a secretary and treasurer of the council who may or may not be members of the council. The secretary and the treasurer may be one (1) person. The secretary shall keep a record of all council proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection to all interested parties.

(2) The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the council in permanent records. The treasurer shall prepare or cause to be prepared annual financial statements on a fiscal year basis ending June 30 of each year. Such financial statements shall be available for inspection by any citizen.

(3) Members of the council shall serve without compensation. No member shall receive any compensation as an employee of the council or otherwise, other than herein provided, and no member of the council shall be interested in any contract or transaction with the council except in his official representative capacity.

(4) It shall be the duty of the council to cause an audit to be made of all financial affairs of the council during each year ending June 30. A financial statement shall be certified by the person making such audit.

[39-6607, added 1993, ch. 200, sec. 1, p. 553.]

39-6608. QUORUM. (1) A majority of the members of the council shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required to take action with respect to any matter. The vote of each member shall be individually recorded.

(2) The council may in other respects adopt its own operating procedures, which procedures shall be made available for public review.

[39-6608, added 1993, ch. 200, sec. 1, p. 553.]

39-6609. TECHNICAL COMMITTEE. To assist in the development of its program, the council shall create a technical committee which may include, but is not exclusively limited to, designated representatives of the public health district, city and county planning or engineering departments, the county planning and zoning commission, the McCall water and sewer district, department of environmental quality, department of lands, department of fish and game, department of parks and recreation, department of water resources, state soil and water conservation commission, United States forest service, United States army corps of engineers, United States agricultural conservation and stabilization services, United States natural resources conservation service, United States geological survey, United States environmental protection agency and representatives proposed by interests in agriculture, environmental protection, forest products, sporting and mining. Indian tribes may nominate a representative for the technical committee. Members shall serve without state compensation except such normal compensation received by members who are state, city, county, district or federal employees serving in the normal course and scope of their employment.

[39-6609, added 1993, ch. 200, sec. 1, p. 553; am. 2001, ch. 103, sec. 62, p. 301; am. 2010, ch. 279, sec. 27, p. 750.]

39-6610. CITIZENS COMMITTEE. The council shall create a citizens committee comprised of citizens who express an interest in the council's program for the lake, the study and the plan. Citizens performing volunteer services in support of the council's program shall be automatic members of the citizens committee. Members of the citizens committee may meet with the council with full right to participate in all proceedings and discussions except that citizen committee members shall not be voting members.

[39-6610, added 1993, ch. 200, sec. 1, p. 554.]

39-6611. LAKE MANAGEMENT PLAN. (1) When the council has received and accepted the study, it shall make the same available to all appropriate and interested city, county, health district, state and federal agencies and to any interested individual or affected lake agency or association. For a period of ninety (90) days after dissemination, any interested agency or person may submit written suggestions, comments or proposals for the lake management plan or recommendations to the council.

(2) The council shall thereafter prepare a lake management plan and recommendations which shall be completed within one hundred eighty (180) days after dissemination of the examination and baseline study.

(3) The council shall identify sources and types of pollution within the planning area and identify existing and potential programs and measures by which this pollution might be abated, and summarize the past successes of these efforts, including notable voids in funding, regulatory powers or interagency coordination.

(4) The council shall identify present and future water and land uses within the watershed and comment on the implication of these various uses on the lake.

(5) Once completed, the council shall provide copies of its plan and recommendations to all agencies, persons and associations who have indicated an interest in the examination and baseline study. The council shall thereupon provide for one (1) or more public hearings upon its lake management plan and recommendations with notice given as provided in chapter 52, title 67, Idaho Code.

(6) After receiving the information obtained at the public hearing(s), the council shall make such changes and revisions as it deems necessary and within thirty (30) days after such public hearing, but in no event later than the next regular session of the Idaho legislature, the council shall submit the plan to the legislature.

(7) The legislature shall, within the next regular session during or after which it receives the plan, accept, reject or modify the plan. Such accepted or modified plan shall have the force and effect of law.

(8) Thereafter, the council shall assist public and governmental authorities to adopt and enforce the provisions of the plan for which that authority has a responsibility. Before its disbandment, the council shall also assist these authorities to establish an ongoing joint-agency oversight responsibility for the plan and its recommendations.

[39-6611, added 1993, ch. 200, sec. 1, p. 554.]

39-6612. ACCOUNTS. (1) There is hereby created in the state treasury a dedicated fund known as the Payette Lake trust account. Moneys in the Payette Lake trust account may come from appropriations, grants, gifts, donations, use fees or such other sources as may be authorized by the legislature. Moneys in the account shall be exclusively for the development and implementation of the program. Moneys in the account may only be expended pursuant to appropriation, and then only as authorized by a resolution duly adopted by a majority of the council.

(2) There is hereby created in the state treasury a dedicated fund known as the Big Payette Lake water quality council administrative account. All money in the account is to be derived exclusively from private, nongovernmental funding sources. All money in the account is appropriated continuously to the council to be used exclusively to defray the costs of council

administration. The account shall not be subject to the provisions of the standard appropriations act of 1945.

[39-6612, added 1993, ch. 200, sec. 1, p. 555.]