

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 183

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE BIG PAYETTE LAKE WATER QUALITY ACT; AMENDING SECTION
2 39-6601, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION
3 39-6602, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-6603,
4 IDAHO CODE, TO PROVIDE THAT ON AND AFTER A DESIGNATED DATE THE COUNCIL
5 SHALL BE DISSOLVED AND CEASE TO EXIST; AMENDING SECTION 39-6604, IDAHO
6 CODE, TO REVISE THE DECLARATION OF POLICIES AND PURPOSES; AMENDING SEC-
7 TION 39-6605, IDAHO CODE, TO REVISE PROVISIONS REGARDING COMMISSION
8 MEMBERSHIP; AMENDING SECTION 39-6606, IDAHO CODE, TO REVISE THE DUTIES
9 OF THE COUNCIL; AMENDING SECTION 39-6611, IDAHO CODE, TO REVISE PRO-
10 VISIONS REGARDING COUNCIL RESPONSIBILITIES ASSOCIATED WITH PLANS AND
11 RECOMMENDATIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
12 DATE.
13

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

15 SECTION 1. That Section 39-6601, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 39-6601. LEGISLATIVE INTENT. (1) The legislature finds that the wa-
18 ters of Big Payette Lake and its watershed are threatened with deteriora-
19 tion due to expanding residential development, greater public use and grow-
20 ing land use activities, that these pressures may endanger the drinkability,
21 economic potential, fisheries, natural beauty, recreational use, swimabil-
22 ity and wildlife values of the lake; that the state holds all such public
23 lakes in trust for the use of all its citizens; that to preserve and protect
24 such public lakes and to increase and enhance the use and enjoyment of such
25 lakes is in the best interest of all the citizens of the state; that natural
26 lakes form an important basis of the state's economy and that the increasing
27 demand upon the lake waters of this state require coordinated state and lo-
28 cal action to protect, preserve and improve the water ~~qualify~~ quality of the
29 lakes.

30 (2) The legislature declares that it is necessary to embark upon a pro-
31 gram of water quality protection for the lake so that future generations of
32 Idahoans may use and enjoy it. This act creates a program to protect, pre-
33 serve and, where necessary, improve the water quality of the lake while ac-
34 commodating private, public and commercial activities to the extent prudent
35 and practicable. The program as set forth in this act shall require a working
36 partnership of federal, state, and local ~~agencies~~ entities.

37 (3) The legislature further finds that the initial study and subsequent
38 plan and program were completed in 2005, and that the council disbanded in
39 2005 under the provisions of this chapter.

40 (4) The legislature further declares that it is necessary to reestab-
41 lish the council to provide for subsequent studies in order to review and up-

1 date as necessary the now-existing plan and program and to review the same on
 2 a continuing basis.

3 SECTION 2. That Section 39-6602, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 39-6602. DEFINITIONS. Whenever used in this chapter:

6 (1) "Citizens committee" means the committee named by the council con-
 7 sisting of members of the public.

8 (2) "Council" means the "Big Payette Lake Water Quality Council" estab-
 9 lished in this chapter.

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

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

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

21 (6) "Program" means all the actions to be performed by the council pur-
 22 suant to this chapter.

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

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

27 SECTION 3. That Section 39-6603, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 39-6603. ESTABLISHMENT OF THE BIG PAYETTE LAKE WATER QUALITY COUN-
 30 CIL. There is hereby created a Big Payette Lake water quality council for the
 31 lake. It shall be the responsibility of the council to develop and implement
 32 the program created in this chapter. The council shall be assisted in carry-
 33 ing out its responsibilities by the department of environmental quality, the
 34 local public health district and other appropriate state and local agencies
 35 as needed. The council shall be dissolved and cease to exist on and after
 36 June 30, 2030.

37 SECTION 4. That Section 39-6604, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

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

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

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

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

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

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

11 (6) The submittal of such plan to the legislature which shall accept,
 12 modify or reject the plan. The council will assist and coordinate the imple-
 13 mentation of the accepted plan with federal, state, and local authorities.
 14 ~~for seven (7) years after acceptance, after which the council and its com-~~
 15 ~~mittees will disband and be succeeded by appropriate multiagency oversight~~
 16 ~~of the plan, its modification, and maintenance of the nutrient load/lake re-~~
 17 ~~sponse predictive model.~~ The city council of McCall and the Valley county
 18 commission may establish appropriate public committees to advise in matters
 19 related to the implementation of the plan on a continuing basis.

20 (7) An active public participation program with stakeholders and other
 21 interested parties in the design of ~~the a~~ study, and the preparation, modifi-
 22 cation, and implementation of the plan, from the beginning of the council's
 23 ~~activities and until its disbandment.~~ This program shall include regular
 24 reports to the public through forums, printed material and otherwise of lake
 25 conditions, findings of ~~the a~~ study and progress in the development and im-
 26 plementation of the plan.

27 SECTION 5. That Section 39-6605, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 39-6605. MEMBERSHIP. The council shall consist of nine (9) members
 30 appointed by the governor. The governor shall appoint one (1) member who
 31 shall be a Valley county commissioner at the time of their appointment, one
 32 (1) member who shall be an elected member of the McCall city government at
 33 the time of their appointment, one (1) local resident to represent sporting
 34 interests in the area, one (1) member to represent lumbering interests in
 35 the watershed, one (1) member to represent commercial interests in Valley
 36 county, one (1) member who is approved by administrative basin 65 local
 37 rental pool committee as established by the Idaho water resource board to
 38 represent irrigation water storage interests in the watershed, one (1)
 39 member who represents an environmental organization, and ~~four (4) two (2)~~
 40 members at large who are full or part-time residents of Valley county. The
 41 terms of the members shall be three (3) years with the initial term to be
 42 staggered in terms of one (1), two (2), and three (3) years by the governor
 43 when he makes the appointment. Vacancies shall be filled by appointment of
 44 the governor upon recommendation of the council, with the exception of the
 45 irrigation storage member seat, which will be filled at the recommendation
 46 of the administrative basin 65 local rental pool committee. A majority of
 47 the members of the council must maintain their primary or part-time resi-
 48 dence in Valley county. Once established, the council will convene to adopt
 49 rules for its operation.

1 SECTION 6. That Section 39-6606, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 39-6606. DUTIES OF COUNCIL. The council shall have the following du-
4 ties:

5 (1) To coordinate activities related to the study of water quality in
6 the lake, the development of ~~a water quality management plans,~~ and the imple-
7 mentation of ~~that plan until disbandment as provided herein~~ a plan or plans.

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

10 (3) To make an examination, as the council deems necessary, of environ-
11 mental conditions in, upon and around the lake. The objective shall be to ob-
12 tain a scientifically sound baseline study for planning future action by ap-
13 propriate authorities.

14 (4) To ~~undertake and complete a management~~, complete, and periodically
15 review and amend a plan with recommendations for the lake based upon such ex-
16 amination and study studies. ~~The~~ A plan to be prepared shall specifically
17 identify and address lake protection concerns ~~upon~~ on the lake and within the
18 surrounding watershed where land use, scenic values, water uses, residen-
19 tial development, wildlife habitat, fisheries, industry, irrigation, com-
20 merce and other forms of human activity are both influenced by the lake and
21 may reasonably be expected to significantly impact the water quality of the
22 lake.

23 (5) To ~~promote, until disbandment,~~ the implementation of ~~the~~ a plan by
24 serving in an advisory capacity to those city, planning and zoning, county,
25 state and federal authorities with responsibilities affecting ~~lake manage-~~
26 ~~ment or~~ lake water quality. The council may recommend, as appropriate, the
27 adoption of any statutes, ordinances, rules and regulations needed to imple-
28 ment the plan.

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

31 (7) The duties of the council are ongoing and continuous ~~until its dis-~~
32 ~~bandment.~~ The council shall have the authority to complete the examination
33 and study studies and prepare ~~the~~ a plan complete with recommendations for
34 the lake, its watershed, and its tributaries, with such plan to be reviewed
35 and amended from time to time.

36 ~~(8) The council and all its committees will automatically disband seven~~
37 ~~(7) years after the plan, as and/or if, modified, is adopted by the legisla-~~
38 ~~ture. Before disbandment, the council shall assist local, city, state and~~
39 ~~federal authorities in the establishment of a multiagency oversight capa-~~
40 ~~bility to succeed the council.~~

41 ~~(9) (8)~~ The council shall not have any regulatory or enforcement pow-
42 ers.

43 (9) The council shall name a technical advisory committee, meet with it
44 regularly to solicit advice on the creation and modification of plans, and
45 receive reports on the implementation of such plans.

46 SECTION 7. That Section 39-6611, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 39-6611. ~~LAKE MANAGEMENT PLAN~~ WATER QUALITY PLANS. (1) When the coun-
 2 cil has received and accepted ~~the a~~ study, it shall make the same available
 3 to all appropriate and interested city, county, health district, irrigation
 4 entity, state and federal agencies and to any interested individual or af-
 5 fected lake agency or association. For a period of ninety (90) days after
 6 dissemination, any interested agency, entity, or person may submit written
 7 suggestions, comments or proposals for the ~~lake management~~ plan or recommen-
 8 dations to the council.

9 (2) The council shall thereafter ~~prepare a lake management~~ amend the
 10 plan or plans and recommendations, which shall be completed within one hun-
 11 dred eighty (180) days after dissemination of the examination and baseline
 12 study.

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

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

21 (5) Plans and recommendations shall not adversely impact or interfere
 22 with administration and use of existing water right entitlements sourced
 23 from the lake, water rights established pursuant to section 67-4301, Idaho
 24 Code, the ongoing future development of additional water right uses and en-
 25 titlements, or a lake management plan adopted by Valley county or the city of
 26 McCall.

27 ~~(5)~~ (6) Once completed, the council shall provide copies of its plan
 28 and recommendations to all agencies, entities, persons and associations who
 29 have indicated an interest in the examination and baseline study. The coun-
 30 cil shall thereupon provide for one (1) or more public hearings ~~upon~~ on its
 31 ~~lake management plan or plans~~ and recommendations with notice given as pro-
 32 vided in chapter 52, title 67, Idaho Code.

33 ~~(6)~~ (7) After receiving the information obtained at the public hear-
 34 ing(s), the council shall make such changes and revisions as it deems neces-
 35 sary and within thirty (30) days after such public hearing, but in no event
 36 later than the next regular session of the Idaho legislature, the council
 37 shall submit the plan to the legislature.

38 ~~(7)~~ The legislature shall, within the next regular session during or
 39 after which it receives the plan, accept, reject or modify the plan. Such ac-
 40 cepted or modified plan shall have the force and effect of law.

41 (8) The legislature may take actions it deems necessary in response to
 42 the plan or plans, including but not limited to subsequently concluding that
 43 the council is no longer needed and necessary, or that it currently is, or has
 44 in the past, negatively impacted or interfered with administration and use
 45 of existing water right entitlements sourced from the lake or water rights
 46 established pursuant to section 67-4301, Idaho Code, and in such case the
 47 council shall be disbanded or reorganized pursuant to legislative action.

48 ~~(8)~~ (9) Thereafter, the council shall assist public and governmen-
 49 tal authorities to adopt and enforce the provisions of the plan or plans
 50 for which that authority has a responsibility. ~~Before its disbandment, t~~

1 The council shall also assist these authorities to establish an ongoing
2 joint-agency oversight responsibility for the plan or plans and ~~its~~ recom-
3 mendations.

4 SECTION 8. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2023.