

HOUSE BILL NO. 207

INTRODUCED BY WALDRON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE HOUSE

January 13, 1983	Introduced and referred to Committee on Natural Resources.
January 26, 1983	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.
January 27, 1983	Bill printed and placed on members' desks.
January 29, 1983	Second reading, pass consideration.
January 31, 1983	Second reading, do pass.
February 1, 1983	Considered correctly engrossed.
February 2, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 3, 1983	Introduced and referred to Committee on Natural Resources.
March 11, 1983	Committee recommend bill be concurred in. Report adopted.
March 14, 1983	Second reading, concurred in.
March 16, 1983	Third reading, concurred in. Ayes, 45; Noes, 0.

IN THE HOUSE

March 16, 1983

Returned to House.

March 17, 1983

Sent to enrolling.

Reported correctly  
enrolled.

1 House BILL NO. 207  
2 INTRODUCED BY Walden  
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
6 BOARD OF WATER AND WASTEWATER OPERATORS AS THE WATER AND  
7 WASTEWATER OPERATORS' ADVISORY COUNCIL; CLARIFYING THE  
8 ADVISORY STATUS OF THE ADVISORY COUNCIL; REQUIRING THE  
9 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO HOLD  
10 EXAMINATIONS TO CERTIFY OPERATORS; PERMITTING THE  
11 DEPARTMENT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS  
12 AND TO ISSUE TEMPORARY CERTIFICATES; REQUIRING REPORTING OF  
13 AN OPERATOR'S TERMINATION OF EMPLOYMENT; CLARIFYING THE  
14 DEPARTMENT'S DISCIPLINARY AUTHORITY; REQUIRING FEES  
15 COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103,  
16 2-15-2105, 37-42-102, 37-42-201 THROUGH 37-42-203,  
17 37-42-301, 37-42-302, 37-42-304, 37-42-305, 37-42-307  
18 THROUGH 37-42-309, AND 37-42-321; AND PROVIDING AN IMMEDIATE  
19 EFFECTIVE DATE."  
20  
21 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
22 MCA, terminates the Board of Water and Wastewater Operators  
23 and requires a performance evaluation of the Board by the  
24 Legislative Audit Committee; and  
25 WHEREAS, as a result of the performance evaluation the

1 Legislative Audit Committee recommends that the Board of  
2 Water and Wastewater Operators be reestablished as the Water  
3 and Wastewater Operators' Advisory Council.  
4  
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
6 NEW SECTION Section 1. Reestablishment. The board of  
7 water and wastewater operators, created pursuant to  
8 2-15-2105, is reestablished for 6 years pursuant to 2-8-122  
9 as the water and wastewater operators' advisory council.  
10 Section 2. Section 2-8-103, MCA, is amended to read:  
11 "2-8-103. Agencies to terminate. (1) The following  
12 agencies shall terminate on July 1, 1979:  
13 (a) board of abstractors, department of professional  
14 and occupational licensing, created by 2-15-1643;  
15 (b) board of real estate, department of professional  
16 and occupational licensing, created by 2-15-1642;  
17 (c) state board of warm air heating, ventilation, and  
18 air conditioning, department of professional and  
19 occupational licensing, created by 2-15-1656;  
20 (d) board of institutions, department of institutions,  
21 created by 2-15-2303.  
22 (2) The following agencies shall terminate on July 1,  
23 1981:  
24 (a) board of athletics, department of professional and  
25 occupational licensing, created by 2-15-1661;

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2 professional and occupational licensing, created by  
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5 professional and occupational licensing, created by  
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7 (d) board of podiatry examiners, department of  
8 professional and occupational licensing, created by  
9 2-15-1608;

10 (3) The following units of state government shall  
11 terminate on July 1, 1983:

12 (a) board of aeronautics, department of commerce,  
13 created by 2-15-1812;

14 (b) state board of hail insurance, department of  
15 agriculture, created by 2-15-3003;

16 (c) board of horseracing, department of commerce,  
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19 created by 2-15-3102;

20 (e) board of milk control, department of commerce,  
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22 (f) board of oil and gas conservation, department of  
23 natural resources and conservation, created by 2-15-3303;

24 (g) Montana outfitters' council, department of fish,  
25 wildlife, and parks, created by 2-15-3403;

1 (h) public service commission, department of public  
2 service regulation, created by 69-1-102;

3 ~~((1) board of water and wastewater operators,~~  
4 ~~department of health and environmental sciences, created by~~  
5 ~~2-15-2185;~~

6 ~~((1))~~ board of water well contractors, department of  
7 commerce, created by 2-15-1862.

8 (4) The following agencies terminate on July 1, 1985:

9 (a) the board of public accountants, department of  
10 commerce, created by 2-15-1866;

11 (b) the board of architects, department of commerce,  
12 created by 2-15-1871;

13 (c) state banking board, department of commerce,  
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15 (d) the state electrical board, department of  
16 commerce, created by 2-15-1874;

17 (e) the board of professional engineers and land  
18 surveyors, department of commerce, created by 2-15-1873;

19 (f) office of commissioner of insurance and the  
20 insurance department, state auditor's office, created by  
21 2-15-1902 and 2-15-1903;

22 (g) office of the securities commissioner, state  
23 auditor's office, created by 2-15-1901;

24 (h) the board of landscape architects, department of  
25 commerce, created by 2-15-1872;

1 (i) the board of county printing, department of  
2 commerce, created by 2-15-1811;  
3 (j) the board of plumbers, department of commerce,  
4 created by 2-15-1875;  
5 (k) board of physical therapy examiners, department of  
6 commerce, created by 2-15-1858.  
7 (5) The following agencies terminate on July 1, 1987:  
8 (a) commission for human rights, department of labor  
9 and industry, created by 2-15-1706;  
10 (b) Montana state board of medical examiners,  
11 department of commerce, created by 2-15-1841;  
12 (c) board of dentistry, department of commerce,  
13 created by 2-15-1842;  
14 (d) board of pharmacists, department of commerce,  
15 created by 2-15-1843;  
16 (e) board of nursing, department of commerce, created  
17 by 2-15-1844;  
18 (f) board of nursing home administrators, department  
19 of commerce, created by 2-15-1845;  
20 (g) board of optometrists, department of commerce,  
21 created by 2-15-1846;  
22 (h) board of chiropractors, department of commerce,  
23 created by 2-15-1847;  
24 (i) board of radiologic technologists, department of  
25 commerce, created by 2-15-1848;

1 (j) board of speech pathologists and audiologists,  
2 department of commerce, created by 2-15-1849;  
3 (k) board of hearing aid dispensers, department of  
4 commerce, created by 2-15-1850;  
5 (l) board of psychologists, department of commerce,  
6 created by 2-15-1851;  
7 (m) board of veterinarians, department of commerce,  
8 created by 2-15-1852;  
9 (n) board of morticians, department of commerce,  
10 created by 2-15-1853;  
11 (o) board of barbers, department of commerce, created  
12 by 2-15-1856;  
13 (p) board of cosmetologists, department of commerce,  
14 created by 2-15-1857;  
15 (q) board of sanitarians, department of commerce,  
16 created by 2-15-1861;  
17 (r) board of veterans' affairs, department of social  
18 and rehabilitation services, created by 2-15-2202.  
19 ~~(6) The following agency terminates July 1, 1989:~~  
20 ~~water and wastewater operators' advisory council, department~~  
21 ~~of health and environmental sciences, created by 2-15-2202a"~~  
22 Section 3. Section 2-15-2105, MCA, is amended to read:  
23 "2-15-2105. Board of water and wastewater  
24 operators' advisory council. (1) There is a board  
25 of water and wastewater operators' advisory

1 ~~council.~~

2 (2) The board ~~council~~ consists of seven members.  
3 Except as provided in subsection (2)(e) of this section, the  
4 members shall be appointed by the governor. The members are:

5 (a) two members who are employed water supply system  
6 or water treatment plant operators holding valid  
7 certificates. One of these members shall hold a certificate  
8 by examination of the highest class issued by the department  
9 of health and environmental sciences. There is no  
10 restriction on the classification of the certificate held by  
11 the other operator.

12 (b) two members who are employed wastewater treatment  
13 plant operators holding valid certificates. One of these  
14 members shall hold a certificate by examination of the  
15 highest class issued by the department of health and  
16 environmental sciences. There is no restriction on the  
17 classification of the certificate held by the other  
18 operator.

19 (c) one member serving on the faculty of a university  
20 or college whose major field is related to water supply  
21 systems, wastewater treatment, chemical or civil  
22 engineering, chemistry, or bacteriology;

23 (d) one member who is a representative of a  
24 municipality required to employ a certified operator and who  
25 holds a position of either city manager, city engineer,

1 director of public works, works manager, or their  
2 equivalent;

3 (e) the administrator of the division of environmental  
4 sciences of the department of health and environmental  
5 sciences or a qualified member of his staff appointed by the  
6 administrator.

7 (3) Members, except the ex officio voting member from  
8 the department of health and environmental sciences, shall  
9 serve for a term of 6 years.

10 ~~(4) The board is attached to the department for~~  
11 ~~administrative purposes only as prescribed in 2-15-221.~~

12 Section 4. Section 37-42-102, MCA, is amended to read:  
13 "37-42-102. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

15 ~~(1) "Board" means the board of water and wastewater~~  
16 ~~operators provided for in 2-15-2105.~~

17 ~~(2) "Certificate" means a certificate of competency~~  
18 ~~issued by the department stating that the operator holding~~  
19 ~~the certificate has met the requirements for the specified~~  
20 ~~operator classification of the certification program.~~

21 ~~(2) "Council" means the water and wastewater~~  
22 ~~operators' advisory council provided for in 2-15-2105.~~

23 (3) "Department" means the department of health and  
24 environmental sciences provided for in Title 2, chapter 15,  
25 part 21.

1 (4) "Montana's waters" means all streams and lakes  
2 (including all rivers and lakes bordering on the state)  
3 wells, springs, irrigation systems, marshes, watercourses,  
4 waterways, drainage systems, and other bodies of water,  
5 surface and underground, natural or artificial, publicly or  
6 privately owned.

7 (5) "Operator" means the person in direct responsible  
8 charge of the operation of a water treatment plant, water  
9 distribution system, or wastewater treatment plant.

10 (6) "Wastewater treatment plant" means a facility  
11 designed to remove solids, bacteria, or other harmful  
12 constituents of sewage, industrial wastes, or other wastes  
13 and which discharges an effluent directly into this state's  
14 waters and which serves 10 or more families or serves an  
15 industry employing 10 or more persons.

16 (7) "Water distribution system" means that portion of  
17 the water supply system in which water is conveyed from the  
18 water treatment plant or other supply source to the premises  
19 of the consumer and which serves 10 or more families or  
20 supplies an industry employing 10 or more persons.

21 (8) "Water supply system" means the system of pipes,  
22 structures, and facilities through which the water is  
23 obtained, treated, sold, distributed, or otherwise offered  
24 to the public for household use or use by humans and which  
25 serves 10 or more families or serves an industry employing

1 10 or more persons.

2 (9) "Water treatment plant" means that portion of the  
3 water supply system which alters either the physical,  
4 chemical, or bacteriological quality of the water rendering  
5 it safe and palatable for human use."

6 Section 5. Section 37-42-201, MCA, is amended to read:  
7 "37-42-201. Meetings -- ~~examinations~~ -- compensation  
8 of members -- expenses. (1) Annually, when new members are  
9 appointed to the board ~~council~~, a chairman shall be elected  
10 at the next board ~~council~~ meeting.

11 ~~(2) The board shall hold at least one examination each~~  
12 ~~year for the purpose of examining candidates for~~  
13 ~~certification at a time and place designated by the board.~~  
14 ~~Those applicants whose competency is acceptable to the board~~  
15 ~~shall be recommended to the department for certification.~~

16 ~~(3)(2) Additional meetings~~ Meetings may be called by  
17 the chairman or on written request of four members of the  
18 board ~~council~~ when necessary to carry out ~~its function to~~  
19 ~~advise the department under~~ this chapter. Four members  
20 constitute a quorum.

21 ~~(4) The members of the board shall receive a fee of~~  
22 ~~\$20 per day while in session, plus travel expenses as~~  
23 ~~provided for in 2-18-501 through 2-18-503, including travel~~  
24 ~~while discharging their official duties.~~

25 ~~(3) Members of the council are entitled to be~~

1 ~~reinstated and compensated as life members of advisory~~  
2 ~~councils to 2-13-122(5)."~~

3 Section 6. Section 37-42-202, MCA, is amended to read:  
4 "37-42-202. Rulemaking power ~~--- examinations ---~~  
5 ~~continuing education requirements. (1)~~ The board department  
6 shall adopt rules necessary to carry out this chapter.  
7 ~~Before the rules are effective, they shall be approved by~~  
8 ~~the department. The rules shall include but are not limited~~  
9 to provisions establishing the basis for classification of  
10 treatment plants under 37-42-104, provisions establishing  
11 qualifications of applicants, procedures for examination of  
12 candidates, and other provisions necessary for the  
13 administration of this chapter.

14 ~~125. The department shall hold at least one examination~~  
15 ~~each year at a time and place designated by the department~~  
16 ~~for the purpose of examining candidates for certification.~~

17 ~~133. The department may establish reasonable continuing~~  
18 ~~education requirements for certified water and wastewater~~  
19 ~~operators."~~

20 Section 7. Section 37-42-203, MCA, is amended to read:

21 "37-42-203. Duty to advise and assist department. The  
22 board council shall advise and assist the department in the  
23 administration of the certification program. The board  
24 council shall serve as an advisory board to the department  
25 in actions relating to the qualifications of water and

1 wastewater treatment plant operators."

2 Section 8. Section 37-42-301, MCA, is amended to read:  
3 "37-42-301. Department to certify operators. (1) The  
4 department shall certify persons as to their qualifications  
5 to supervise successfully the operation of such water and  
6 wastewater treatment plants and water distribution systems  
7 after considering the recommendations of the board.

8 (2) In granting the certificates, the department shall  
9 give due regard to the interest of this state in protecting  
10 the drinking water supplies and the quality of its water."

11 Section 9. Section 37-42-302, MCA, is amended to read:

12 "37-42-302. Unlawful to operate plant or system  
13 without certified operator ~~--- department to issue temporary~~  
14 ~~certificates.~~ (1) It is unlawful for a person, firm, or  
15 corporation both municipal and private, operating a  
16 wastewater treatment plant, water treatment plant, or water  
17 distribution system to operate it unless the competency of  
18 the operator is certified to by the department under this  
19 chapter.

20 (2) Furthermore, it is unlawful for a person to  
21 perform the duties of an operator without being certified  
22 under this chapter.

23 ~~133. For good cause, should the department may issue~~  
24 ~~temporary certificates that are valid for up to 1 year."~~

25 Section 10. Section 37-42-304, MCA, is amended to



1 read:

2 "37-42-304. Application for operator's certificate —  
3 fee. A person desiring to engage in the operation of a water  
4 treatment plant, water distribution system, or wastewater  
5 treatment plant shall first file an application with the  
6 department for a proper certificate. The department shall  
7 charge a fee of the same amount as the license cost set  
8 forth in 37-42-306 for the filing of each application as  
9 established pursuant to 37-1-134 and shall not act on an  
10 application until the fee has been paid."

11 Section 11. Section 37-42-305, MCA, is amended to  
12 read:

13 "37-42-305. Certification without examination. The  
14 board ~~department~~ may consider for ~~recommendation~~ for  
15 certification the holder of a certificate issued by a  
16 governmental agency or equivalent certification board of  
17 another state on presentation to the board ~~department~~ of  
18 satisfactory evidence that the applicant is in responsible  
19 charge of works located in this state requiring a certified  
20 operator and that he has successfully passed an examination  
21 at least equivalent to that required under 37-42-201(2)  
22 ~~37-42-201(2)~~ and 37-42-301."

23 Section 12. Section 37-42-307, MCA, is amended to  
24 read:

25 "37-42-307. Retention of certificate by operators who

1 terminate employment ~~— notification to department. (1)~~

2 Operators who terminate employment may retain their  
3 certificate for 2 years, providing that all other  
4 requirements are met. After 2 years, a certificate is  
5 automatically invalidated. Operators whose certificates are  
6 invalidated under this chapter may be issued new  
7 certificates of like classification provided appropriate  
8 proof of competency is presented to the board ~~department~~.  
9 Successful completion of an examination may be required at  
10 the discretion of the board ~~department~~.

11 ~~(2) Any person, firm, or corporation, both municipal~~  
12 ~~and private, shall notify the department within 5 business~~  
13 ~~days after termination if a certified water or wastewater~~  
14 ~~operator terminates employment."~~

15 Section 13. Section 37-42-308, MCA, is amended to  
16 read:

17 "37-42-308. Annual renewal — fees — revocation for  
18 failure to renew — reinstatement — notice of suspension.

19 (1) Certificates issued under this chapter shall be renewed  
20 annually before July 1. A certificate issued after July 1  
21 expires the following June 30. After the payment of the  
22 initial fee under 37-42-304, a certificate holder shall pay  
23 before July 1 of each certificate year a renewal fee  
24 according to the following schedule ~~adopted by the~~  
25 ~~department pursuant to 37-1-134.~~

~~(a) class-IV-020;~~

~~(b) class-II-015;~~

~~(c) class-III-010;~~

~~(d) class-IV-05;~~

~~(e) class-V-03;~~

(2) If a certificate holder does not apply for a renewal of his certificate before July 1 and remit to the department the necessary renewal fee, he shall have his certificate suspended by the board ~~department~~. If the certificate remains suspended for a period of more than 30 days, it shall be revoked by the board ~~department~~. However, the board ~~department~~, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least 10 days before the time set for action to be taken by the board ~~department~~ on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the board ~~department~~ that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension shall be given to certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked

through his own fault desires to continue as a water or wastewater plant operator, he must make application to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the board ~~department~~.

Section 14. Section 37-42-309, MCA, is amended to read:

"37-42-309. Deposit of fees. Filing and certification fees shall be deposited with the state treasurer in the board of water and wastewater operators account in the department earmarked revenue fund and shall be used to pay the expenses of the board ~~council~~ and department under this chapter. Moneys may be invested in accordance with procedures of investment of state moneys."

Section 15. Section 37-42-321, MCA, is amended to read:

"37-42-321. Revocation of operator's certificate — ~~rehearing by board~~ ~~"disciplinary action by department"~~. (1) The department may revoke the certificate of an operator, following a hearing by the department, when it is found that:

(a) the operator has practiced fraud or deception;

(b) reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or

1 (c) the operator is incompetent or unable to properly  
2 perform his duties.

3 ~~(2) A person who has his certificate revoked by the~~  
4 ~~department may appeal to the board for a rehearing within 10~~  
5 ~~days of notification by the department after which time the~~  
6 ~~revocation proceedings are no longer applicable and~~  
7 ~~revocation of the certificate becomes final.~~

8 ~~(2) The department may take any disciplinary action~~  
9 ~~pursuant to 37-1-136."~~

10 **NEW SECTION.** Section 16. Existing rules. Rules  
11 adopted by the board of water and wastewater operators in  
12 effect on [the effective date of this act] continue in  
13 effect under the administration of the department of health  
14 and environmental sciences until amended or repealed by the  
15 department. If amended, a rule continues in effect in its  
16 amended form.

17 **NEW SECTION.** Section 17. Effective date. This act is  
18 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 207

## 3 House Natural Resources Committee

4  
5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority to the Department of  
7 Health and Environmental Sciences to adopt rules  
8 prescribing:

9 (1) examination procedures for certifying water and  
10 wastewater operators;

11 (2) continuing education requirements for certified  
12 water and wastewater operators;

13 (3) requirements for issuance of temporary  
14 certificates to water and wastewater operators.

15 As prescribed in section 6 of the bill, the examination  
16 procedures for certifying operators shall constitute a  
17 reasonable basis for determining whether or not an applicant  
18 is qualified to operate a water or wastewater plant. The  
19 continuing education requirements shall provide a fair and  
20 reasonable basis for ensuring that certified operators  
21 remain qualified.

22 The requirements for issuance of a temporary  
23 certificate as prescribed in section 8 shall include a list  
24 of elements constituting "good cause".

Approved by Committee  
on Natural Resources

## HOUSE BILL NO. 207

INTRODUCED BY MALORON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF WATER AND WASTEWATER OPERATORS AS THE WATER AND WASTEWATER OPERATORS' ADVISORY COUNCIL; CLARIFYING THE ADVISORY STATUS OF THE ADVISORY COUNCIL; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO HOLD EXAMINATIONS TO CERTIFY OPERATORS; PERMITTING THE DEPARTMENT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS AND TO ISSUE TEMPORARY CERTIFICATES; REQUIRING REPORTING OF AN OPERATOR'S TERMINATION OF EMPLOYMENT; CLARIFYING THE DEPARTMENT'S DISCIPLINARY AUTHORITY; REQUIRING FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103, 2-15-2105, 37-42-102, 37-42-201 THROUGH 37-42-203, 37-42-301, 37-42-302, 37-42-304, 37-42-305, 37-42-307 THROUGH 37-42-309, AND 37-42-321; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Water and Wastewater Operators and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(d) board of institutions, department of institutions, created by 2-15-2303.

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5 ~~2-15-2105;~~

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18 surveyors, department of commerce, created by 2-15-1873;

19 (f) office of commissioner of insurance and the  
20 insurance department, state auditor's office, created by  
21 2-15-1902 and 2-15-1903;

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1 (i) the board of county printing, department of  
2 commerce, created by 2-15-1811;

3 (j) the board of plumbers, department of commerce,  
4 created by 2-15-1875;

5 (k) board of physical therapy examiners, department of  
6 commerce, created by 2-15-1858.

7 (5) The following agencies terminate on July 1, 1987:

8 (a) commission for human rights, department of labor  
9 and industry, created by 2-15-1706;

10 (b) Montana state board of medical examiners,  
11 department of commerce, created by 2-15-1841;

12 (c) board of dentistry, department of commerce,  
13 created by 2-15-1842;

14 (d) board of pharmacists, department of commerce,  
15 created by 2-15-1843;

16 (e) board of nursing, department of commerce, created  
17 by 2-15-1844;

18 (f) board of nursing home administrators, department  
19 of commerce, created by 2-15-1845;

20 (g) board of optometrists, department of commerce,  
21 created by 2-15-1846;

22 (h) board of chiropractors, department of commerce,  
23 created by 2-15-1847;

24 (i) board of radiologic technologists, department of  
25 commerce, created by 2-15-1848;

1 (j) board of speech pathologists and audiologists,  
2 department of commerce, created by 2-15-1849;

3 (k) board of hearing aid dispensers, department of  
4 commerce, created by 2-15-1850;

5 (l) board of psychologists, department of commerce,  
6 created by 2-15-1851;

7 (m) board of veterinarians, department of commerce,  
8 created by 2-15-1852;

9 (n) board of morticians, department of commerce,  
10 created by 2-15-1853;

11 (o) board of barbers, department of commerce, created  
12 by 2-15-1856;

13 (p) board of cosmetologists, department of commerce,  
14 created by 2-15-1857;

15 (q) board of sanitarians, department of commerce,  
16 created by 2-15-1861;

17 (r) board of veterans' affairs, department of social  
18 and rehabilitation services, created by 2-15-2202.

19 ~~(6) The following agency terminates July 1, 1989:~~  
20 ~~water and wastewater operators' advisory council, department~~  
21 ~~of health and environmental sciences, created by 2-15-2105."~~

22 Section 3. Section 2-15-2105, MCA, is amended to read:

23 "2-15-2105. Board---of---water ~~water~~ and wastewater  
24 operators ~~operators'~~ operators' advisory council. (1) There is a board  
25 of water and wastewater operators ~~operators'~~ operators' advisory

1 council.

2 (2) The ~~board~~ council consists of seven members.  
3 Except as provided in subsection (2)(e) of this section, the  
4 members shall be appointed by the governor. The members are:

5 (a) two members who are employed water supply system  
6 or water treatment plant operators holding valid  
7 certificates. One of these members shall hold a certificate  
8 by examination of the highest class issued by the department  
9 of health and environmental sciences. There is no  
10 restriction on the classification of the certificate held by  
11 the other operator.

12 (b) two members who are employed wastewater treatment  
13 plant operators holding valid certificates. One of these  
14 members shall hold a certificate by examination of the  
15 highest class issued by the department of health and  
16 environmental sciences. There is no restriction on the  
17 classification of the certificate held by the other  
18 operator.

19 (c) one member serving on the faculty of a university  
20 or college whose major field is related to water supply  
21 systems, wastewater treatment, chemical or civil  
22 engineering, chemistry, or bacteriology;

23 (d) one member who is a representative of a  
24 municipality required to employ a certified operator and who  
25 holds a position of either city manager, city engineer,

1 director of public works, works manager, or their  
2 equivalent;

3 (e) the administrator of the division of environmental  
4 sciences of the department of health and environmental  
5 sciences or a qualified member of his staff appointed by the  
6 administrator.

7 (3) Members, except the ex officio voting member from  
8 the department of health and environmental sciences, shall  
9 serve for a term of 6 years.

10 ~~{4}--The board--is--allocated--to--the--department--for~~  
11 ~~administrative-purposes-only-as-prescribed-in-2-15-121.~~"

12 Section 4. Section 37-42-102, MCA, is amended to read:  
13 "37-42-102. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

15 ~~{1}--"Board"--means--the--board-of-water-and-wastewater~~  
16 ~~operators-provided-for-in-2-15-2105.~~

17 ~~{2}{11}~~ "Certificate" means a certificate of competency  
18 issued by the department stating that the operator holding  
19 the certificate has met the requirements for the specified  
20 operator classification of the certification program.

21 {2} "Council" means the water and wastewater  
22 operators' advisory council provided for in 2-15-2105.

23 (3) "Department" means the department of health and  
24 environmental sciences provided for in Title 2, chapter 15,  
25 part 21.



1       (4) "Montana's waters" means all streams and lakes  
2       (including all rivers and lakes bordering on the state)  
3       wells, springs, irrigation systems, marshes, watercourses,  
4       waterways, drainage systems, and other bodies of water,  
5       surface and underground, natural or artificial, publicly or  
6       privately owned.

7       (5) "Operator" means the person in direct responsible  
8       charge of the operation of a water treatment plant, water  
9       distribution system, or wastewater treatment plant.

10       (6) "Wastewater treatment plant" means a facility  
11       designed to remove solids, bacteria, or other harmful  
12       constituents of sewage, industrial wastes, or other wastes  
13       and which discharges an effluent directly into this state's  
14       waters and which serves 10 or more families or serves an  
15       industry employing 10 or more persons.

16       (7) "Water distribution system" means that portion of  
17       the water supply system in which water is conveyed from the  
18       water treatment plant or other supply source to the premises  
19       of the consumer and which serves 10 or more families or  
20       supplies an industry employing 10 or more persons.

21       (8) "Water supply system" means the system of pipes,  
22       structures, and facilities through which the water is  
23       obtained, treated, sold, distributed, or otherwise offered  
24       to the public for household use or use by humans and which  
25       serves 10 or more families or serves an industry employing

1       10 or more persons.

2       (9) "Water treatment plant" means that portion of the  
3       water supply system which alters either the physical,  
4       chemical, or bacteriological quality of the water rendering  
5       it safe and palatable for human use."

6       Section 5. Section 37-42-201, MCA, is amended to read:

7       "37-42-201. Meetings ~~---examinations~~ -- compensation  
8       of members -- expenses. (1) Annually, when new members are  
9       appointed to the board council, a chairman shall be elected  
10       at the next board council meeting.

11       ~~{2}--The-board-shall-hold-at-least-one-examination-each~~  
12       ~~year---for---the---purpose---of---examining---candidates---for~~  
13       ~~certification-at-a-time-and-place-designated-by-the--boards~~  
14       ~~Those-applicants-whose-competency-is-acceptable-to-the-board~~  
15       ~~shall-be-recommended-to-the-department-for-certification~~

16       ~~{3}{2}~~ Additional meetings ~~Meetings~~ may be called by  
17       the chairman or on written request of four members of the  
18       board council when necessary to carry out its function to  
19       advise the department under this chapter. Four members  
20       constitute a quorum.

21       ~~{4}--The--members--of--the-board-shall-receive-a-fee-of~~  
22       ~~\$20-per-day-while-in-session--plus-travel--expenses--as~~  
23       ~~provided--for-in-2-18-501-through-2-18-503--including-travel~~  
24       ~~while-discharging-their-official-duties~~

25       (3) Members of the council are entitled to be

1 ~~reimbursed and compensated as are members of advisory~~  
2 ~~councils in 2-15-122(f)."~~

3 Section 6. Section 37-42-202, MCA, is amended to read:

4 "37-42-202. Rulemaking power ~~-- examinations --~~  
5 ~~continuing education requirements.~~ (1) The board department  
6 shall adopt rules necessary to carry out this chapter.  
7 ~~Before the rules are effective, they shall be approved by~~  
8 ~~the department.~~ The rules shall include but are not limited  
9 to provisions establishing the basis for classification of  
10 treatment plants under 37-42-104, provisions establishing  
11 qualifications of applicants, procedures for examination of  
12 candidates, and other provisions necessary for the  
13 administration of this chapter.

14 ~~(2) The department shall hold at least one examination~~  
15 ~~each year, at a time and place designated by the department,~~  
16 ~~for the purpose of examining candidates for certification.~~

17 ~~(3) The department may establish reasonable continuing~~  
18 ~~education requirements for certified water and wastewater~~  
19 ~~operators."~~

20 Section 7. Section 37-42-203, MCA, is amended to read:

21 "37-42-203. Duty to advise and assist department. The  
22 ~~board council~~ shall advise and assist the department in the  
23 administration of the certification program. The ~~board~~  
24 ~~council~~ shall serve as an advisory board to the department  
25 in actions relating to the qualifications of water and

1 wastewater treatment plant operators."

2 Section 8. Section 37-42-301, MCA, is amended to read:

3 "37-42-301. Department to certify operators. (1) The  
4 department shall certify persons as to their qualifications  
5 to supervise successfully the operation of such water and  
6 wastewater treatment plants and water distribution systems  
7 ~~after considering the recommendations of the board.~~

8 (2) In granting the certificates, the department shall  
9 give due regard to the interest of this state in protecting  
10 the drinking water supplies and the quality of its water."

11 Section 9. Section 37-42-302, MCA, is amended to read:

12 "37-42-302. Unlawful to operate plant or system  
13 without certified operator ~~-- department to issue temporary~~  
14 ~~certificates.~~ (1) It is unlawful for a person, firm, or  
15 corporation both municipal and private, operating a  
16 wastewater treatment plant, water treatment plant, or water  
17 distribution system to operate it unless the competency of  
18 the operator is certified to by the department under this  
19 chapter.

20 (2) Furthermore, it is unlawful for a person to  
21 perform the duties of an operator without being certified  
22 under this chapter.

23 ~~(3) For good cause shown, the department may issue~~  
24 ~~temporary certificates that are valid for up to 1 year."~~

25 Section 10. Section 37-42-304, MCA, is amended to

1 read:

2 "37-42-304. Application for operator's certificate --  
3 fee. A person desiring to engage in the operation of a water  
4 treatment plant, water distribution system, or wastewater  
5 treatment plant shall first file an application with the  
6 department for a proper certificate. The department shall  
7 charge a fee of the same amount as the license cost set  
8 forth in 37-42-308 for the filing of each application as  
9 established pursuant to 37-1-134 and shall not act on an  
10 application until the fee has been paid."

11 Section 11. Section 37-42-305, MCA, is amended to  
12 read:

13 "37-42-305. Certification without examination. The  
14 board department may consider for recommendation for  
15 certification the holder of a certificate issued by a  
16 governmental agency or equivalent certification board of  
17 another state on presentation to the board department of  
18 satisfactory evidence that the applicant is in responsible  
19 charge of works located in this state requiring a certified  
20 operator and that he has successfully passed an examination  
21 at least equivalent to that required under 37-42-201(2)  
22 37-42-202(2) and 37-42-301."

23 Section 12. Section 37-42-307, MCA, is amended to  
24 read:

25 "37-42-307. Retention of certificate by operators who

1 terminate employment -- notification to department. (1)  
2 Operators who terminate employment may retain their  
3 certificate for 2 years, providing that all other  
4 requirements are met. After 2 years, a certificate is  
5 automatically invalidated. Operators whose certificates are  
6 invalidated under this chapter may be issued new  
7 certificates of like classification provided appropriate  
8 proof of competency is presented to the board department.  
9 Successful completion of an examination may be required at  
10 the discretion of the board department.

11 (2) Any person, firm, or corporation, both municipal  
12 and private, shall notify the department within 3 business  
13 days after termination if a certified water or wastewater  
14 operator terminates employment."

15 Section 13. Section 37-42-308, MCA, is amended to  
16 read:

17 "37-42-308. Annual renewal -- fees -- revocation for  
18 failure to renew -- reinstatement -- notice of suspension.  
19 (1) Certificates issued under this chapter shall be renewed  
20 annually before July 1. A certificate issued after July 1  
21 expires the following June 30. After the payment of the  
22 initial fee under 37-42-304, a certificate holder shall pay  
23 before July 1 of each certificate year a renewal fee  
24 according to the following schedule adopted by the  
25 department pursuant to 37-1-134.

- (a) ~~class-I, \$29,~~
- (b) ~~class-II, \$15,~~
- (c) ~~class-III, \$10,~~
- (d) ~~class-IV, \$5,~~
- (e) ~~class-V, \$3.~~

(2) If a certificate holder does not apply for a renewal of his certificate before July 1 and remit to the department the necessary renewal fee, he shall have his certificate suspended by the board ~~department~~. If the certificate remains suspended for a period of more than 30 days, it shall be revoked by the board ~~department~~. However, the board ~~department~~, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least 10 days before the time set for action to be taken by the board ~~department~~ on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the board ~~department~~ that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension shall be given to certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked

through his own fault desires to continue as a water or wastewater plant operator, he must make application to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the board ~~department~~."

Section 14. Section 37-42-309, MCA, is amended to read:

"37-42-309. Deposit of fees. Filing and certification fees shall be deposited with the state treasurer in the ~~board-of-water-and-wastewater-operators-account-in~~ the department earmarked revenue fund and shall be used to pay the expenses of the board ~~council~~ and department under this chapter. Moneys may be invested in accordance with procedures of investment of state moneys."

Section 15. Section 37-42-321, MCA, is amended to read:

"37-42-321. Revocation of operator's certificate -- ~~rehearing-by-board -- disciplinary action by department~~. (1) The department may revoke the certificate of an operator, following a hearing by the department, when it is found that:

- (a) the operator has practiced fraud or deception;
- (b) reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or

1 (c) the operator is incompetent or unable to properly  
2 perform his duties.

3 ~~{2}--A person who has his certificate--revoked--by--the~~  
4 ~~department may appeal to the board for a rehearing within 10~~  
5 ~~days of notification by the department, after which time the~~  
6 ~~revocation--proceedings--are--no--longer--applicable--and~~  
7 ~~revocation of the certificate becomes final~~

8 {2} The department may take any disciplinary action  
9 pursuant to 37-1-136."

10 NEW SECTION. Section 16. Existing rules. Rules  
11 adopted by the board of water and wastewater operators in  
12 effect on [the effective date of this act] continue in  
13 effect under the administration of the department of health  
14 and environmental sciences until amended or repealed by the  
15 department. If amended, a rule continues in effect in its  
16 amended form.

17 NEW SECTION. Section 17. Effective date. This act is  
18 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 207

## 3 House Natural Resources Committee

4  
5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority to the Department of  
7 Health and Environmental Sciences to adopt rules  
8 prescribing:

9 (1) examination procedures for certifying water and  
10 wastewater operators;

11 (2) continuing education requirements for certified  
12 water and wastewater operators;

13 (3) requirements for issuance of temporary  
14 certificates to water and wastewater operators.

15 As prescribed in section 6 of the bill, the examination  
16 procedures for certifying operators shall constitute a  
17 reasonable basis for determining whether or not an applicant  
18 is qualified to operate a water or wastewater plant. The  
19 continuing education requirements shall provide a fair and  
20 reasonable basis for ensuring that certified operators  
21 remain qualified.

22 The requirements for issuance of a temporary  
23 certificate as prescribed in section 8 shall include a list  
24 of elements constituting "good cause".

Approved by Committee  
on Natural Resources

HOUSE BILL NO. 207

INTRODUCED BY WALDRON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF WATER AND WASTEWATER OPERATORS AS THE WATER AND WASTEWATER OPERATORS' ADVISORY COUNCIL; CLARIFYING THE ADVISORY STATUS OF THE ADVISORY COUNCIL; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO HOLD EXAMINATIONS TO CERTIFY OPERATORS; PERMITTING THE DEPARTMENT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS AND TO ISSUE TEMPORARY CERTIFICATES; REQUIRING REPORTING OF AN OPERATOR'S TERMINATION OF EMPLOYMENT; CLARIFYING THE DEPARTMENT'S DISCIPLINARY AUTHORITY; REQUIRING FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103, 2-15-2105, 37-42-102, 37-42-201 THROUGH 37-42-203, 37-42-301, 37-42-302, 37-42-304, 37-42-305, 37-42-307 THROUGH 37-42-309, AND 37-42-321; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Water and Wastewater Operators and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the

Legislative Audit Committee recommends that the Board of Water and Wastewater Operators be reestablished as the Water and Wastewater Operators' Advisory Council.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of water and wastewater operators, created pursuant to 2-15-2105, is reestablished for 6 years pursuant to 2-8-122 as the water and wastewater operators' advisory council.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstractors, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of commerce, created by 2-15-1812;

(b) state board of hail insurance, department of agriculture, created by 2-15-3003;

(c) board of horseracing, department of commerce, created by 2-15-1881;

(d) board of livestock, department of livestock, created by 2-15-3102;

(e) board of milk control, department of commerce, created by 2-15-1802;

(f) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

(g) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

(h) public service commission, department of public service regulation, created by 69-1-102;

~~((i) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2185;~~

~~((j)) board of water well contractors, department of commerce, created by 2-15-1862.~~

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;



1 (i) the board of county printing, department of  
2 commerce, created by 2-15-1811;

3 (j) the board of plumbers, department of commerce,  
4 created by 2-15-1875;

5 (k) board of physical therapy examiners, department of  
6 commerce, created by 2-15-1858.

7 (5) The following agencies terminate on July 1, 1987:

8 (a) commission for human rights, department of labor  
9 and industry, created by 2-15-1706;

10 (b) Montana state board of medical examiners,  
11 department of commerce, created by 2-15-1841;

12 (c) board of dentistry, department of commerce,  
13 created by 2-15-1842;

14 (d) board of pharmacists, department of commerce,  
15 created by 2-15-1843;

16 (e) board of nursing, department of commerce, created  
17 by 2-15-1844;

18 (f) board of nursing home administrators, department  
19 of commerce, created by 2-15-1845;

20 (g) board of optometrists, department of commerce,  
21 created by 2-15-1846;

22 (h) board of chiropractors, department of commerce,  
23 created by 2-15-1847;

24 (i) board of radiologic technologists, department of  
25 commerce, created by 2-15-1848;

1 (j) board of speech pathologists and audiologists,  
2 department of commerce, created by 2-15-1849;

3 (k) board of hearing aid dispensers, department of  
4 commerce, created by 2-15-1850;

5 (l) board of psychologists, department of commerce,  
6 created by 2-15-1851;

7 (m) board of veterinarians, department of commerce,  
8 created by 2-15-1852;

9 (n) board of morticians, department of commerce,  
10 created by 2-15-1853;

11 (o) board of barbers, department of commerce, created  
12 by 2-15-1856;

13 (p) board of cosmetologists, department of commerce,  
14 created by 2-15-1857;

15 (q) board of sanitarians, department of commerce,  
16 created by 2-15-1861;

17 (r) board of veterans' affairs, department of social  
18 and rehabilitation services, created by 2-15-2202.

19 (6) The following agency terminates July 1, 1989:  
20 water and wastewater operators' advisory council, department  
21 of health and environmental sciences, created by 2-15-2105."

22 Section 3. Section 2-15-2105, MCA, is amended to read:  
23 "2-15-2105. Board---of---water ~~Water~~ and wastewater  
24 operators ~~operators'~~ operators' advisory council. (1) There is a board  
25 of water and wastewater operators ~~operators'~~ operators' advisory

1 council.

2 (2) The board council consists of seven members.  
3 Except as provided in subsection (2)(e) of this section, the  
4 members shall be appointed by the governor. The members are:

5 (a) two members who are employed water supply system  
6 or water treatment plant operators holding valid  
7 certificates. One of these members shall hold a certificate  
8 by examination of the highest class issued by the department  
9 of health and environmental sciences. There is no  
10 restriction on the classification of the certificate held by  
11 the other operator.

12 (b) two members who are employed wastewater treatment  
13 plant operators holding valid certificates. One of these  
14 members shall hold a certificate by examination of the  
15 highest class issued by the department of health and  
16 environmental sciences. There is no restriction on the  
17 classification of the certificate held by the other  
18 operator.

19 (c) one member serving on the faculty of a university  
20 or college whose major field is related to water supply  
21 systems, wastewater treatment, chemical or civil  
22 engineering, chemistry, or bacteriology;

23 (d) one member who is a representative of a  
24 municipality required to employ a certified operator and who  
25 holds a position of either city manager, city engineer,

1 director of public works, works manager, or their  
2 equivalent;

3 (e) the administrator of the division of environmental  
4 sciences of the department of health and environmental  
5 sciences or a qualified member of his staff appointed by the  
6 administrator.

7 (3) Members, except the ex officio voting member from  
8 the department of health and environmental sciences, shall  
9 serve for a term of 6 years.

10 ~~(4) The board is allocated to the department for~~  
11 ~~administrative purposes only as prescribed in 2-15-121.~~

12 Section 4. Section 37-42-102, MCA, is amended to read:

13 "37-42-102. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

15 ~~(1) "Board" means the board of water and wastewater~~  
16 ~~operators provided for in 2-15-2105.~~

17 ~~(2)(1)~~ "Certificate" means a certificate of competency  
18 issued by the department stating that the operator holding  
19 the certificate has met the requirements for the specified  
20 operator classification of the certification program.

21 ~~(2) "Council" means the water and wastewater~~  
22 ~~operators' advisory council provided for in 2-15-2105.~~

23 (3) "Department" means the department of health and  
24 environmental sciences provided for in Title 2, chapter 15,  
25 part 21.

(4) "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the state) wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.

(5) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

(6) "Wastewater treatment plant" means a facility designed to remove solids, bacteria, or other harmful constituents of sewage, industrial wastes, or other wastes and which discharges an effluent directly into this state's waters and which serves 10 or more families or serves an industry employing 10 or more persons.

(7) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply source to the premises of the consumer and which serves 10 or more families or supplies an industry employing 10 or more persons.

(8) "Water supply system" means the system of pipes, structures, and facilities through which the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and which serves 10 or more families or serves an industry employing

10 or more persons.

(9) "Water treatment plant" means that portion of the water supply system which alters either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable for human use."

Section 5. Section 37-42-201, MCA, is amended to read:

"37-42-201. Meetings ~~---examinations~~ -- compensation of members -- expenses. (1) Annually, when new members are appointed to the board council, a chairman shall be elected at the next board council meeting.

~~(2) The board shall hold at least one examination each year for the purpose of examining candidates for certification, at a time and place designated by the board. Those applicants whose competency is acceptable to the board shall be recommended to the department for certification.~~

~~(3)~~ (2) Additional meetings Meetings may be called by the chairman or on written request of four members of the board council when necessary to carry out its function to advise the department under this chapter. Four members constitute a quorum.

~~(4) The members of the board shall receive a fee of \$20 per day while in session, plus travel expenses as provided for in 2-18-501 through 2-18-503, including travel while discharging their official duties.~~

(3) Members of the council are entitled to be

~~reimbursed and compensated as are members of advisory  
councils in 2-15-122(5)."~~

Section 6. Section 37-42-202, MCA, is amended to read:

"37-42-202. Rulemaking power ~~-- examinations --~~  
~~continuing education requirements.~~ (1) The board department  
shall adopt rules necessary to carry out this chapter.  
~~Before the rules are effective they shall be approved by~~  
~~the department.~~ The rules shall include but are not limited  
to provisions establishing the basis for classification of  
treatment plants under 37-42-104, provisions establishing  
qualifications of applicants, procedures for examination of  
candidates, and other provisions necessary for the  
administration of this chapter.

~~(2) The department shall hold at least one examination  
each year, at a time and place designated by the department,  
for the purpose of examining candidates for certification.~~

~~(3) The department may establish reasonable continuing  
education requirements for certified water and wastewater  
operators."~~

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"37-42-203. Duty to advise and assist department. The  
board council shall advise and assist the department in the  
administration of the certification program. The board  
council shall serve as an advisory board to the department  
in actions relating to the qualifications of water and

wastewater treatment plant operators."

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to supervise successfully the operation of such water and  
wastewater treatment plants and water distribution systems  
~~after considering the recommendations of the board.~~

(2) In granting the certificates, the department shall  
give due regard to the interest of this state in protecting  
the drinking water supplies and the quality of its water."

Section 9. Section 37-42-302, MCA, is amended to read:

"37-42-302. Unlawful to operate plant or system  
without certified operator ~~-- department to issue temporary  
certificates.~~ (1) It is unlawful for a person, firm, or  
corporation both municipal and private, operating a  
wastewater treatment plant, water treatment plant, or water  
distribution system to operate it unless the competency of  
the operator is certified to by the department under this  
chapter.

(2) Furthermore, it is unlawful for a person to  
perform the duties of an operator without being certified  
under this chapter.

~~(3) For good cause shown, the department may issue  
temporary certificates that are valid for up to 1 year."~~

Section 10. Section 37-42-304, MCA, is amended to

1 read:

2 "37-42-304. Application for operator's certificate --  
3 fee. A person desiring to engage in the operation of a water  
4 treatment plant, water distribution system, or wastewater  
5 treatment plant shall first file an application with the  
6 department for a proper certificate. The department shall  
7 charge a fee of the same amount as the license cost set  
8 forth in 37-42-308 for the filing of each application as  
9 established pursuant to 37-1-134 and shall not act on an  
10 application until the fee has been paid."

11 Section 11. Section 37-42-305, MCA, is amended to  
12 read:

13 "37-42-305. Certification without examination. The  
14 board department may consider for recommendation for  
15 certification the holder of a certificate issued by a  
16 governmental agency or equivalent certification board of  
17 another state on presentation to the board department of  
18 satisfactory evidence that the applicant is in responsible  
19 charge of works located in this state requiring a certified  
20 operator and that he has successfully passed an examination  
21 at least equivalent to that required under 37-42-201(2)  
22 37-42-202(2) and 37-42-301."

23 Section 12. Section 37-42-307, MCA, is amended to  
24 read:

25 "37-42-307. Retention of certificate by operators who

1 terminate employment -- notification to department. (1)

2 Operators who terminate employment may retain their  
3 certificate for 2 years, providing that all other  
4 requirements are met. After 2 years, a certificate is  
5 automatically invalidated. Operators whose certificates are  
6 invalidated under this chapter may be issued new  
7 certificates of like classification provided appropriate  
8 proof of competency is presented to the board department.  
9 Successful completion of an examination may be required at  
10 the discretion of the board department.

11 (2) Any person, firm, or corporation, both municipal  
12 and private, shall notify the department within 3 business  
13 days after termination if a certified water or wastewater  
14 operator terminates employment."

15 Section 13. Section 37-42-308, MCA, is amended to  
16 read:

17 "37-42-308. Annual renewal -- fees -- revocation for  
18 failure to renew -- reinstatement -- notice of suspension.  
19 (1) Certificates issued under this chapter shall be renewed  
20 annually before July 1. A certificate issued after July 1  
21 expires the following June 30. After the payment of the  
22 initial fee under 37-42-304, a certificate holder shall pay  
23 before July 1 of each certificate year a renewal fee  
24 according to the following schedule adopted by the  
25 department pursuant to 37-1-134.

(a)--class-I,--\$20;  
 (b)--class-II,--\$15;  
 (c)--class-III,--\$10;  
 (d)--class-IV,--\$5;  
 (e)--class-V,--\$3.

(2) If a certificate holder does not apply for a renewal of his certificate before July 1 and remit to the department the necessary renewal fee, he shall have his certificate suspended by the board ~~department~~. If the certificate remains suspended for a period of more than 30 days, it shall be revoked by the board ~~department~~. However, the board ~~department~~, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least 10 days before the time set for action to be taken by the board ~~department~~ on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the board ~~department~~ that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension shall be given to certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked

through his own fault desires to continue as a water or wastewater plant operator, he must make application to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the board ~~department~~."

Section 14. Section 37-42-309, MCA, is amended to read:

"37-42-309. Deposit of fees. Filing and certification fees shall be deposited with the state treasurer in the board--of--water--and--wastewater--operators--account--in the department earmarked revenue fund and shall be used to pay the expenses of the board ~~council~~ and department under this chapter. Moneys may be invested in accordance with procedures of investment of state moneys."

Section 15. Section 37-42-321, MCA, is amended to read:

"37-42-321. Revocation of operator's certificate -- ~~rehearing-by-board -- disciplinary action by department~~. (1) The department may revoke the certificate of an operator, following a hearing by the department, when it is found that:

(a) the operator has practiced fraud or deception;

(b) reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or

1 (c) the operator is incompetent or unable to properly  
2 perform his duties.

3 ~~(2) A person who has his certificate revoked by the~~  
4 ~~department may appeal to the board for a rehearing within 10~~  
5 ~~days of notification by the department, after which time the~~  
6 ~~revocation proceedings are no longer applicable and~~  
7 ~~revocation of the certificate becomes final~~

8 (2) The department may take any disciplinary action  
9 pursuant to 37-1-136."

10 NEW SECTION. Section 16. Existing rules. Rules  
11 adopted by the board of water and wastewater operators in  
12 effect on [the effective date of this act] continue in  
13 effect under the administration of the department of health  
14 and environmental sciences until amended or repealed by the  
15 department. If amended, a rule continues in effect in its  
16 amended form.

17 NEW SECTION. Section 17. Effective date. This act is  
18 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 207

3 House Natural Resources Committee  
4

5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority to the Department of  
7 Health and Environmental Sciences to adopt rules  
8 prescribing:

9 (1) examination procedures for certifying water and  
10 wastewater operators;

11 (2) continuing education requirements for certified  
12 water and wastewater operators;

13 (3) requirements for issuance of temporary  
14 certificates to water and wastewater operators.

15 As prescribed in section 6 of the bill, the examination  
16 procedures for certifying operators shall constitute a  
17 reasonable basis for determining whether or not an applicant  
18 is qualified to operate a water or wastewater plant. The  
19 continuing education requirements shall provide a fair and  
20 reasonable basis for ensuring that certified operators  
21 remain qualified.

22 The requirements for issuance of a temporary  
23 certificate as prescribed in section 8 shall include a list  
24 of elements constituting "good cause".

REFERENCE BILL  
HB 207



## HOUSE BILL NO. 207

INTRODUCED BY WALDRON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF WATER AND WASTEWATER OPERATORS AS THE WATER AND WASTEWATER OPERATORS' ADVISORY COUNCIL; CLARIFYING THE ADVISORY STATUS OF THE ADVISORY COUNCIL; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO HOLD EXAMINATIONS TO CERTIFY OPERATORS; PERMITTING THE DEPARTMENT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS AND TO ISSUE TEMPORARY CERTIFICATES; REQUIRING REPORTING OF AN OPERATOR'S TERMINATION OF EMPLOYMENT; CLARIFYING THE DEPARTMENT'S DISCIPLINARY AUTHORITY; REQUIRING FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103, 2-15-2105, 37-42-102, 37-42-201 THROUGH 37-42-203, 37-42-301, 37-42-302, 37-42-304, 37-42-305, 37-42-307 THROUGH 37-42-309, AND 37-42-321; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Water and Wastewater Operators and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation the

Legislative Audit Committee recommends that the Board of Water and Wastewater Operators be reestablished as the Water and Wastewater Operators' Advisory Council.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Reestablishment. The board of water and wastewater operators, created pursuant to 2-15-2105, is reestablished for 6 years pursuant to 2-8-122 as the water and wastewater operators' advisory council.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

1 (b) board of massage therapists, department of  
2 professional and occupational licensing, created by  
3 2-15-1627;

4 (c) board of osteopathic physicians, department of  
5 professional and occupational licensing, created by  
6 2-15-1607;

7 (d) board of podiatry examiners, department of  
8 professional and occupational licensing, created by  
9 2-15-1608<sup>1/2</sup>;

10 (3) The following units of state government shall  
11 terminate on July 1, 1983:

12 (a) board of aeronautics, department of commerce,  
13 created by 2-15-1812;

14 (b) state board of hail insurance, department of  
15 agriculture, created by 2-15-3003;

16 (c) board of horseracing, department of commerce,  
17 created by 2-15-1881;

18 (d) board of livestock, department of livestock,  
19 created by 2-15-3102;

20 (e) board of milk control, department of commerce,  
21 created by 2-15-1802;

22 (f) board of oil and gas conservation, department of  
23 natural resources and conservation, created by 2-15-3303;

24 (g) Montana outfitters' council, department of fish,  
25 wildlife, and parks, created by 2-15-3403;

1 (h) public service commission, department of public  
2 service regulation, created by 69-1-102;

3 ~~(i) board of water and wastewater operators,~~  
4 ~~department of health and environmental sciences, created by~~  
5 ~~2-15-2105<sup>1/2</sup>~~

6 ~~(j) board of water well contractors, department of~~  
7 ~~commerce, created by 2-15-1862.~~

8 (4) The following agencies terminate on July 1, 1985:

9 (a) the board of public accountants, department of  
10 commerce, created by 2-15-1866;

11 (b) the board of architects, department of commerce,  
12 created by 2-15-1871;

13 (c) state banking board, department of commerce,  
14 created by 2-15-1803;

15 (d) the state electrical board, department of  
16 commerce, created by 2-15-1874;

17 (e) the board of professional engineers and land  
18 surveyors, department of commerce, created by 2-15-1873;

19 (f) office of commissioner of insurance and the  
20 insurance department, state auditor's office, created by  
21 2-15-1902 and 2-15-1903;

22 (g) office of the securities commissioner, state  
23 auditor's office, created by 2-15-1901;

24 (h) the board of landscape architects, department of  
25 commerce, created by 2-15-1872;

1 (i) the board of county printing, department of  
 2 commerce, created by 2-15-1811;  
 3 (j) the board of plumbers, department of commerce,  
 4 created by 2-15-1875;  
 5 (k) board of physical therapy examiners, department of  
 6 commerce, created by 2-15-1858.  
 7 (5) The following agencies terminate on July 1, 1987:  
 8 (a) commission for human rights, department of labor  
 9 and industry, created by 2-15-1706;  
 10 (b) Montana state board of medical examiners,  
 11 department of commerce, created by 2-15-1841;  
 12 (c) board of dentistry, department of commerce,  
 13 created by 2-15-1842;  
 14 (d) board of pharmacists, department of commerce,  
 15 created by 2-15-1843;  
 16 (e) board of nursing, department of commerce, created  
 17 by 2-15-1844;  
 18 (f) board of nursing home administrators, department  
 19 of commerce, created by 2-15-1845;  
 20 (g) board of optometrists, department of commerce,  
 21 created by 2-15-1846;  
 22 (h) board of chiropractors, department of commerce,  
 23 created by 2-15-1847;  
 24 (i) board of radiologic technologists, department of  
 25 commerce, created by 2-15-1848;

1 (j) board of speech pathologists and audiologists,  
 2 department of commerce, created by 2-15-1849;  
 3 (k) board of hearing aid dispensers, department of  
 4 commerce, created by 2-15-1850;  
 5 (l) board of psychologists, department of commerce,  
 6 created by 2-15-1851;  
 7 (m) board of veterinarians, department of commerce,  
 8 created by 2-15-1852;  
 9 (n) board of morticians, department of commerce,  
 10 created by 2-15-1853;  
 11 (o) board of barbers, department of commerce, created  
 12 by 2-15-1856;  
 13 (p) board of cosmetologists, department of commerce,  
 14 created by 2-15-1857;  
 15 (q) board of sanitarians, department of commerce,  
 16 created by 2-15-1861;  
 17 (r) board of veterans' affairs, department of social  
 18 and rehabilitation services, created by 2-15-2202.  
 19 ~~(6) The following agency terminates July 1, 1989:~~  
 20 ~~water and wastewater operators' advisory council, department~~  
 21 ~~of health and environmental sciences, created by 2-15-2105."~~  
 22 Section 3. Section 2-15-2105, MCA, is amended to read:  
 23 "2-15-2105. Board---of---water ~~water~~ and wastewater  
 24 operators ~~operators'~~ advisory council. (1) There is a board  
 25 of water and wastewater operators ~~operators'~~ advisory

1 council.

2 (2) The board council consists of seven members.

3 Except as provided in subsection (2)(e) of this section, the  
4 members shall be appointed by the governor. The members are:

5 (a) two members who are employed water supply system  
6 or water treatment plant operators holding valid  
7 certificates. One of these members shall hold a certificate  
8 by examination of the highest class issued by the department  
9 of health and environmental sciences. There is no  
10 restriction on the classification of the certificate held by  
11 the other operator.

12 (b) two members who are employed wastewater treatment  
13 plant operators holding valid certificates. One of these  
14 members shall hold a certificate by examination of the  
15 highest class issued by the department of health and  
16 environmental sciences. There is no restriction on the  
17 classification of the certificate held by the other  
18 operator.

19 (c) one member serving on the faculty of a university  
20 or college whose major field is related to water supply  
21 systems, wastewater treatment, chemical or civil  
22 engineering, chemistry, or bacteriology;

23 (d) one member who is a representative of a  
24 municipality required to employ a certified operator and who  
25 holds a position of either city manager, city engineer,

1 director of public works, works manager, or their  
2 equivalent;

3 (e) the administrator of the division of environmental  
4 sciences of the department of health and environmental  
5 sciences or a qualified member of his staff appointed by the  
6 administrator.

7 (3) Members, except the ex officio voting member from  
8 the department of health and environmental sciences, shall  
9 serve for a term of 6 years.

10 ~~(4) The board is allocated to the department for~~  
11 ~~administrative purposes only as prescribed in 2-15-121.~~

12 Section 4. Section 37-42-102, MCA, is amended to read:

13 "37-42-102. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

15 ~~(1) "Board" means the board of water and wastewater~~  
16 ~~operators provided for in 2-15-2105.~~

17 ~~(2) "Certificate" means a certificate of competency~~  
18 ~~issued by the department stating that the operator holding~~  
19 ~~the certificate has met the requirements for the specified~~  
20 ~~operator classification of the certification program.~~

21 ~~(2) "Council" means the water and wastewater~~  
22 ~~operators' advisory council provided for in 2-15-2105.~~

23 (3) "Department" means the department of health and  
24 environmental sciences provided for in Title 2, chapter 15,  
25 part 21.

1 (4) "Montana's waters" means all streams and lakes  
2 (including all rivers and lakes bordering on the state)  
3 wells, springs, irrigation systems, marshes, watercourses,  
4 waterways, drainage systems, and other bodies of water,  
5 surface and underground, natural or artificial, publicly or  
6 privately owned.

7 (5) "Operator" means the person in direct responsible  
8 charge of the operation of a water treatment plant, water  
9 distribution system, or wastewater treatment plant.

10 (6) "Wastewater treatment plant" means a facility  
11 designed to remove solids, bacteria, or other harmful  
12 constituents of sewage, industrial wastes, or other wastes  
13 and which discharges an effluent directly into this state's  
14 waters and which serves 10 or more families or serves an  
15 industry employing 10 or more persons.

16 (7) "Water distribution system" means that portion of  
17 the water supply system in which water is conveyed from the  
18 water treatment plant or other supply source to the premises  
19 of the consumer and which serves 10 or more families or  
20 supplies an industry employing 10 or more persons.

21 (8) "Water supply system" means the system of pipes,  
22 structures, and facilities through which the water is  
23 obtained, treated, sold, distributed, or otherwise offered  
24 to the public for household use or use by humans and which  
25 serves 10 or more families or serves an industry employing

1 10 or more persons.

2 (9) "Water treatment plant" means that portion of the  
3 water supply system which alters either the physical,  
4 chemical, or bacteriological quality of the water rendering  
5 it safe and palatable for human use."

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7 "37-42-201. Meetings ~~---examinations~~ -- compensation  
8 of members -- expenses. (1) Annually, when new members are  
9 appointed to the board council, a chairman shall be elected  
10 at the next board council meeting.

11 ~~{2}--The-board-shall--hold-at-least-one-examination--each~~  
12 ~~year---for---the---purpose---of---examining---candidates---for~~  
13 ~~certification--at-a-time-and-place-designated-by-the--board~~  
14 ~~Those-applicants-whose-competency-is-acceptable-to-the-board~~  
15 ~~shall-be-recommended-to-the-department-for-certification~~

16 ~~{3}{2}~~ Additional ~~meetings~~ Meetings may be called by  
17 the chairman or on written request of four members of the  
18 board council when necessary to carry out its function to  
19 advise the department under this chapter. Four members  
20 constitute a quorum.

21 ~~{4}--The-members--of--the-board-shall--receive-a-fee-of~~  
22 ~~\$20-per-day--while--in--session--plus--travel--expenses--as~~  
23 ~~provided--for--in--2-18-501-through-2-18-503--including-travel~~  
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25 {3}. Members of the council are entitled to be

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7 ~~Before the rules are effective, they shall be approved by~~  
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10 treatment plants under 37-42-104, provisions establishing  
11 qualifications of applicants, procedures for examination of  
12 candidates, and other provisions necessary for the  
13 administration of this chapter.

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25 in actions relating to the qualifications of water and

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6 wastewater treatment plants and water distribution systems  
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10 the drinking water supplies and the quality of its water."

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15 corporation both municipal and private, operating a  
16 wastewater treatment plant, water treatment plant, or water  
17 distribution system to operate it unless the competency of  
18 the operator is certified to by the department under this  
19 chapter.

20 (2) Furthermore, it is unlawful for a person to  
21 perform the duties of an operator without being certified  
22 under this chapter.

23 ~~(3) For good cause shown, the department may issue~~  
24 ~~temporary certificates that are valid for up to 1 year."~~

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8 forth in 37-42-308 for the fitting of each application as  
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18 satisfactory evidence that the applicant is in responsible  
19 charge of works located in this state requiring a certified  
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25 "37-42-307. Retention of certificate by operators who

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2 Operators who terminate employment may retain their  
3 certificate for 2 years, providing that all other  
4 requirements are met. After 2 years, a certificate is  
5 automatically invalidated. Operators whose certificates are  
6 invalidated under this chapter may be issued new  
7 certificates of like classification provided appropriate  
8 proof of competency is presented to the board department.  
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19 (1) Certificates issued under this chapter shall be renewed  
20 annually before July 1. A certificate issued after July 1  
21 expires the following June 30. After the payment of the  
22 initial fee under 37-42-304, a certificate holder shall pay  
23 before July 1 of each certificate year a renewal fee  
24 according to the following schedule: adopted by the  
25 department pursuant to 37-1-134.

(a) ~~class-iv-\$20~~  
 (b) ~~class-ii-\$15~~  
 (c) ~~class-iii-\$10~~  
 (d) ~~class-iv-\$5~~  
 (e) ~~class-v-\$3~~

(2) If a certificate holder does not apply for a renewal of his certificate before July 1 and remit to the department the necessary renewal fee, he shall have his certificate suspended by the ~~board department~~. If the certificate remains suspended for a period of more than 30 days, it shall be revoked by the ~~board department~~. However, the ~~board department~~, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least 10 days before the time set for action to be taken by the ~~board department~~ on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the ~~board department~~ that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension shall be given to certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked

through his own fault desires to continue as a water or wastewater plant operator, he must make application to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the ~~board department~~.

Section 14. Section 37-42-309, MCA, is amended to read:

"37-42-309. Deposit of fees. Filing and certification fees shall be deposited with the state treasurer in the ~~board--of--water--and--wastewater--operators--account--in~~ the department earmarked revenue fund and shall be used to pay the expenses of the ~~board council~~ and department under this chapter. Moneys may be invested in accordance with procedures of investment of state moneys."

Section 15. Section 37-42-321, MCA, is amended to read:

"37-42-321. Revocation of operator's certificate -- ~~rehearing-by-board --disciplinary action-by-department~~. (1) The department may revoke the certificate of an operator, following a hearing by the department, when it is found that:

(a) the operator has practiced fraud or deception;

(b) reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or



1 (c) the operator is incompetent or unable to properly  
2 perform his duties.

3 ~~{2}--A person who has his certificate revoked by the~~  
4 ~~department may appeal to the board for a rehearing within 10~~  
5 ~~days of notification by the department, after which time the~~  
6 ~~revocation proceedings are no longer applicable and~~  
7 ~~revocation of the certificate becomes final.~~

8 {2} The department may take any disciplinary action  
9 pursuant to 37-1-136."

10 NEW SECTION. Section 16. Existing rules. Rules  
11 adopted by the board of water and wastewater operators in  
12 effect on [the effective date of this act] continue in  
13 effect under the administration of the department of health  
14 and environmental sciences until amended or repealed by the  
15 department. If amended, a rule continues in effect in its  
16 amended form.

17 NEW SECTION. Section 17. Effective date. This act is  
18 effective on passage and approval.

-End-