

114TH CONGRESS
1ST SESSION

S. 543

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2015

Mr. BOOZMAN (for himself, Mr. MANCHIN, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EPA Science Advisory
5 Board Reform Act of 2015”.

6 **SEC. 2. SCIENCE ADVISORY BOARD.**

7 (a) INDEPENDENT ADVICE.—Section 8(a) of the En-
8 vironmental Research, Development, and Demonstration

1 Authorization Act of 1978 (42 U.S.C. 4365(a)) is amend-
2 ed by inserting “independently” after “Advisory Board
3 which shall”.

4 (b) MEMBERSHIP.—Section 8(b) of the Environ-
5 mental Research, Development, and Demonstration Au-
6 thorization Act of 1978 (42 U.S.C. 4365(b)) is amended
7 to read as follows:

8 “(b)(1) The Board shall be composed of at least nine
9 members, one of whom shall be designated Chairman, and
10 shall meet at such times and places as may be designated
11 by the Chairman.

12 “(2) Each member of the Board shall be qualified by
13 education, training, and experience to evaluate scientific
14 and technical information on matters referred to the
15 Board under this section. The Administrator shall ensure
16 that—

17 “(A) the scientific and technical points of view
18 represented on and the functions to be performed by
19 the Board are fairly balanced among the members of
20 the Board;

21 “(B) at least ten percent of the membership of
22 the Board are from State, local, or tribal govern-
23 ments;

24 “(C) persons with substantial and relevant ex-
25 pertise are not excluded from the Board due to af-

1 filiation with or representation of entities that may
2 have a potential interest in the Board’s advisory ac-
3 tivities, so long as that interest is fully disclosed to
4 the Administrator and the public and appointment
5 to the Board complies with section 208 of title 18,
6 United States Code;

7 “(D) in the case of a Board advisory activity on
8 a particular matter involving a specific party, no
9 Board member having an interest in the specific
10 party shall participate in that activity;

11 “(E) Board members may not participate in ad-
12 visory activities that directly or indirectly involve re-
13 view or evaluation of their own work, unless fully
14 disclosed to the public and the work has been exter-
15 nally peer-reviewed;

16 “(F) Board members shall be designated as
17 special Government employees; and

18 “(G) no federally registered lobbyist is ap-
19 pointed to the Board.

20 “(3) The Administrator shall—

21 “(A) solicit public nominations for the Board by
22 publishing a notification in the Federal Register;

23 “(B) solicit nominations from relevant Federal
24 agencies, including the Departments of Agriculture,

1 Defense, Energy, the Interior, and Health and
2 Human Services;

3 “(C) make public the list of nominees, including
4 the identity of the entities that nominated each, and
5 shall accept public comment on the nominees;

6 “(D) require that, upon their provisional nomi-
7 nation, nominees shall file a written report disclosing
8 financial relationships and interests, including Envi-
9 ronmental Protection Agency grants, contracts, co-
10 operative agreements, or other financial assistance,
11 that are relevant to the Board’s advisory activities
12 for the three-year period prior to the date of their
13 nomination, and relevant professional activities and
14 public statements for the five-year period prior to
15 the date of their nomination; and

16 “(E) make such reports public, with the excep-
17 tion of specific dollar amounts, for each member of
18 the Board upon such member’s selection.

19 “(4) Disclosure of relevant professional activities
20 under paragraph (3)(D) shall include all representational
21 work, expert testimony, and contract work as well as iden-
22 tifying the party for which the work was done.

23 “(5) Except when specifically prohibited by law, the
24 Agency shall make all conflict of interest waivers granted

1 to members of the Board, member committees, or inves-
 2 tigative panels publicly available.

3 “(6) Any recusal agreement made by a member of
 4 the Board, a member committee, or an investigative panel,
 5 or any recusal known to the Agency that occurs during
 6 the course of a meeting or other work of the Board, mem-
 7 ber committee, or investigative panel shall promptly be
 8 made public by the Administrator.

9 “(7) The terms of the members of the Board shall
 10 be three years and shall be staggered so that the terms
 11 of no more than one-third of the total membership of the
 12 Board shall expire within a single fiscal year. No member
 13 shall serve more than two terms over a ten-year period.”.

14 (c) RECORD.—Section 8(c) of such Act (42 U.S.C.
 15 4365(c)) is amended—

16 (1) in paragraph (1)—

17 (A) by inserting “or draft risk or hazard
 18 assessment,” after “at the time any proposed”;

19 (B) by striking “formal”; and

20 (C) by inserting “or draft risk or hazard
 21 assessment,” after “to the Board such pro-
 22 posed”; and

23 (2) in paragraph (2)—

(A) by inserting “or draft risk or hazard assessment,” after “the scientific and technical basis of the proposed”; and

(B) by adding at the end the following:
 “The Board’s advice and comments, including dissenting views of Board members, and the response of the Administrator shall be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register.”.

(d) MEMBER COMMITTEES AND INVESTIGATIVE PANELS.—Section 8(e)(1)(A) of such Act (42 U.S.C. 4365(e)(1)(A)) is amended by adding at the end the following: “These member committees and investigative panels—

“(i) shall be constituted and operate in accordance with the provisions set forth in paragraphs (2) and (3) of subsection (b), in subsection (h), and in subsection (i);

“(ii) do not have authority to make decisions on behalf of the Board; and

“(iii) may not report directly to the Environmental Protection Agency.”.

1 (e) PUBLIC PARTICIPATION.—Section 8 of such Act
2 (42 U.S.C. 4365) is amended by amending subsection (h)
3 to read as follows:

4 “(h)(1) To facilitate public participation in the advi-
5 sory activities of the Board, the Administrator and the
6 Board shall make public all reports and relevant scientific
7 information and shall provide materials to the public at
8 the same time as received by members of the Board.

9 “(2) Prior to conducting major advisory activities, the
10 Board shall hold a public information-gathering session to
11 discuss the state of the science related to the advisory ac-
12 tivity.

13 “(3) Prior to convening a member committee or in-
14 vestigative panel under subsection (e) or requesting sci-
15 entific advice from the Board, the Administrator shall ac-
16 cept, consider, and address public comments on questions
17 to be asked of the Board. The Board, member committees,
18 and investigative panels shall accept, consider, and ad-
19 dress public comments on such questions and shall not ac-
20 cept a question that unduly narrows the scope of an advi-
21 sory activity.

22 “(4) The Administrator and the Board shall encour-
23 age public comments, including oral comments and discus-
24 sion during the proceedings, that shall not be limited by
25 an insufficient or arbitrary time restriction. Public com-

1 ments shall be provided to the Board when received. The
2 Board’s reports shall include written responses to signifi-
3 cant comments offered by members of the public to the
4 Board.

5 “(5) Following Board meetings, the public shall be
6 given 15 calendar days to provide additional comments for
7 consideration by the Board.”.

8 (f) OPERATIONS.—Section 8 of such Act (42 U.S.C.
9 4365) is further amended by amending subsection (i) to
10 read as follows:

11 “(i)(1) In carrying out its advisory activities, the
12 Board shall strive to avoid making policy determinations
13 or recommendations, and, in the event the Board feels
14 compelled to offer policy advice, shall explicitly distinguish
15 between scientific determinations and policy advice.

16 “(2) The Board shall clearly communicate uncertain-
17 ties associated with the scientific advice provided to the
18 Administrator or Congress.

19 “(3) The Board shall ensure that advice and com-
20 ments reflect the views of the members and shall encour-
21 age dissenting members to make their views known to the
22 public, the Administrator, and Congress.

23 “(4) The Board shall conduct periodic reviews to en-
24 sure that its advisory activities are addressing the most

1 important scientific issues affecting the Environmental
2 Protection Agency.

3 “(5) The Board shall be fully and timely responsive
4 to Congress.”.

5 **SEC. 3. RELATION TO THE FEDERAL ADVISORY COM-**
6 **MITTEE ACT.**

7 Nothing in this Act or the amendments made by this
8 Act shall be construed as supplanting the requirements of
9 the Federal Advisory Committee Act (5 U.S.C. App.).

10 **SEC. 4. RELATION TO THE ETHICS IN GOVERNMENT ACT OF**
11 **1978.**

12 Nothing in this Act or the amendments made by this
13 Act shall be construed as supplanting the requirements of
14 the Ethics in Government Act of 1978 (5 U.S.C. App.).

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