HB0274S04 compared with HB0274

~~{Omitted text}~~ shows text that was in HB0274 but was omitted in HB0274S04
inserted text shows text that was not in HB0274 but was inserted into HB0274S04

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Water Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor:Daniel McCay

LONG TITLE

General Description:

This bill addresses regulations related to water.

Highlighted Provisions:

This bill:

- provides circumstances of when a municipality may set different water rates based in part on water conservation;
- addresses {~~impact~~ } special district fees {~~and impact fee facilities plans related to water~~} ;
- defines terms;
- addresses rate setting by a retail water supplierand public water systems;
- provides for how revenues from retail rates may be spent;
- creates a presumption regarding the reasonableness of certain water rates that include water conservation as an element in determining the rate;
- modifies provisions related to the Board of Water Resources;
- addresses tiered rates for secondary water; and
- makes technical and conforming changes.

HB0274

Money Appropriated in this Bill:

None

Other Special Clauses:

None

AMENDS:

10-8-22 , as last amended by Laws of Utah 2019, Chapter 99 , as last amended by Laws of Utah 2019, Chapter 99

~~{10-9a-305 , as last amended by Laws of Utah 2024, Chapter 464 , as last amended by Laws of Utah 2024, Chapter 464}~~

~~{10-9a-510 , as last amended by Laws of Utah 2021, Chapter 35 , as last amended by Laws of Utah 2021, Chapter 35}~~

~~{11-36a-102 , as last amended by Laws of Utah 2023, Chapter 16 , as last amended by Laws of Utah 2023, Chapter 16}~~

~~{11-36a-302 , as last amended by Laws of Utah 2013, Chapter 200 , as last amended by Laws of Utah 2013, Chapter 200}~~

~~{11-36a-305 , as last amended by Laws of Utah 2021, Chapter 35 , as last amended by Laws of Utah 2021, Chapter 35}~~

~~{17-27a-305 , as last amended by Laws of Utah 2024, Chapter 464 , as last amended by Laws of Utah 2024, Chapter 464}~~

~~{17-27a-509 , as last amended by Laws of Utah 2021, Chapter 35 , as last amended by Laws of Utah 2021, Chapter 35}~~

~~{17B-1-118 , as last amended by Laws of Utah 2023, Chapter 15 , as last amended by Laws of Utah 2023, Chapter 15}~~

17B-1-121 , as last amended by Laws of Utah 2023, Chapter 15 , as last amended by Laws of Utah 2023, Chapter 15

73-10-2 , as last amended by Laws of Utah 2023, Chapter 205 , as last amended by Laws of Utah 2023, Chapter 205

73-10-32.5 , as last amended by Laws of Utah 2022, Chapter 90 , as last amended by Laws of Utah 2022, Chapter 90

73-10-34 , as last amended by Laws of Utah 2024, Chapters 171, 438 , as last amended by Laws of Utah 2024, Chapters 171, 438

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-22** is amended to read:

10-8-22. Water rates.

(1) As used in this section:

(a) "Designated water service area" means the area defined by a municipality in accordance with the Utah Constitution, Article XI, Section 6, Subsection (1)(c).

(b) "Large municipal drinking water system" means a municipally owned and operated drinking water system serving a population of 10,000 or more.

(c) "Retail customer" means an end user:

(i) who receives culinary water directly from a municipality's waterworks system; and

(ii) whom the municipality described in Subsection (1)(c)(i) bills for water service.

(2) A municipality shall fix the rates to be paid for the use of water furnished by the municipality.

(3) The setting of municipal water rates is a legislative act.

(4) Within the municipality's designated water service area, a municipality shall:

(a) establish, by ordinance, reasonable rates for the services provided to the municipality's retail customers;

(b) use the same method of providing notice to all retail customers of proposed rate changes; and

(c) allow all retail customers the same opportunity to appear and participate in a public meeting addressing water rates.

(5)

(a) A municipality may establish different rates for different classifications of retail customers within the municipality's designated water service area, if the rates and classifications have a reasonable basis.

(b) A reasonable basis for charging different rates for different classifications may include, among other things, a situation in which:

(i) there is a difference in the cost of providing service to a particular classification;

(ii) one classification bears more risk in relation to a system operation or obligation;

(iii) retail customers in one classification invested or contributed to acquire a water source or supply or build or maintain a system differently than retail customers in another classification;

(iv) the needs or conditions of one classification:

(A) are distinguishable from the needs or conditions of another classification; and

(B) based on economic, public policy, or other identifiable elements, support a different rate; [~~or~~]

(v) there is a differential between the classifications based on a cost of service standard or a generally accepted rate setting method, including a standard or method the American Water Works Association establishes[~~.~~] ; or

(vi) water conservation is used as an element in determining the rate charged for a block unit of water as provided in Section 73-10-32.5.

(c) An adjustment based solely on the fact that a particular classification of retail customers is located either inside or outside of the municipality's corporate boundary is not a reasonable basis.

(6)

(a) If more than 10% of the retail customers within a large municipal drinking water system's designated water service area are located outside of the municipality's corporate boundary, the municipality shall:

(i) post on the municipality's website the rates assessed to retail customers within the designated water service area; and

(ii) establish an advisory board to make recommendations to the municipal legislative body regarding water rates, capital projects, and other water service standards.

(b) In establishing an advisory board described in Subsection (6)(a)(ii), a municipality shall:

(i) if more than 10% but no more than 30% of the municipality's retail customers receive service outside the municipality's municipal boundary, ensure that at least 20% of the advisory board's members represent the municipality's retail customers receiving service outside the municipality's municipal boundary;

(ii) if more than 30% of the municipality's retail customers receive service outside of the municipality's municipal boundary, ensure that at least 40% of the advisory board's members represent the municipality's retail customers receiving service outside of the municipality's municipal boundary; and

(iii) in appointing board members who represent retail customers receiving service outside of the municipality's municipal boundary, as required in Subsections (6)(b)(i) and (ii), solicit recommendations from each municipality and county outside of the municipality's municipal boundary whose residents are retail customers within the municipality's designated water service area.

(7) A municipality that supplies water outside of the municipality's designated water service area shall supply the water only by contract and shall include in the contract the terms and conditions under which the contract can be terminated.

(8) A municipality shall:

(a) notify the director of the Division of Drinking Water of a contract the municipality enters into with a person outside of the municipality's designated water service area, including the name and contact information of the person named in each contract; and

(b) each year, provide to the director of the Division of Drinking Water any supplementing or new information regarding a contract described in Subsection (8)(a), including whether there is no new information to provide at that time.

~~{Section 2. Section **10-9a-305** is amended to read: }~~

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1)

(a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2)

(a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b)

(i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6)

(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii)

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a municipal building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during

construction of the school building, a copy of each inspection certificate regarding the school building.

(7)

(a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e)

(i) A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(f)

(i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

(A) may have up to 100 students in the facility; and

(B) shall have enough space for at least 20 net square feet per student.

(g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class B Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii)

(A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or

(B) the structure has a code compliant fire sprinkler system;

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet; and

(iv) the facility has enough space for at least 20 net square feet per student.

(h)

(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling, except that the home-based microschool shall have enough space for at least 35 net square feet per student.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section 15A-1-210.

(8)

(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections [~~11-36a-102(17)(a)~~] 11-36a-102(18)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting municipal ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

~~{Section 3. Section **10-9a-510** is amended to read: }~~

10-9a-510. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5)

(a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection [~~11-36a-102(17)(a)~~] 11-36a-102(18)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(a) Subsections (5) and (6);

(b) Section 10-9a-508; and

(c) Section 10-9a-509.5.

~~{Section 4. Section **11-36a-102** is amended to read: }~~

11-36a-102. Definitions.

As used in this chapter:

(1)

(a) "Affected entity" means each county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a special district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, special district, special service district, or private entity.

(9)

(a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13)

(a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Long-term water conservation measure" means an action taken by a local political subdivision or private entity that:

(a) reduces water consumption and increases available capacity for a period of 10 years or more in public facilities that exist when the action is taken; and

(b) is legally enforceable through means such as a landscape restriction easement, obligatory water use restriction, or contractual limitation on water delivery.

[~~(14)~~] (15) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

[~~(15)~~] (16)

(a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

[~~(16)~~] (17) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

[~~(17)~~] (18) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water [~~rights~~] interests and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

[~~(18)~~] (19)

(a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

[~~(19)~~] (20)

(a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

[~~(20)~~] (21)

(a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

[~~(21)~~] (22) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(22)~~] (23)

(a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

(24) "Water interests" means a right to use water and sources of water acquired or available to supply commercial, industrial, institutional, residential, and other users with water, including:

(a) water rights;

(b) shares of stock in an irrigation or canal company or other entity that is similar in character and purpose to an irrigation or canal company;

(c) contracts for water provided by others; and

(d) long-term water conservation measures.

~~{Section 5. Section **11-36a-302** is amended to read: }~~

11-36a-302. Impact fee facilities plan requirements -- Limitations -- School district or charter school.

(1)

(a) An impact fee facilities plan shall:

(i) identify the existing level of service;

(ii) subject to Subsection (1)(c), establish a proposed level of service;

(iii) identify any excess capacity to accommodate future growth at the proposed level of service;

(iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and

(v) identify the means by which the political subdivision or private entity will meet those growth demands.

(b) A proposed level of service may diminish or equal the existing level of service.

(c) A proposed level of service may:

(i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or

(ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

(d) If an impact fee is intended to be used to acquire a water interest through a long-term water conservation measure, the impact fee facilities plan shall include:

(i) the estimated cost of the long-term water conservation measure;

(ii) the estimated increase in available capacity projected to be realized by the long-term water conservation measure; and

(iii) the time period in which the water conservation is expected to be realized.

(2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

(a) grants;

(b) bonds;

(c) interfund loans;

(d) impact fees; and

(e) anticipated or accepted dedications of system improvements.

(3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

(4)

(a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:

(i) through the planning process; or

(ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.

(b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).

(c)

(i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.

(ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

~~{Section 6. Section **11-36a-305** is amended to read: }~~

11-36a-305. Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:

(a) the construction contract price;

(b) the cost of acquiring land, water interests, improvements, materials, and fixtures;

(c) for services provided for and directly related to the construction of the system improvements, the cost for planning and surveying, and engineering fees;

(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements; and

(e) one or more expenses for overhead.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

~~{Section 7. Section **17-27a-305** is amended to read: }~~

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

582 (1)

(a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

587 (b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

592 (2)

(a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

594 (b)

(i) Notwithstanding Subsection (3), a county may:

595 (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

598 (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

600 (ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

602 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

605 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

608 (3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6)

(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii)

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a county building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7)

(a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e)

(i) A school district , charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district, charter school, or micro-education entity used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(f)

(i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

(A) may have up to 100 students in the facility; and

(B) shall have enough space for at least 20 net square feet per student[~~;~~] .

(g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class B Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii)

(A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or

(B) the structure has a code compliant fire sprinkler system;

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet; and

(iv) the facility has enough space for at least 20 net square feet per student.

(h)

(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling, except that the home-based microschool shall have enough space for at least 35 square feet per student.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

(8)

(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections [~~11-36a-102(17)(a)~~] 11-36a-102(18)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with local zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting county ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

(11) Notwithstanding any other provision of law, the proximity restrictions that apply to community locations do not apply to a micro-education entity.

~~{Section 8. Section **17-27a-509** is amended to read: }~~

17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5)

(a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection [~~11-36a-102(17)(a)~~] 11-36a-102(18)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

(a) Subsections (5) and (6);

(b) Section 17-27a-507; and

(c) Section 17-27a-509.5.

~~{Section 9. Section **17B-1-118** is amended to read: }~~

17B-1-118. Special district hookup fee -- Preliminary design or site plan from a specified public agency.

(1) As used in this section:

(a) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a special district water, sewer, storm water, power, or other utility system.

(b) "Impact fee" has the same meaning as defined in Section 11-36a-102.

(c) "Specified public agency" means:

(i) the state;

(ii) a school district; or

(iii) a charter school.

(d) "State" includes any department, division, or agency of the state.

(2) A special district may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the special district water, sewer, storm water, power, or other utility system.

(3)

(a) A specified public agency intending to develop its land shall submit a development plan and schedule to each special district from which the specified public agency anticipates the development will receive service:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the special district to assess:

(A) the demand for public facilities listed in Subsections [~~11-36a-102(17)(a)~~] 11-36a-102(18)(a), (b), (c), (d), (e), and (g) caused by the development;

(B) the amount of any hookup fees, or impact fees or substantive equivalent;

(C) any credit against an impact fee; and

(D) the potential for waiving an impact fee.

(b) The special district shall respond to a specified public agency's submission under Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to consider information the special district provides under Subsection (3)(a)(ii) in the process of preparing the budget for the development.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection (3) that complies with the requirements of that subsection, the specified public agency vests in the special district's hookup fees and impact fees in effect on the date of submission.

Section 2. Section **17B-1-121** is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A special district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2)

(a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a special district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the special district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the special district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the special district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c)

(i) A special district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the special district's final decision.

(d) The reasonable estimated cost of delivering a service by a special district that provides water services includes costs for water conservation, and a water conservation effort, as an element in determining the rate charged for a block unit of water as provided in Section 73-10-32.5.

(3) A special district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection {[}11-36a-102(17)(a){]}} ~~11-36-102(18)(a)~~}, (b), (c), (d), (e), or (g).

Section 3. Section **73-10-2** is amended to read:

73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.

(1)

[~~(a)~~] The Board of Water Resources shall be comprised of nine members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(b) In addition to the requirements of Section 79-2-203, not more than five members shall be from the same political party.~~]

(2) [~~The~~] Subject to Section 79-2-203, the Board of Water Resources shall consist of:

(a) one member appointed from each of the following districts:

(i) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

(ii) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

(iii) Salt Lake District, comprising the counties of Salt Lake and Tooele;

(iv) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

(v) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

(vi) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

(vii) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

(viii) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane; and

(b) one member that represents the interests of the Great Salt Lake.

(3)

(a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term, with the advice and consent of the Senate, who:

(i) is from the same district as the individual leaving the board; or

(ii) if the individual leaving the board is appointed under Subsection (2)(b), represents the interests of the Great Salt Lake.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 4. Section **73-10-32.5** is amended to read:

73-10-32.5. Culinary water pricing structure.

(1) As used in this section[, "retail]:

{~~(a)~~} (b) "Retail water supplier" means the same as that term is defined in Section 19-4-102.

{~~(b)~~} (c)

(i) "Water conservation effort" means a program that is designed to incentivize, encourage, or result in reduced water usage or more efficient use of water.

(ii) "Water conservation effort" includes the costs associated with designing, implementing, and operating a program described in Subsection {~~(1)(b)(i)~~} (1)(c)(i).

{~~(c)~~} (d) "Wholesale water supplier" means the same as that term is defined in Section 19-4-102.

(2) A retail water supplier shall:

(a) consider water conservation , including at least one water conservation effort, in setting water rates with the goal of encouraging efficient water use and eliminating wasteful or excessive water use;

(b) establish a culinary water rate structure that:

(i) ~~incorporates increasing block units of water used; [and]~~

(ii) provides for an increase in the rate charged for additional block units of water used as usage increases from one block unit to the next;

(iii) by July 1, 2027, includes one or more water conservation efforts as an element in determining the rate charged for at least the highest usage block unit of water for a customer classification that primarily serves residential customers; and

(iv) is based on a generally accepted rate setting method, including a standard or method established by the American Water Works Association;

[~~(b)~~] (c) ~~provide in customer billing notices, or in a notice that is distributed to customers at least annually, block unit rates and the customer's billing cycle; {and}~~ [and]

[~~(c)~~] (d) include individual customer water usage in customer billing notices{.} [.]; and

(e) consider urban farming that improves food security, reduces pollution, and creates green spaces in setting rates.

(3) This section does not prohibit:

(a) a public water system with 500 or fewer service connections from taking an action or adopting a culinary water rate structure described in Subsection (2); or

{~~(3)~~} (b) {~~This section does not prohibit~~ } a retail water supplier from including water conservation and a water conservation effort as an element in setting rates for customer classifications that do not primarily serve residential customers.

(4) A {~~retail~~ } public water {~~supplier~~} system:

(a) is not required to establish or show that the portion of the rate designed to encourage water conservation , and fund a water conservation effort, within the highest usage block unit of water for a customer classification:

(i) is based on the {~~retail~~ } public water {~~supplier's~~ } system's actual cost of service;

(ii) has a reasonable basis when compared to rates the {~~retail~~ } public water {~~supplier~~ } system charges:

(A) for other block units of water within a customer classification; or

(B) for block units of water in other customer classifications; or

(iii) is limited to a reasonable profit or return on investment;

(b) may include in a customer billing a fee, surcharge, penalty, or other charge that is collected pursuant to an agreement between the {~~retail~~ } public water {~~supplier~~ } system and the wholesale water supplier from whom the {~~retail water supplier~~ } public water system purchases water;and

(c) if the {~~retail~~ } public water {~~supplier~~ } system is a for-profit entity, may not use revenue from the {~~portion of a~~ } highest usage block unit of water designed to encourage water conservation to pay profits or dividends to the {~~retail~~ } public water {~~supplier's~~ } system's investors or owners{~~; and~~} .

{~~(d) {shall use the revenue collected from the portion of any block unit of water designed to encourage water conservation to fund the retail water supplier's water conservation efforts.}~~ }

(5) The use of revenue {~~described in Subsection (4)(d)~~ } collected from the portion of any block unit of water designed to encourage water conservation may include funding water conservation efforts that are shared with or administered by another {~~retail~~ } public water {~~supplier~~ } system or a wholesale water supplier.

(6) The adoption and implementation of that portion of a {~~retail~~ } public water {~~supplier's~~ } system's water rate that includes water conservation as an element in determining the rate charged for the highest usage block unit of water, as provided in this section, is conclusively presumed {~~to be reasonable.~~} :

(a) to be reasonable; and

(b) to reflect the reasonable estimated cost of delivering the service for which the fee was paid.

(7) Notwithstanding the other provisions of this section, a public water system with a tiered culinary water rate structure under this section shall charge a person at the lowest block unit of the culinary water rate structure if the person is using a portion of the water to grow food, including growing a garden, fruit trees, or pasture for grazing.

Section 5. Section **73-10-34** is amended to read:

73-10-34. Secondary water metering -- Loans and grants.

(1) As used in this section:

(a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b)

(i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(c) "Critical area" means an area:

(i) serviced by one of the four largest water conservancy districts, as defined in Section 17B-1-102, measured by operating budgets; or

(ii) within the Great Salt Lake basin, which includes:

(A) the surveyed meander line of the Great Salt Lake;

(B) the drainage areas of the Bear River or the Bear River's tributaries;

(C) the drainage areas of Bear Lake or Bear Lake's tributaries;

(D) the drainage areas of the Weber River or the Weber River's tributaries;

(E) the drainage areas of the Jordan River or the Jordan River's tributaries;

(F) the drainage areas of Utah Lake or Utah Lake's tributaries;

(G) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii)(B) through (F); and

(H) the drainage area of Tooele Valley.

(d) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

(e)

(i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

(f)

(i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(g) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.

(h)

(i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(i) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

(j) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

(k) "Secondary water supplier" means an entity that supplies pressurized secondary water.

(l) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii)

(A) is a city or town; or

(B) supplies 5,000 or fewer secondary water connections.

(2)

(a)

(i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

(c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(e)

(i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4)

(a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5)

(a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8)

(a)

(i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g)

(i) The state engineer's final order may be reviewed by trial de novo by the [~~district~~]court with jurisdiction in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

(13)

(a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter at strategic points of the system as approved by the state engineer under this Subsection (13) if:

(i) the system has no or minimal storage and relies primarily on stream flow;

(ii)

(A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and

(B) less than 50% of the secondary water is used by residential secondary water users; or

(iii) the system has a mix of pressurized lines and open ditches and:

(A) 1,000 or fewer users if any part of the system is within a critical area; or

(B) 2,500 or fewer users for a system not described in Subsection (13)(a)(iii)(A).

(b)

(i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.

(ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).

(14)

(a) A contract entered into or renewed on or after July 1, 2025, between a secondary water supplier and an end user shall allow for billing by tiered conservation rates.

(b) {~~By~~ } Except as provided in Subsection (14)(f), by no later than {~~April~~ } July 1, {~~2027~~} 2030, regardless of whether the secondary water supplier is fully metered or has modified existing contracts with end users, a secondary water supplier shall {~~enter into a contract with the public water system that serves~~ } begin billing an end user {~~of the secondary water supplier that requires the public water system~~} using a tiered conservation rate that considers:

{~~(i)~~ {~~to bill an account according to usage of secondary water using a tiered conservation rate that considers:}~~ }

{~~(A)~~} (i) revenue stability;

{~~(B)~~} (ii) water conservation; and

{~~(C)~~} (iii) cost of service{~~; and~~} .

{~~(ii)~~} (c) A secondary water supplier may comply with Subsection (14)(b) by entering into a contract with a third-party, including the public water system that serves an end user of the secondary water supplier, to {~~begin billing an~~ } bill the end user {~~using~~ } according to end user's usage of secondary water and the secondary water supplier's tiered conservation rate {~~by no later than May 1, 2027~~} .

{~~(c)~~} (d) By no later than April 1, {~~2027~~} 2030, a secondary water supplier shall provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by an end user specific Internet portal that provides information on the end user's usage more frequently than monthly.

(e) A public water system:

(i) shall enter into a contract with a secondary water supplier described in Subsection (14)(c) upon request from the secondary water supplier if the secondary water supplier agrees to provide water use and other data necessary for accurate billing in a file format compatible with the public water suppliers billing system;

(ii) may collect the costs associated with billing on behalf of a secondary water supplier under this section from the secondary water end users, including reasonable administrative and overhead expenses; and

{~~(d)~~} (iii) {~~A~~ } shall, as the public water {~~system with a contract with a~~ } supplier and the secondary water supplier {~~described in Subsection (14)(b) shall~~ } find necessary or convenient, exchange with

the secondary water supplier, for the purpose of maintaining accurate records, {~~the following~~ } relevant information with regard to an end user of the secondary water supplier, such as:

{~~(i)~~} (A) a billing address;

{~~(ii)~~} (B) an address where the secondary water is delivered;

{~~(iii)~~} (C) a parcel identification number; and

{~~(iv)~~} (D) ownership information.

{~~(e)~~} (f)

(i) A secondary water supplier is not required to bill an end user a tiered conservation rate if the secondary water supplier is:

(A) exempt from metering under Subsection (9), (10), or (11); or

(B) authorized to meter at strategic points of the system under Subsection (13).

(ii) Notwithstanding the other provisions of this section, a secondary water supplier with a tiered conservation rate under this Subsection (14) shall charge an end user at the lowest rate of the tiered conservation rate if the end user is using a portion of the water to grow food, including growing a garden, fruit trees, or pasture for grazing.

(g)

(i) If a secondary water supplier violates this Subsection (14) on or after April 1, {~~2027~~} 2030, the secondary water supplier:

(A) may not receive state money for water related purposes until the secondary water supplier complies with this Subsection (14); and

(B) is subject to an enforcement action of the state engineer in accordance with this Subsection {~~(14)(e)~~} (14)(g).

(ii) The state engineer shall commence an enforcement action under this Subsection {~~(14)(e)~~ } (14)(g) if the state engineer receives a referral from the director of the Division of Water Resources.

(iii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to comply with this Subsection (14); and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(iv) To commence an enforcement action under this Subsection {~~(14)(e)~~} (14)(g), the state engineer shall issue a notice of violation that includes notice of the administrative fine described in Subsection {~~(14)(e)(xiii)~~ } (14)(g)(xiii) to which a secondary water supplier is subject.

(v) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(A) provisions consistent with this Subsection {~~(14)(e)~~ } (14)(g) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(B) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(C) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection {~~(14)(e)(vi)(B)~~} (14)(g)(vi)(B).

(vii) A person may not intervene in an enforcement action commenced under this Subsection {~~(14)(e)~~} (14)(g).

(viii) After issuance of a final order under rules made pursuant to Subsection {~~(14)(e)(vi)~~} (14)(g)(vi), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(A) personal service under Utah Rules of Civil Procedure, Rule 5; or

(B) certified mail.

(ix) The state engineer's final order may be reviewed by trial de novo by a court with jurisdiction in Salt Lake County or the county where the violation occurred.

(x) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this Subsection {~~(14)(e)~~ } (14)(g) within 20 days from the day on which the final order was served on the secondary water supplier.

(xi) The state engineer may bring suit in a court to enforce a final order issued under this Subsection {~~(14)(e)~~} (14)(g).

(xii) If the state engineer prevails in an action brought under Subsection {~~(14)(e)(x)~~ } (14)(g)(x) or (xi), the state may recover court costs and reasonable attorney fees.

(xiii) The administrative fine imposed under this section shall be an amount not to exceed the sum of any money received by the secondary water supplier under this section or Section 73-10-34.5 to fund costs related to metering.

(xiv) Money collected under this Subsection (14) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

Section 6. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

3-5-25 4:10 PM