

HB0311

~~{Omitted text}~~ shows text that was in HB0311 but was omitted in HB0311S02

inserted text shows text that was not in HB0311 but was inserted into HB0311S02

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Watershed Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses {~~water loss and water quality issues~~} the augmentation of water resources in Utah watersheds.

Highlighted Provisions:

This bill:

- ▶ { ~~allows the state engineer to require the repair or construction of certain hydroelectric facilities to prevent waste, loss, pollution, or contamination of waters;~~ }
- ▶ defines terms;
- ▶ allows the Utah water agent to include facilities and land in the state water agent's negotiations for water augmentation projects;
 - ▶ requires { ~~an owner or operator~~ } the state engineer to conduct a review of a { ~~hydroelectric facility to maintain~~ } water importation project in the { ~~facility to~~ } Great Salt Lake watershed;
 - { ~~prevent waste of water, damage to property, and injury to others; and~~ }
 - { ~~mitigate environmental impacts;~~ }
- ▶ { ~~addresses liability of an owner or operator of a hydroelectric facility;~~ }

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14 ▸ {~~clarifies that water stored in a reservoir or body of water for power generation may only~~
15 ~~be used for power generation; and~~}

16 ▸ allows the Board of Water Resources to enter into contracts for water augmentation
17 projects negotiated by the Utah water agent; and

18 ▸ makes technical and conforming changes.

19 Money Appropriated in this Bill:

20 None

21 Other Special Clauses:

22 None

23 AMENDS:

24 **63I-1-273 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last**
25 **amended by Laws of Utah 2024, Third Special Session, Chapter 5**

26 ~~{73-5-9 , as last amended by Laws of Utah 2005, Chapter 215 , as last amended by Laws of~~
27 ~~Utah 2005, Chapter 215}~~

28 **73-5-17 , as enacted by Laws of Utah 2022, Chapter 75 , as enacted by Laws of Utah 2022,**
29 **Chapter 75**

30 **73-10-4 , as last amended by Laws of Utah 2024, Chapter 522 , as last amended by Laws of**
31 **Utah 2024, Chapter 522**

32 **73-10g-701 , as enacted by Laws of Utah 2024, Chapter 522 , as enacted by Laws of Utah**
33 **2024, Chapter 522**

34 **73-10g-703 , as enacted by Laws of Utah 2024, Chapter 522 , as enacted by Laws of Utah**
35 **2024, Chapter 522**

36 ENACTS:

37 ~~{73-5a-504 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

38 ~~{73-5a-505 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

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

40 Section 1. Section **63I-1-273** is amended to read:

41 **63I-1-273. Repeal dates: Title 73.**

42 (1) Subsection 73-1-4(2)(e)(xi), regarding a water right subject to an approved change application for
43 use within a water bank that has been authorized but not dissolved, is repealed December 31, 2030.

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- (2) Subsection [73-10-4(1)(h)] 73-10-4(1)(i), regarding management of an application to create a water bank, is repealed December 31, 2030.
- (3) Section 73-10-39, Study and recommendations related to the financing of water infrastructure, is repealed July 1, 2027.
- (4) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.
- (5) Title 73, Chapter 10g, Part 7, Utah Water Agent, is repealed July 1, 2034.
- (6) Section 73-18-3.5, Advisory council, is repealed July 1, 2029.
- (7) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.
- (8) Title 73, Chapter 31, Water Banking Act, is repealed December 31, 2030.
- (9) Section 73-32-302, Advisory council created -- Staffing -- Per diem and travel expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties, is repealed July 1, 2027.
- (10) Section 73-32-303, Duties of the council, is repealed July 1, 2027.

~~{Section 1. Section 73-5-9 is amended to read: }~~

73-5-9. Powers of state engineer as to waste, pollution, or contamination of waters.

- (1) To prevent waste, loss, pollution, or contamination of any waters whether above or below the ground, the state engineer may require:
- (a) the repair or construction of head gates or other devices on ditches or canals~~[, and]~~ ;
- (b) the repair or installation of caps, valves, or casings on any well or tunnel or the plugging or filling thereof to accomplish the purposes of this section~~[-]~~ ; and
- (c) the repair or construction of a hydroelectric facility as that term is defined in Subsection 73-5a-504(1).
- (2) An owner, lessee, or person controlling water infrastructure described in Subsection (1) shall comply with a requirement described in Subsection (1) at the cost and expense of the owner, lessee, or person controlling the water infrastructure.
- ~~[(2) Any requirement made by the state engineer in accordance with this section shall be executed by and at the cost and expense of the owner, lessee or person having control of such diverting works affected.]~~
- ~~[(3) If within 10 days after notice of such requirement as provided in this section, the owner, lessee or person having control of the water affected, has not commenced to carry out such requirement, or if he has commenced to comply therewith but shall not thereafter proceed diligently to complete the~~

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work, the state engineer may forbid the use of water from such source until the user thereof shall comply with such requirement.]

(3) The state engineer may forbid the use of water at the water infrastructure described in Subsection (1) if the owner, lessee, or person controlling the water infrastructure, within 10 days after the day on which the owner, lessee, or person controlling the water infrastructure receives notice of a requirement described in Subsection (1):

(a) does not begin to comply with the requirement; or

(b) has begun to comply with the requirement but does not proceed diligently to complete the work.

(4) Failure to comply with any requirement made by the state engineer under this section is a crime punishable under Section 73-2-27 if the failure to comply is knowing or intentional.

(5) Each day that ~~[such]~~ a violation under this section is permitted to continue ~~[shall constitute]~~ is a separate offense.

Section 2. Section 73-5-17 is amended to read:

73-5-17. River distribution accounting report.

(1) As used in this section:

(a) "Great Salt Lake watershed" means the same as that term is defined in Section 73-33-101.

~~[(a)]~~ (b) "Natural flow" means the computed amount of water available within a defined portion of a river system.

~~[(b)]~~ (c) "River system" means a portion of a natural stream and its tributaries where regulation and accounting are required.

(2) The state engineer may conduct a review of distribution and accounting procedures on a river system in the state.

(3) After conducting the review described in Subsection (2), the state engineer shall provide a report identifying:

(a) actively administered:

(i) water rights;

(ii) diversions; and

(iii) reservoirs;

(b) accounting practices, including:

(i) computation of natural flow;

(ii) apportionment of natural flow to individual water rights;

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- 68 (iii) storage delivery and loss of storage;
69 (iv) accounting for imports and exports; and
70 (v) system losses including:
71 (A) conveyance losses; and
72 (B) reservoir losses;
73 (c) recommendations for:
74 (i) additional measurement and automation; and
75 (ii) refinement of distribution or accounting practices in accordance with:
76 (A) existing water rights;
77 (B) the prior appropriation doctrine; and
78 (C) relevant court decrees; and
79 (d) the data and computations relied upon to provide the information described in Subsections (3)(a) through (c).
- 81 (4) The state engineer shall make the report described in Subsection (3) available to the public on the Division of Water Rights website annually at least one week prior to the annual distribution system meeting.
- 84 (5) In accordance with Title 63G, Chapter 4, Administrative Procedures Act and for a water importation project with a water source in the Great Salt Lake watershed, the state engineer shall:
- 87 (a) conduct a review to quantify the return flow of a water importation project in the Great Salt Lake watershed;
- 89 (b) in accordance with Section 73-3-6, publish notice for a review conducted under Subsection (5)(a); and
- 91 (c) based on the results of the review described in Subsection (5)(a), modify the quantification methodology for the return flow of the imported water, if needed.

62 Section 2. Section 2 is enacted to read:

63 **73-5a-504. Duties of owners and operators -- Hydroelectric facilities -- Liability.**

64 (1) As used in this section:

65 (a) "Hydroelectric facility" means a dam, pipeline, conduit, ditch, head gate, canal, reservoir, turbine, generator, or other facility used in connection with hydroelectric power generation.

68 (b) "Hydroelectric facility" does not include a facility:

69 (i) owned or operated by a political subdivision of this state; or

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- (ii) designed to produce less than .5 megawatts of electricity.
- (c) "Political subdivision" means:
- (i) a county;
- (ii) a municipality as that term is defined in Section 10-1-104; or
- (iii) a special district as that term is defined in Section 17B-1-102.
- (2) A person has a right of action against an owner or operator of a hydroelectric facility if the owner or operator fails to:
- (a) prevent waste of water;
- (b) prevent damage to the person's property;
- (c) prevent injury to the person or the person's dependent; or
- (d) to the greatest extent possible, mitigate environmental impacts contributing to:
- (i) destruction of natural habitats; and
- (ii) degrading of water quality.
- (3) If a person prevails in a right of action under Subsection (2), the court may award damages against the owner or operator.

Section 3. Section 3 is enacted to read:

73-5a-505. Limitation on water stored for power generation.

A person storing appropriated water in a body of water or reservoir for use in power generation may not use or exchange the appropriated water for any purpose other than power generation.

Section 3. Section 73-10-4 is amended to read:

73-10-4. Powers and duties of board.

- (1) The board shall have the following powers and duties to:
- (a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;
- (b) enter into contracts subject to the provisions of this chapter for the construction~~[of conservation projects]~~ or purchase of a project that in the opinion of the board will conserve and use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;

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- 106 (c) sue and be sued in accordance with applicable law;
- 107 (d) enter into a contract that the Utah water agent, appointed under Section 73-10g-702, recommends
108 for a water augmentation project under Section 73-10g-703;
- 109 [~~d~~] (e) cooperate with the Utah water agent, appointed under Section 73-10g-702, in matters affecting
interstate compact negotiations and the administration of the compacts affecting the waters of
interstate rivers, lakes and other sources of supply, with the exception of:
- 113 (i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River
Authority of Utah Act; or
- 115 (ii) state representation under:
- 116 (A) the Bear River Compact as provided in Section 73-16-4; or
- 117 (B) the Columbia Interstate Compact as provided in Section 73-19-9;
- 118 [~~e~~] (f) contract with federal and other agencies and with the National Water Resources Association
and to make studies, investigations and recommendations and do all other things on behalf of the
state for any purpose that relates to the development, conservation, protection and control of the
water and power resources of the state;
- 122 [~~f~~] (g) consult and advise with the Utah Water Users' Association and other organized water users'
associations in the state;
- 124 [~~g~~] (h) consider and make recommendations on behalf of the state of reclamation projects or other
water development projects for construction by any agency of the state or United States and in so
doing recommend the order in which projects shall be undertaken; or
- 128 [~~h~~] (i) review, approve, and revoke an application to create a water bank under Chapter 31, Water
Banking Act, collect an annual report, maintain the water banking website, and conduct any other
function related to a water bank as described in Chapter 31, Water Banking Act.
- 132 (2) Nothing contained in this section shall be construed to impair or otherwise interfere with the
authority of the state engineer granted by this title, except as specifically otherwise provided in this
section.
- 135 Section 4. Section 73-10g-701 is amended to read:
- 136 **73-10g-701. Definitions.**
As used in this part:
- 138 (1) "Council" means the Water District Water Development Council created pursuant to Section
11-13-228.

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(2) "Division" means the Division of Water Resources.

(3) "State or local entity" means:

(a) a department, division, commission, agency, or other instrumentality of state government; or

(b) a political subdivision or the political subdivision's instrumentalities.

(4) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-702.

(5) "Water augmentation project" means a project on interstate waters that increases or impacts the amount of water available in this state.

Section 5. Section 73-10g-703 is amended to read:

73-10g-703. Powers and duties of water agent.

(1)

(a) ~~[Subject to Subsection (1)(b) and in]~~ In consultation with the speaker of the House of Representatives, president of the Senate, and governor, the water agent shall explore and negotiate with officials of other states, tribes, and other government entities regarding possible water ~~[importation]~~ augmentation projects, including:

(i) for the citizens of Utah, representing the state concerning waters of out-of-state rivers, lakes, and other sources of supply of waters except when representation is otherwise provided in statute;

(ii) identifying potential out-of-state water resources, including land or a facility necessary for the use of the water resources;

(iii) working with the council and division to match the water resources described in Subsection (1)(a)(ii) to needs identified by the council or division;

(iv) establishing a strategy to designate what out-of-state water resources to pursue and how to execute that strategy;

(v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)(a)(iv);

(vi) represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may be entered into between the state and one or more sister states, except that a compact is not binding on the state until the compact is ratified and approved by the Legislature and the legislatures of other states that are parties to the compact;

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(vii) recommending to the Legislature and to the council actions that may assist in the development of, strategies for, and execution of water [~~importation~~] augmentation projects; and

(viii) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created in Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Board of Water Resources created in Section 73-10-1.5.

~~[(b) The water agent may not act under this section in relation to interests governed by interstate compacts in which Utah is a party, such as the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact.]~~

(b) The water agent may recommend to the Board of Water Resources, created in Section 73-10-1.5, a water augmentation project that the water agent negotiates under this section, if the water augmentation project is in the best interest of the people of this state and the state's water resources.

(2) The water agent shall consult and work with the council, state entities, the Colorado River Authority of Utah, and other bodies established by the state for interstate water negotiations.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the water agent, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(4) The water agent may negotiate with tribes in accordance with this section~~[, except to the extent that the water at issue comes from the Colorado River].~~

(5) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

Section 6. **Effective date.**

This bill takes effect on May 7, 2025.

2-27-25 7:22 AM