

# HB0311S02

**inserted text** shows text that was not in HB0311S02 but was inserted into HB0311S03

**Watershed Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: Scott D. Sandall

### General Description:

### Highlighted Provisions:

- defines terms;

- **clarifies when a water commissioner is:**

- **treated as a regular full-time employee;**
- **eligible for health and retirement benefits; and**
- **exempt from the Utah State Personnel Management Act;**

- ▶ allows the Utah water agent to include facilities and land in the state water agent's negotiations for water augmentation projects;

- { ~~requires the state engineer to conduct a review of a water importation project in the Great Salt Lake watershed;~~ }

▶

## HB0311S02 compared with HB0311S03

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

18       ▸ **modifies the membership requirements for the Legislative Water Development Commission; and**

15       ▸ makes technical and conforming changes.

### 21 Money Appropriated in this Bill:

22       None

### 23 Other Special Clauses:

24       None

### 26 AMENDS:

27       **63I-1-273** , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

28       **73-5-1 , as last amended by Laws of Utah 2021, Chapter 345 , as last amended by Laws of Utah 2021, Chapter 345**

23       ~~**{73-5-17, as enacted by Laws of Utah 2022, Chapter 75, as enacted by Laws of Utah 2022, Chapter 75}**~~

29       **73-10-4** , as last amended by Laws of Utah 2024, Chapter 522 , as last amended by Laws of Utah 2024, Chapter 522

30       **73-10g-701** , as enacted by Laws of Utah 2024, Chapter 522 , as enacted by Laws of Utah 2024, Chapter 522

31       **73-10g-703** , as enacted by Laws of Utah 2024, Chapter 522 , as enacted by Laws of Utah 2024, Chapter 522

32       **73-27-102 , as last amended by Laws of Utah 2021, Chapter 229 , as last amended by Laws of Utah 2021, Chapter 229**

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

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

36       **63I-1-273. Repeal dates: Title 73.**

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subject to an approved change application for use within a water bank that has been authorized but not dissolved, is repealed December 31, 2030.

## HB0311S02 compared with HB0311S03

(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 2. Section 73-5-1 is amended to read:

#### **73-5-1. Appointment of water commissioners -- Procedure.**

(1)

(a) If, in the judgment of the state engineer or the district court, it is necessary to appoint a water commissioner for the distribution of water from any river system or water source, the commissioner shall be appointed for a four-year term by the state engineer.

(b) The state engineer shall determine whether all or a part of a river system or other water source shall be served by a commissioner, and if only a part is to be served, the state engineer shall determine the boundaries of that part.

(c) The state engineer may appoint:

(i) more than one commissioner to distribute water from all or a part of a water source; or

(ii) a single commissioner to distribute water from several separate and distinct water sources.

(d) A water commissioner appointed by the state engineer under this section is:

(i) an employee of the Division of Water Rights;

(ii) an appointed officer under Subsection 49-13-102(5)(b)(iii), if the water commissioner meets the requirements for a regular full-time employee under Subsection 49-13-102(5)(a);

(iii) eligible for health and retirement benefits as determined by the water commissioner's distribution system committee, if the water commissioner is a regular full-time employee as that term is defined in Section 49-13-102; and

## HB0311S02 compared with HB0311S03

- 76 (iv) exempt from Title 63A, Chapter 17, Utah State Personnel Management Act.  
77 [(ii) career service exempt under Subsection 63A-17-301(1)(k); and]  
78 [(iii) exempt under Subsection 63A-17-307(2)(f) from the classified service provisions of Section  
    63A-17-307.]  
80 (2)  
    (a) The state engineer shall consult with the water users before appointing a commissioner. The form of  
        consultation and notice to be given shall be determined by the state engineer so as to best suit local  
        conditions, while providing for full expression of majority opinion.  
84 (b) The state engineer shall act in accordance with the recommendation of a majority of the water users,  
        if the majority of the water users:  
86 (i) agree upon:  
87 (A) a qualified individual to be appointed as a water commissioner;  
88 (B) the duties the individual shall perform; and  
89 (C) subject to the requirements of Title 49, Utah State Retirement and Insurance Benefit Act, the  
        compensation the individual shall receive; and  
91 (ii) submit a recommendation to the state engineer on the items described in Subsection (2)(b)(i).  
93 (c) If a majority of water users do not agree on the appointment, duties, or compensation, the state  
        engineer shall make a determination for them.  
95 (3)  
    (a)  
        (i) The salary and expenses of the commissioner and all other expenses of distribution, including  
            printing, postage, equipment, water users' expenses, and any other expenses considered  
            necessary by the state engineer, shall be borne pro rata by the users of water from the river  
            system or water source in accordance with a schedule to be fixed by the state engineer.  
100 (ii) The schedule shall be based on the established rights of each water user, and the pro rata share  
        shall be paid by each water user to the state engineer on or before May 1 of each year.  
103 (b) The payments shall be deposited in the Water Commissioner Fund created in Section 73-5-1.5.  
105 (c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may  
        do any or all of the following:  
107 (i) create a lien upon the water right affected by filing a notice of lien in the office of the county  
        recorder in the county where the water is diverted and bring an action to enforce the lien;

## HB0311S02 compared with HB0311S03

- (ii) forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or
- (iii) bring an action in the district court for the unpaid expense and salary.
- (d) In any action brought to collect any unpaid assessment or to enforce any lien under this section, the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.
- (4)
- (a) A commissioner may be removed by the state engineer for cause.
- (b) The users of water from any river system or water source may petition the district court for the removal of a commissioner and after notice and hearing, the court may order the removal of the commissioner and direct the state engineer to appoint a successor.

~~{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;
    - (iii) storage delivery and loss of storage;

## HB0311S02 compared with HB0311S03

- (iv) accounting for imports and exports; and
- (v) system losses including:
  - (A) conveyance losses; and
  - (B) reservoir losses;
- (c) recommendations for:
  - (i) additional measurement and automation; and
  - (ii) refinement of distribution or accounting practices in accordance with:
    - (A) existing water rights;
    - (B) the prior appropriation doctrine; and
    - (C) relevant court decrees; and
  - (d) the data and computations relied upon to provide the information described in Subsections (3)(a) through (c).
- (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.
- (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:
  - (a) conduct a review to quantify the return flow of a water importation project in the Great Salt Lake watershed;
  - (b) in accordance with Section 73-3-6, publish notice for a review conducted under Subsection (5)(a); and
  - (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.

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 ~~{ }~~ { F } ~~[of conservation projects]~~ [or purchase of a project] that in the opinion of the board will conserve and use for

## HB0311S02 compared with HB0311S03

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;

(c) sue and be sued in accordance with applicable law;

(d) enter into a contract that the Utah water agent, appointed under Section 73-10g-702, recommends for a water augmentation project under Section 73-10g-703;

~~[(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:

(i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(ii) state representation under:

(A) the Bear River Compact as provided in Section 73-16-4; or

(B) the Columbia Interstate Compact as provided in Section 73-19-9;

~~[(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;

~~[(f)]~~ (g) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;

~~[(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

~~[(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.

(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.

Section 4. Section **73-10g-701** is amended to read:

**73-10g-701. Definitions.**

## HB0311S02 compared with HB0311S03

As used in this part:

- 138 (1) "Council" means the Water District Water Development Council created pursuant to Section  
11-13-228.
- 140 (2) "Division" means the Division of Water Resources.
- 141 (3) "State or local entity" means:
- 142 (a) a department, division, commission, agency, or other instrumentality of state government; or
- 144 (b) a political subdivision or the political subdivision's instrumentalities.
- 145 (4) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-702.
- 147 (5) "Water augmentation project" means a project on interstate waters that increases or impacts the  
amount of water available in this state.

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

179 **73-10g-703. Powers and duties of water agent.**

- 151 (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:
- 155 (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;
- 158 (ii) identifying potential out-of-state water resources, including land or a facility necessary for the  
use of the water resources;
- 160 (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;
- 162 (iv) establishing a strategy to designate what out-of-state water resources to pursue and how to  
execute that strategy;
- 164 (v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)  
(a)(iv);
- 166 (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



## HB0311S02 compared with HB0311S03

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;

(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. Section 73-27-102 is amended to read:

**73-27-102. Legislative Water Development Commission created.**

(1)

## HB0311S02 compared with HB0311S03

(a) The Legislative Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(b) For purposes of this chapter, "commission" means the Legislative Water Development Commission.

(2)

(a) The commission membership shall include:

(i) ~~[five-]~~ a minimum of two members of the Senate, appointed by the president of the Senate~~[-no more than four of whom may be from the same political party]~~ , with at least one member from the minority political party;

(ii) ~~[eight-]~~ a minimum of two members of the House of Representatives, appointed by the speaker of the House of Representatives~~[-no more than six of whom may be from the same political party]~~ , with at least one member from the minority political party; and

(iii) subject to Subsections (2)(b) and (c), ~~[-]~~nonvoting members, appointed by the Legislative Management Committee, from a list recommended by the cochair of the commission described in Subsection (5).

(b) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (2)(a)(iii), the Legislative Management Committee may ask the cochair of the commission to submit an additional list of recommendations.

(c) The Legislative Management Committee may not appoint an individual who is not recommended by the cochair of the commission.

(3)

(a) The members appointed by the Legislative Management Committee under Subsection (2)(a)(iii) shall be appointed or reappointed to a two-year term.

(b) When a vacancy occurs in the membership for any reason, the Legislative Management Committee, in consultation with the cochair of the commission, shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a)(i) and (ii) that represent both rural and urban areas of the state.

(5)

(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a)(i) as a cochair of the commission.

## HB0311S02 compared with HB0311S03

- 264 (b) The speaker of the House of Representatives shall designate a member of the House of  
Representatives appointed under Subsection (2)(a)(ii) as a cochair of the commission.
- 267 (6) What constitutes a quorum of the commission is determined in accordance with Legislative Joint  
Rules, Title 7, Chapter 1, Part 2, Creation and Organization of Legislative Committees, except  
nonvoting members of the commission described in Subsection (2)(a)(iii) may not be considered for  
purposes of determining a quorum.
- 271 (7)
- (a) Compensation and expenses of a member of the commission who is a legislator are governed by  
Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 274 (b) Commission members who are employees of the state shall receive no additional compensation.
- 276 (c) Other commission members shall receive no compensation or expenses for their service on the  
commission.
- 278 (8) The Office of Legislative Research and General Counsel shall provide staff support to the  
commission.

280 Section 7. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

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