

Rex P. Shipp proposes the following substitute bill:

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Irrigation Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

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LONG TITLE

General Description:

This bill addresses duties of owners or operators of ditches and canals.

Highlighted Provisions:

This bill:

▸ defines terms;

▸ addresses failure by an owner or operator of a ditch or canal to exercise reasonable and ordinary care;

▸ provides under certain circumstances for a person to recover money paid to a third party for damage or injury if caused by the failure of an owner or operator to exercise reasonable and ordinary care; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-8, as last amended by Laws of Utah 2023, Chapter 105

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

Section 1. Section **73-1-8** is amended to read:

73-1-8 . Duties of owners or operators -- Bridges and trails -- Liability.

(1) As used in this section:

(a) "Municipality" means the same as that term is defined in Section 10-1-104.

(b)(i) "Water facility" means a dam, pipeline, culvert, flume, conduit, ditch, head gate, canal, reservoir, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement,

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- 31 collection, containment, or storage of irrigation water.
- 32 [(b)] (ii) "Water facility" does not mean a facility used primarily as part of a:
- 33 [(i)] (A) public water system as defined in Section 19-4-102; or
- 34 [(ii)] (B) residential irrigation system.
- 35 (2) An owner or operator of a water facility shall:
- 36 (a) maintain the water facility to prevent waste of water, damage to property, or injury to
- 37 others; and
- 38 (b) by bridge or otherwise, keep the water facility in good repair where the water facility
- 39 crosses a public road or highway to prevent obstruction to travel or damage or
- 40 overflow on the public road or highway.
- 41 (3) Subsection (2)(b) does not apply where a governmental entity maintains or elects to
- 42 maintain a bridge or other device to prevent obstruction to travel or damage or overflow
- 43 on the public road or highway.
- 44 (4) In addition to immunity if the conditions of Title 57, Chapter 14, Limitations on
- 45 Landowner Liability, are met, an owner or operator of a water facility, stream, or river,
- 46 is immune from suit if:
- 47 (a) the damage or personal injury arises out of, is in connection with, or results from the
- 48 use of a trail that is located along a water facility, stream, or river, regardless of
- 49 ownership or operation of the water facility, stream, or river;
- 50 (b) the trail is designated under a general plan adopted by a municipality under Section
- 51 10-9a-401 or by a county under Section 17-27a-401;
- 52 (c) the trail right-of-way or the right-of-way where the trail is located is open to public
- 53 use as evidenced by a written agreement between the owner or operator of the trail
- 54 right-of-way, or of the right-of-way where the trail is located, and the municipality or
- 55 county where the trail is located; and
- 56 (d) the written agreement:
- 57 (i) contains a plan for operation and maintenance of the trail; and
- 58 (ii) provides that an owner or operator of the trail right-of-way, or of the right-of-way
- 59 where the trail is located has, at minimum, the same level of immunity from suit
- 60 as the governmental entity in connection with or resulting from use of the trail.
- 61 (5)(a) The duty under Subsection (2) requires only reasonable and ordinary care and
- 62 may not be construed to impose strict liability or to otherwise increase the liability of
- 63 the owner or operator of a water facility.
- 64 (b) If an owner or operator of a ditch or canal fails to exercise reasonable and ordinary

65 care in maintaining the ditch or canal, the owner or operator is liable for damage to
66 property or injury to others directly caused by the failure to exercise reasonable and
67 ordinary care.

68 (c) For a ditch or canal located within a municipality, if a person other than the owner or
69 operator of a ditch or canal is held to be liable for damage to property or injury to
70 others related to a ditch or canal, the person may recover the amount for which the
71 person is held liable that is directly caused by the failure of the owner or operator to
72 exercise reasonable and ordinary care with regard to maintaining the ditch or canal.

73 [(b)] (d) An owner or operator of a water facility is not liable for damage or injury caused
74 by:

75 (i) the diversion or discharge of water or another substance into the water facility by a
76 third party beyond the control of the owner or operator of the water facility,
77 including control exercised by the owner's or operator's employees or agents;

78 (ii) any other act or omission of a third party that is beyond the control of the owner
79 or operator of the water facility, including control exercised by the owner's or
80 operator's employees or agents; or

81 (iii) an act of God, including fire, earthquake, storm, flash floods, or similar natural
82 occurrences.

83 (6) This section may not be interpreted to impair a defense that an owner or operator of a
84 water facility may assert in a civil action.

85 **Section 2. Effective date.**

86 This bill takes effect on May 7, 2025.