

Keven J. Stratton proposes the following substitute bill:

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 special district fees;
- defines terms;
- addresses rate setting by a retail water supplier and 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

73-10-34, 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:

- 63 (A) are distinguishable from the needs or conditions of another classification; and
64 (B) based on economic, public policy, or other identifiable elements, support a
65 different rate; [~~or~~]
- 66 (v) there is a differential between the classifications based on a cost of service
67 standard or a generally accepted rate setting method, including a standard or
68 method the American Water Works Association establishes[-] ; or
- 69 (vi) water conservation is used as an element in determining the rate charged for a
70 block unit of water as provided in Section 73-10-32.5.
- 71 (c) An adjustment based solely on the fact that a particular classification of retail
72 customers is located either inside or outside of the municipality's corporate boundary
73 is not a reasonable basis.
- 74 (6)(a) If more than 10% of the retail customers within a large municipal drinking water
75 system's designated water service area are located outside of the municipality's
76 corporate boundary, the municipality shall:
- 77 (i) post on the municipality's website the rates assessed to retail customers within the
78 designated water service area; and
- 79 (ii) establish an advisory board to make recommendations to the municipal legislative
80 body regarding water rates, capital projects, and other water service standards.
- 81 (b) In establishing an advisory board described in Subsection (6)(a)(ii), a municipality
82 shall:
- 83 (i) if more than 10% but no more than 30% of the municipality's retail customers
84 receive service outside the municipality's municipal boundary, ensure that at least
85 20% of the advisory board's members represent the municipality's retail customers
86 receiving service outside the municipality's municipal boundary;
- 87 (ii) if more than 30% of the municipality's retail customers receive service outside of
88 the municipality's municipal boundary, ensure that at least 40% of the advisory
89 board's members represent the municipality's retail customers receiving service
90 outside of the municipality's municipal boundary; and
- 91 (iii) in appointing board members who represent retail customers receiving service
92 outside of the municipality's municipal boundary, as required in Subsections
93 (6)(b)(i) and (ii), solicit recommendations from each municipality and county
94 outside of the municipality's municipal boundary whose residents are retail
95 customers within the municipality's designated water service area.
- 96 (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 **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), (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) "Public water system" means the same as that term is defined in Section 19-4-102.
- (b) "Retail water supplier" means the same as that term is defined in Section 19-4-102.
- (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)(c)(i).
- (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]~~
- ~~[(e)]~~ (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
- (b) 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 public water 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 public water system's actual cost of service;
- (ii) has a reasonable basis when compared to rates the public water 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 public water system and the wholesale water supplier from whom the public water system purchases water; and
- (c) if the public water system is a for-profit entity, may not use revenue from the highest usage block unit of water designed to encourage water conservation to pay profits or dividends to the public water system's investors or owners.

- (5) The use of revenue 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 public water system or a wholesale water supplier.
- (6) The adoption and implementation of that portion of a public water 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:
- (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

335 Division of Water Rights:

- 336 (a) for commercial, industrial, institutional, and residential users whose pressurized
337 secondary water use is metered, the number of acre feet of pressurized secondary
338 water the secondary water supplier supplied to the commercial, industrial,
339 institutional, and residential users during the preceding 12-month period;
340 (b) the number of secondary water meters within the secondary water supplier's service
341 boundary;
342 (c) a description of the secondary water supplier's service boundary;
343 (d) the number of secondary water connections in each of the following categories
344 through which the secondary water supplier supplies pressurized secondary water:
345 (i) commercial;
346 (ii) industrial;
347 (iii) institutional; and
348 (iv) residential;
349 (e) the total volume of water that the secondary water supplier receives from the
350 secondary water supplier's sources; and
351 (f) the dates of service during the preceding 12-month period in which the secondary
352 water supplier supplied pressurized secondary water.

353 (4)(a) Beginning July 1, 2019, the Board of Water Resources may make up to
354 \$10,000,000 in low-interest loans available each year:

- 355 (i) from the Water Resources Conservation and Development Fund, created in
356 Section 73-10-24; and
357 (ii) for financing the cost of secondary water metering.

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

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

- 366 (i) is not for new service described in Subsection (2)(a); and
367 (ii) matches the amount of the grant.

368 (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;

- 437 (iii) \$30 for each non-metered secondary water connection of the secondary water
438 supplier for failure to comply with full metering by January 1, 2032;
- 439 (iv) \$40 for each non-metered secondary water connection of the secondary water
440 supplier for failure to comply with full metering by January 1, 2033; and
- 441 (v) \$50 for each non-metered secondary water connection of the secondary water
442 supplier for failure to comply with full metering by January 1, 2034, and for each
443 subsequent year the secondary water supplier fails to comply with full metering.
- 444 (k) Money collected under this Subsection (8) shall be deposited into the Water
445 Resources Conservation and Development Fund, created in Section 73-10-24.
- 446 (9) A secondary water supplier located within a county of the fifth or sixth class is exempt
447 from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:
- 448 (a) the owner or operator of the secondary water supplier seeks an exemption under this
449 Subsection (9) by establishing with the Division of Water Resources that the cost of
450 purchasing, installing, and upgrading systems to accept meters exceeds 25% of the
451 total operating budget of the owner or operator of the secondary water supplier;
- 452 (b) the secondary water supplier agrees to not add a new secondary water connection to
453 the secondary water supplier's system on or after May 4, 2022;
- 454 (c) within six months of when the secondary water supplier seeks an exemption under
455 Subsection (9)(a), the secondary water supplier provides to the Division of Water
456 Resources a plan for conservation within the secondary water supplier's service area
457 that does not require metering;
- 458 (d) the secondary water supplier annually reports to the Division of Water Resources on
459 the results of the plan described in Subsection (9)(c); and
- 460 (e) the secondary water supplier submits to evaluations by the Division of Water
461 Resources of the effectiveness of the plan described in Subsection (9)(c).
- 462 (10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e),
463 (7), and (8) to the extent that the secondary water supplier:
- 464 (a) is unable to obtain a meter that a meter manufacturer will warranty because of the
465 water quality within a specific location served by the secondary water supplier;
- 466 (b) submits reasonable proof to the Division of Water Resources that the secondary
467 water supplier is unable to obtain a meter as described in Subsection (10)(a);
- 468 (c) within six months of when the secondary water supplier submits reasonable proof
469 under Subsection (10)(b), provides to the Division of Water Resources a plan for
470 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) Except as provided in Subsection (14)(f), by no later than July 1, 2030, regardless of whether the secondary water supplier is fully metered or has modified existing contracts with end users, a secondary water supplier shall begin billing an end user using a tiered conservation rate that considers:

(i) revenue stability;

(ii) water conservation; and

(iii) cost of service.

(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 bill the end user according to end user's usage of secondary water and the secondary water supplier's tiered conservation rate.

(d) By no later than April 1, 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

(iii) shall, as the public water supplier and the secondary water supplier find necessary or convenient, exchange with the secondary water supplier, for the purpose of maintaining accurate records, relevant information with regard to an end user of the secondary water supplier, such as:

(A) a billing address;

(B) an address where the secondary water is delivered;

(C) a parcel identification number; and

(D) ownership information.

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

- 539 (A) exempt from metering under Subsection (9), (10), or (11); or
540 (B) authorized to meter at strategic points of the system under Subsection (13).
- 541 (ii) Notwithstanding the other provisions of this section, a secondary water supplier
542 with a tiered conservation rate under this Subsection (14) shall charge an end user
543 at the lowest rate of the tiered conservation rate if the end user is using a portion
544 of the water to grow food, including growing a garden, fruit trees, or pasture for
545 grazing.
- 546 (g)(i) If a secondary water supplier violates this Subsection (14) on or after April 1,
547 2030, the secondary water supplier:
- 548 (A) may not receive state money for water related purposes until the secondary
549 water supplier complies with this Subsection (14); and
- 550 (B) is subject to an enforcement action of the state engineer in accordance with
551 this Subsection (14)(g).
- 552 (ii) The state engineer shall commence an enforcement action under this Subsection
553 (14)(g) if the state engineer receives a referral from the director of the Division of
554 Water Resources.
- 555 (iii) The director of the Division of Water Resources shall submit a referral to the
556 state engineer if the director:
- 557 (A) finds that a secondary water supplier fails to comply with this Subsection (14);
558 and
- 559 (B) determines an enforcement action is necessary to conserve or protect a water
560 resource in the state.
- 561 (iv) To commence an enforcement action under this Subsection (14)(g), the state
562 engineer shall issue a notice of violation that includes notice of the administrative
563 fine described in Subsection (14)(g)(xiii) to which a secondary water supplier is
564 subject.
- 565 (v) The state engineer's issuance and enforcement of a notice of violation is exempt
566 from Title 63G, Chapter 4, Administrative Procedures Act.
- 567 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
568 the state engineer shall make rules necessary to enforce a notice of violation, that
569 includes:
- 570 (A) provisions consistent with this Subsection (14)(g) for enforcement of the
571 notice if a secondary water supplier to whom a notice is issued fails to respond
572 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)(g)(vi)(B).
- (vii) A person may not intervene in an enforcement action commenced under this Subsection (14)(g).
- (viii) After issuance of a final order under rules made pursuant to Subsection (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)(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)(g).
- (xii) If the state engineer prevails in an action brought under Subsection (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.

This bill takes effect on May 7, 2025.