Jill Koford proposes the following substitute bill:

Data Center Water Transparency Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jill Koford

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses reporting related to water use and data centers.

Highlighted Provisions:

This bill:

- defines terms;
- directs land use authorities to issue certain notices;
- requires certain large data centers to communicate with water providers;
- requires reporting by operators of certain data centers before construction and annually;
- addresses disclosure of the reported information;
- provides for enforcement mechanisms;
- addresses rulemaking; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-25, as last amended by Laws of Utah 2014, Chapter 369

ENACTS:

73-5-8.3, Utah Code Annotated 1953

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

Section 1. Section **73-2-25** is amended to read:

73-2-25 . State engineer enforcement powers.

(1) For purposes of this section, "initial order" means one of the following issued by the state engineer:

(a) a notice of violation; or

(b) a cease and desist order.

(2)(a) Except as provided in Subsection (2)(b), the state engineer may commence an enforcement action under this section if the state engineer finds that a person:

(i) is diverting, impounding, or using water for which no water right has been established;

(ii) is diverting, impounding, or using water in violation of an existing water right;

(iii) violates Section 73-5-4;

(iv) violates Section 73-5-9;

(v) violates a written distribution order from the state engineer;

(vi) violates Section 73-3-29;

(vii) violates a notice or order regarding dam safety issued under Chapter 5a, Dam Safety;

(viii) fails to submit a report required by Section 73-3-25; [~~or~~]

(ix) engages in well drilling without a license required by Section 73-3-25[~~.~~] ; or

(x) fails to submit a report required by Section 73-5-8.3.

(b) The state engineer may not commence an enforcement action against a person under Subsection (2)(a)(i), if the person directly captures, or stores, precipitation on the surface of, or under, a parcel owned or leased by the person, including in a catch basin, storm drain pipe, swell, or pond, if the collection or storage:

(i) is consistent with local laws and ordinances;

(ii) does not interfere with an existing water right; and

(iii) is designed to slow, detain, or retain storm water or protect watersheds from pollution with the intention that the precipitation:

(A) absorbs into the ground or is released for discharge; and

(B) is not put to beneficial use.

(c) To commence an enforcement action under this section, the state engineer shall issue an initial order, which shall include:

(i) a description of the violation;

(ii) notice of any penalties to which a person may be subject under Section 73-2-26, except a person who violates Section 73-5-8.3 is subject to the penalties in Section 73-5-8.3; and

(iii) notice that the state engineer may treat each day's violation of the provisions listed in Subsection (2)(a) as a separate violation under Subsection 73-2-26(1)(d) or Section 73-5-8.3.

(d) The state engineer's issuance and enforcement of an initial order is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce an initial order, which shall include:

(a) provisions consistent with this section and [~~Section~~] Sections 73-2-26 and 73-5-8.3 for enforcement of the initial order if a person to whom an initial order is issued fails to respond to the order or abate the violation;

(b) the right to a hearing, upon request by a person against whom an initial order is issued; and

(c) provisions for timely issuance of a final order after:

(i) the person to whom the initial order is issued fails to respond to the order or abate the violation; or

(ii) a hearing held under Subsection (3)(b).

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

(5) After issuance of a final order under rules made [~~pursuant to~~] in accordance with Subsection (3)(c), the state engineer shall serve a copy of the final order on the person against whom the order is issued by:

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

(b) certified mail.

(6)(a) The state engineer's final order may be reviewed by trial de novo by the [~~district~~] court with jurisdiction in:

(i) Salt Lake County; or

(ii) the county where the violation occurred.

(b) A person 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 that person.

(7) The state engineer may bring suit in a court [~~of competent~~] with jurisdiction to enforce a final order issued under this section.

(8) If the state engineer prevails in an action brought under Subsection (6)(b) or (7), the state may recover all court costs and a reasonable attorney fee.

Section 2. Section **73-5-8.3** is enacted to read:

73-5-8.3 . Reporting by large data centers.

(1) As used in this section:

(a) "Construction activity" means a physical activity necessary to construct a large data center as may be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Division" means the Division of Water Rights.

(c) "Land use authority" means:

(i) a land use authority, as defined in Section 10-9a-103, of a municipality; or

(ii) a land use authority, as defined in Section 17-27a-103, of a county.

(d) "Large data center" means a facility that:

(i) houses a group of networked server computers in one physical location to disseminate, manage, and store data and information as the primary service of the facility;

(ii) consists of one or more buildings that in total equals or exceeds 10,000 square feet;

(iii) includes facilities and infrastructure for:

(A) environmental control, cooling, and security required to deliver the desired service with respect to a specific facility; or

(B) generation by the operator of the large data center of energy to power a specific facility delivering the desired service;

(iv) is owned or leased by:

(A) the operator of the data center facility; or

(B) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(v) is located on one or more parcels of land that are owned or leased by:

(A) the operator of the data center facility; or

(B) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

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

(f) "Operator of the large data center" means the owner or operator of the large data center, or other person who has comparable rights of use over a large data center, including any person responsible for allocating space for external use of information technology and network telecommunications equipment within a large data center.

(g) "Water provider" means:

(i) a retail water supplier, as defined in Section 19-4-102; or

(ii) a water conservancy district formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(2) Before a land use authority of a municipality or county approves a land use application for a large data center, the land use authority shall notify the following by mail or email:

(a) the division;

(b) the Division of Water Quality; and

(c) the relevant water supplier, if any.

(3) Beginning January 1, 2027, at least Ĥ→ [~~180~~] **90** ←Ĥ days, but no sooner than 360 days, before the operator of the large data center facility begins construction activities related to a large data center, the operator of the large data center shall:

(a) communicate with the water provider that will provide water to the large data center facility to demonstrate from where the large data center facility anticipates obtaining the water used; and

(b) report to the division:

(i) the municipality and county in which the large data center will be located;

(ii) the organization of the planned large data center as a single operator enterprise or managed data center, colocated facility, or a container or modular data center;

(iii) the projected amount of water that the large data center will divert annually;

(iv) how the projected amount of water used will be used;

(v) the projected annual discharges by type and amount;

(vi) how discharges will be treated, if applicable;

(vii) whether and, if so, the extent to which discharge temperature will be adjusted; and

(viii) whether and, if so, the extent to which the large data center will engage in water reuse or activities to replace water used by the large data center.

(4)(a) Subject to Subsection (4)(b), after a large data center begins operation, the operator of the large data center shall report to the division:

(i) updates, if any, to the information reported under Subsection (3);

(ii) efforts made to reduce water consumption over the past calendar year;

(iii) a comparison of:

(A) projected water use for the calendar year previous to the year being reported on;

(B) actual use for the calendar year being reported on; and

(C) projected water use for the next calendar year;

(iv) efforts to protect the environment and public from polluted water in the previous calendar year; and

(v) other information required by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Beginning January 1, 2027, an operator of a large data center shall report to the division the information required by Subsection (4)(a):

(i) annually by no later than March 1; and

(ii) for the previous calendar year.

(5)(a) The division shall publish water use data for each large data center that is reported by a large data center under Subsection (3)(b) or (4)(a) on the division's public website by no later than July 1 for the previous calendar year, and not in the aggregate.

(b) Notwithstanding Subsection (5)(a), the division shall treat information as proprietary information that may not be disclosed as a protected record under Subsection 63G-2-305(2) if:

(i) the operator of the large data center complies with Section 63G-2-309; and

(ii) the information is reported to the division under:

(A) Subsections (3)(b)(iv) through (viii);

(B) Subsection (4)(b)(i), to the extent that it is not water use data;

(C) Subsection (4)(a)(ii) or (iv); or

(D) Subsection (4)(a)(v), if at the time the division requires the information by rule, the division provides that the division will treat the information as a protected record in accordance with this Subsection (5)(b).

(c) The division shall annually disclose by no later than July 1 aggregated and anonymized data based on the information that is a protected record described in Subsection (5)(b):

(i) on the division's public website; and

(ii) to each municipality or county in which is located a large data center required to report under this section.

(d) Notwithstanding the other provisions of this Subsection (5), the division shall provide non-proprietary information from a report under Subsection (3) or (4) to the Division of Water Quality and the relevant water provider, if any.

(6)(a) The division may enforce the reporting requirements in accordance with this Subsection (6).

(b) If the operator of a large data center fails to submit a report required under Subsection (3) or (4) or submits an incomplete report, the division shall notify the operator of the large data center of the failure or incompleteness.

(c) If the operator of the large data center fails to submit a complete report after receipt of notice under Subsection (6)(b), the division shall impose a fine in accordance with Section 73-2-25 of up to $10,000 for each day the operator of the large data center fails to comply with this Subsection (6).

(d) The division shall deposit money collected under this Subsection (6) into the General Fund.

Section 3. **Effective Date.**

This bill takes effect on May 6, 2026.