

22 AMENDS:

23 **73-2-25**, as last amended by Laws of Utah 2014, Chapter 369

24 ENACTS:

25 **73-5-8.3**, Utah Code Annotated 1953

26

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

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

29 **73-2-25 . State engineer enforcement powers.**

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

32 (a) a notice of violation; or

33 (b) a cease and desist order.

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

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

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

39 (iii) violates Section 73-5-4;

40 (iv) violates Section 73-5-9;

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

42 (vi) violates Section 73-3-29;

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

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

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

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

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

52 (i) is consistent with local laws and ordinances;

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

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

- 56 (A) absorbs into the ground or is released for discharge; and
57 (B) is not put to beneficial use.
- 58 (c) To commence an enforcement action under this section, the state engineer shall issue
59 an initial order, which shall include:
60 (i) a description of the violation;
61 (ii) notice of any penalties to which a person may be subject under Section 73-2-26,
62 except a person who violates Section 73-5-8.3 is subject to the penalties in Section
63 73-5-8.3; and
64 (iii) notice that the state engineer may treat each day's violation of the provisions
65 listed in Subsection (2)(a) as a separate violation under Subsection 73-2-26(1)(d)
66 or Section 73-5-8.3.
- 67 (d) The state engineer's issuance and enforcement of an initial order is exempt from Title
68 63G, Chapter 4, Administrative Procedures Act.
- 69 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
70 state engineer shall make rules necessary to enforce an initial order, which shall include:
71 (a) provisions consistent with this section and [~~Section~~] Sections 73-2-26 and 73-5-8.3
72 for enforcement of the initial order if a person to whom an initial order is issued fails
73 to respond to the order or abate the violation;
74 (b) the right to a hearing, upon request by a person against whom an initial order is
75 issued; and
76 (c) provisions for timely issuance of a final order after:
77 (i) the person to whom the initial order is issued fails to respond to the order or abate
78 the violation; or
79 (ii) a hearing held under Subsection (3)(b).
- 80 (4) A person may not intervene in an enforcement action commenced under this section.
- 81 (5) After issuance of a final order under rules made [~~pursuant to~~] in accordance with
82 Subsection (3)(c), the state engineer shall serve a copy of the final order on the person
83 against whom the order is issued by:
84 (a) personal service under Utah Rules of Civil Procedure, Rule 5; or
85 (b) certified mail.
- 86 (6)(a) The state engineer's final order may be reviewed by trial de novo by the [~~district~~]
87 court with jurisdiction in:
88 (i) Salt Lake County; or
89 (ii) the county where the violation occurred.

90 (b) A person shall file a petition for judicial review of the state engineer's final order
 91 issued under this section within 20 days from the day on which the final order was
 92 served on that person.

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

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

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

98 **73-5-8.3 . Reporting by large data centers.**

99 (1) As used in this section:

100 (a) "Construction activity" means a physical activity necessary to construct a new large
 101 data center as may be defined by the division by rule made in accordance with Title
 102 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

104 (c) "Land use authority" means:

105 (i) a land use authority, as defined in Section 10-20-102, of a municipality; or

106 (ii) a land use authority, as defined in Section 17-79-102, of a county.

107 (d) "Large data center" means a facility with an annual water withdrawal of 75 acre feet
 108 per year or more that:

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

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

114 (iii) includes facilities and infrastructure for:

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

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

119 (iv) is owned or leased by:

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

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

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

- 124 (A) the operator of the data center facility; or
125 (B) a person under common ownership, as defined in Section 59-7-101, of the
126 operator of the data center facility.
- 127 (e) "Municipality" means the same as that term is defined in Section 10-1-104.
128 (f) "New large data center" means a large data center that begins operations on or after
129 July 1, 2026.
- 130 (g) "Operator of a large data center" means the owner or operator of a large data center,
131 or other person who has comparable rights of use over a large data center, including
132 any person responsible for allocating space for external use of information
133 technology and network telecommunications equipment within the large data center.
- 134 (h) "Water provider" means:
135 (i) a retail water supplier, as defined in Section 19-4-102; or
136 (ii) a water conservancy district formed under Title 17B, Chapter 2a, Part 10, Water
137 Conservancy District Act.
- 138 (2) Before a land use authority of a municipality or county approves a land use application
139 for a new large data center, the land use authority shall notify the following by mail or
140 email:
141 (a) the division;
142 (b) the Division of Water Quality; and
143 (c) the relevant water provider, if any.
- 144 (3) On or after July 1, 2026, at least 90 days, but no sooner than 360 days, before the
145 operator of a large data center begins construction activities related to a new large data
146 center, the operator of the large data center shall:
147 (a) notify in writing the water provider that provides water to the area where the new
148 large data center will be located to detail the anticipated water consumption needs of
149 the new large data center so that the water provider can determine whether the
150 anticipated water consumption of the new large data center is compatible with the
151 location in which the new large data center is being located; and
152 (b) report to the division:
153 (i) the municipality, if applicable, and county in which the new large data center will
154 be located;
155 (ii) the estimated withdrawal amount of water that the new large data center will
156 withdraw annually;
157 (iii) plans to treat discharges, if applicable;

- 158 (iv) whether and, if so, the estimated extent to which discharge temperature will be
159 adjusted; and
- 160 (v) whether and, if so, the planned extent to which the new large data center will
161 engage in water reuse or activities to replace water used by the new large data
162 center.
- 163 (4)(a) Subject to Subsection (4)(b), after a new large data center begins operation, the
164 operator of the large data center shall report to the division for the calendar year
165 being reported on:
- 166 (i) efforts made to reduce water consumption over the calendar year;
167 (ii) actual withdrawals for the calendar year;
168 (iii) efforts to protect the environment and public from polluted water, if applicable,
169 in the calendar year; and
- 170 (iv) other information required by the division by rule made in accordance with Title
171 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 172 (b) On and after July 1, 2026, the operator of a large data center that is a new large data
173 center shall report to the division the information required by Subsection (4)(a):
- 174 (i) unless the state engineer requires the new large data center to report water data by
175 rule made in accordance with Title 63G, Chapter 3, Utah Administrative
176 Rulemaking Act, under a statute other than this section regardless of whether the
177 scope of the report required by rule includes all water data for the new large data
178 center; and
- 179 (ii)(A) annually by no later than July 1; and
180 (B) for the previous calendar year.
- 181 (5)(a) The division shall publish water withdrawal data for each new large data center
182 that is reported under Subsection (3)(b) or (4)(a) on the division's public website by
183 no later than September 1 for the previous calendar year, and not in the aggregate.
- 184 (b) Notwithstanding Subsection (5)(a), the division shall treat information as proprietary
185 information that may not be disclosed as a protected record under Subsection
186 63G-2-305(2) if:
- 187 (i) the operator of the large data center complies with Section 63G-2-309; and
188 (ii) the information is reported to the division under:
- 189 (A) Subsections (3)(b)(iii) through (v);
190 (B) Subsection (4)(a)(i) or (iii); or
191 (C) Subsection (4)(a)(iv), if at the time the division requires the information by

192 rule, the division provides that the division will treat the information as a
193 protected record in accordance with this Subsection (5)(b).

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

197 (i) on the division's public website, organized by county; and

198 (ii) to each municipality or county in which is located a new large data center
199 required to report under Subsection (4).

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

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

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

208 (c) If the operator of the large data center fails to submit a complete report after receipt
209 of notice under Subsection (6)(b), the division shall impose a fine in accordance with
210 Section 73-2-25 of up to \$100 for each day the operator of the large data center fails
211 to comply with this Subsection (6).

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

214 Section 3. **Effective Date.**

215 This bill takes effect on May 6, 2026.