

HB0076S01 compared with HB0076S03

20 None

21 **Utah Code Sections Affected:**

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.**

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

31 (a) a notice of violation; or

32 (b) a cease and desist order.

33 (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:

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

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

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

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

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

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

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

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

45 (ix) engages in well drilling without a license required by Section 73-3-25; or

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

47 (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:

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

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- 52 (ii) does not interfere with an existing water right; and
- 53 (iii) is designed to slow, detain, or retain storm water or protect watersheds from pollution with the
intention that the precipitation:
- 55 (A) absorbs into the ground or is released for discharge; and
- 56 (B) is not put to beneficial use.
- 57 (c) To commence an enforcement action under this section, the state engineer shall issue an initial
order, which shall include:
- 59 (i) a description of the violation;
- 60 (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
- 63 (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.
- 66 (d) The state engineer's issuance and enforcement of an initial order is exempt from Title 63G, Chapter
4, Administrative Procedures Act.
- 68 (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:
- 70 (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;
- 73 (b) the right to a hearing, upon request by a person against whom an initial order is issued; and
- 75 (c) provisions for timely issuance of a final order after:
- 76 (i) the person to whom the initial order is issued fails to respond to the order or abate the violation; or
- 78 (ii) a hearing held under Subsection (3)(b).
- 79 (4) A person may not intervene in an enforcement action commenced under this section.
- 80 (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:
- 83 (a) personal service under Utah Rules of Civil Procedure, Rule 5; or
- 84 (b) certified mail.
- 85 (6)

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

87 (i) Salt Lake County; or

88 (ii) the county where the violation occurred.

89 (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.

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

94 (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.

97 Section 2. Section 2 is enacted to read:

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

98 (1) As used in this section:

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

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

103 (c) "Land use authority" means:

104 (i) a land use authority, as defined in Section {~~10-9a-103~~} **10-20-102**, of a municipality; or

105 (ii) a land use authority, as defined in Section {~~17-27a-103~~} **17-79-102**, of a county.

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

107 (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;

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

112 (iii) includes facilities and infrastructure for:

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

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

117 (iv) is owned or leased by:

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- 118 (A) the operator of the data center facility; or
- 119 (B) a person under common ownership, as defined in Section 59-7-101, of the operator of the data
center facility; and
- 121 (v) is located on one or more parcels of land that are owned or leased by:
- 122 (A) the operator of the data center facility; or
- 123 (B) a person under common ownership, as defined in Section 59-7-101, of the operator of the data
center facility.
- 125 (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 July 1, 2026.
- 126 (f){(g)} "Operator of {the-} a large data center" means the owner or operator of {the-} a 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-} the large data center.
- 130 (g){(h)} "Water provider" means:
- 131 (i) a retail water supplier, as defined in Section 19-4-102; or
- 132 (ii) a water conservancy district formed under Title 17B, Chapter 2a, Part 10, Water Conservancy
District Act.
- 134 (2) Before a land use authority of a municipality or county approves a land use application for a new
large data center, the land use authority shall notify the following by mail or email:
- 136 (a) the division;
- 137 (b) the Division of Water Quality; and
- 138 (c) the relevant water {supplier} provider, if any.
- 139 (3) {Beginning January} On or after July 1, {2027} 2026, at least {180} 90 days, but no sooner than
360 days, before the operator of {the-} a large data center {facility-} begins construction activities
related to a new large data center, the operator of the large data center shall:
- 142 (a) {communicate with-} notify in writing the water provider that {will provide-} provides water to the
area where the new large data center {facility-} will be located to {demonstrate from where-} detail
the anticipated water consumption needs of the new large data center {facility anticipates obtaining
the-} so that the water provider can determine whether the anticipated water {used} consumption of
the new large data center is compatible with the location in which the new large data center is being
located; and

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- 145 (b) report to the division:
- 146 (i) the municipality, if applicable, and county in which the new large data center will be located;
- 147 ~~{(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;}}~~
- 149 (iii)~~{(ii)}~~ the projected estimated withdrawal amount of water that the new large data center will
~~{divert} withdraw~~ annually;
- 150 ~~{(iv) {how the projected amount of water used will be used;}}~~
- 151 ~~{(v) {the projected annual discharges by type and amount;}}~~
- 152 (vi)~~{(iii)}~~ ~~{how} plans to treat~~ discharges ~~{will be treated}~~, if applicable;
- 153 (vii)~~{(iv)}~~ whether and, if so, the estimated extent to which discharge temperature will be adjusted; and
- 155 (viii)~~{(v)}~~ whether and, if so, the planned extent to which the new large data center will engage in water
reuse or activities to replace water used by the new large data center.
- 157 (4)
- (a) Subject to Subsection (4)(b), after a new large data center begins operation, the operator of the large
data center shall report to the division for the calendar year being reported on:
- 159 ~~{(i) {updates, if any, to the information reported under Subsection (3);}}~~
- 160 (ii)~~{(i)}~~ efforts made to reduce water consumption over the ~~{past}~~ calendar year;
- 161 ~~{(iii) {a comparison of;}}~~
- 162 ~~{(A) {projected water use for the calendar year previous to the year being reported on;}}~~
- 164 (B)~~{(ii)}~~ actual ~~{use}~~ withdrawals for the calendar year ~~{being reported on; and}~~ ;
- 165 ~~{(C) {projected water use for the next calendar year;}}~~
- 166 (iv)~~{(iii)}~~ efforts to protect the environment and public from polluted water, if applicable, in the
~~{previous}~~ calendar year; and
- 168 (v)~~{(iv)}~~ other information required by the division by rule made in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act.
- 170 (b) ~~{Beginning January 1, 2027, an}~~ On and after July 1, 2026, the operator of a large data center that
is a new large data 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 rule made in
accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under a statute other
than this section regardless of whether the scope of the report required by rule includes all water
data for the new large data center; and

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- 179 (ii)
172 (i){(A)} annually by no later than ~~{March}~~ July 1; and
173 (ii){(B)} for the previous calendar year.
174 (5)
(a) The division shall publish water ~~{use}~~ withdrawal data for each new 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}~~ September 1 for the previous calendar year, and not in the aggregate.
178 (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:
181 (i) the operator of the large data center complies with Section 63G-2-309; and
182 (ii) the information is reported to the division under:
183 (A) Subsections ~~{(3)(b)(iv)}~~ (3)(b)(iii) through ~~{(viii)}~~ (v);
184 ~~{(B) {Subsection (4)(b)(i), to the extent that it is not water use data;}}~~
185 (C){(B)} Subsection ~~{(4)(a)(ii)}~~ (4)(a)(i) or ~~{(iv)}~~ (iii); or
186 (D){(C)} Subsection ~~{(4)(a)(v)}~~ (4)(a)(iv), 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).
189 (c) The division shall annually disclose by no later than ~~{July}~~ September 1 aggregated and anonymized data based on the information that is a protected record described in Subsection (5)(b):
192 (i) on the division's public website, organized by county; and
193 (ii) to each municipality or county in which is located a new large data center required to report under ~~{this section}~~ Subsection (4).
195 (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.
198 (6)
(a) The division may enforce the reporting requirements in accordance with this Subsection (6).
200 (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.

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(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~~} \$100 for each day the operator of the large data center fails to comply with this Subsection (6).

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

214 Section 3. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

3-2-26 11:24 AM