

HB0348S01 compared with HB0348

{Omitted text} shows text that was in HB0348 but was omitted in HB0348S01

inserted text shows text that was not in HB0348 but was inserted into HB0348S01

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1

Dedicated Water Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jill Koford

Senate Sponsor:

2

3 LONG TITLE

4 General Description:

5 This bill addresses the approval of dedicated water applications.

6 Highlighted Provisions:

7 This bill:

- 8 ▶ **modifies a fee provision;**
- 8 ▶ addresses provisions applicable to dedicated water applications;
- 9 ▶ prohibits segregation of a dedicated water application from an underlying water right {from
dedicated water} ;
- 10 ▶ addresses process for approval of instream flow and related actions;
- 11 ▶ defines terms;
- 12 ▶ provides for the filing and approval of a dedicated water application;
- 13 ▶ addresses land in agricultural use;
- 14 ▶ authorizes the state engineer to require certain reporting;
- 15 ▶ addresses lapsing of a dedicated water application; and
- 16 ▶ makes technical and conforming amendments.

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18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 **AMENDS:**

24 **73-2-14 , as last amended by Laws of Utah 2025, Chapter 73**

25 **73-3-10 , as last amended by Laws of Utah 2021, Chapter 81**

26 **73-3-16 , as last amended by Laws of Utah 2024, Chapter 233**

27 **73-3-27 , as last amended by Laws of Utah 2024, Chapter 233**

28 **73-3-30 , as last amended by Laws of Utah 2023, Chapters 34, 253**

29 **ENACTS:**

30 **73-3-30.3 , Utah Code Annotated 1953**

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

33 **Section 1. Section 73-2-14 is amended to read:**

34 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**

35 (1) The state engineer shall charge fees pursuant to Section 63J-1-504 for the following:

36 (a) applications to appropriate water;

37 (b) applications to temporarily appropriate water;

38 (c) applications for a change;

39 (d) applications for exchange;

40 (e) applications for nonuse of water;

41 (f) applications to appropriate water, or make a change, for use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;

43 (g) groundwater recovery permits;

44 (h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;

45 (i) republication of notice to water users after amendment of application where required by this title;

47 (j) dedicated water applications;

48 [(j)] (k) applications to segregate;

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[{k}] (l) requests for an extension of time in which to submit proof of appropriation not to exceed 14 years after the date of approval of the application;

51 [f] (m) requests for an extension of time in which to submit proof of appropriation 14 years or more after the date of approval of the application;

53 [{m}] (n) groundwater recharge permits;

54 [{n}] (o) applications for a well driller's license, annual renewal of a well driller's license, and late annual renewal of a well driller's license;

56 [{e}] (p) certification of copies;

57 [{p}] (q) preparing copies of documents; and

58 [{q}] (r) reports of water right conveyance.

59 (2) [Fees] The state engineer shall base a fee for the services specified in Subsections (1)(a) through [({i}) shall be based] (j) upon the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and storage, the state engineer shall base the fee [shall be based] upon either the rate of flow or annual volume of water stored, whichever fee is greater.

64 (3) Fees collected under this section:

65 (a) shall be deposited into the General Fund as a dedicated credit to be used by the Division of Water Rights; and

67 (b) may only be used by the Division of Water Rights to:

68 (i) meet the publication of notice requirements under this title;

69 (ii) process reports of water right conveyance; and

70 (iii) hire an employee to assist with processing an application.

71 Section 2. Section **73-3-10** is amended to read:

73-3-10. Approval or rejection of application.

33 (1) When the state engineer approves or rejects an application, the state engineer shall record the approval decision or rejection decision in the state engineer's office.

35 (2) On the same day on which the state engineer makes an approval decision or rejection decision described in Subsection (1), the state engineer shall mail, or send electronically if receipt is verifiable, the decision to the applicant.

38 (3) If an application is approved, the applicant may, upon receipt of the approval decision:

39 (a) proceed with the construction of the necessary works;

40 (b) take any steps required to apply the water to the use described in the application; and

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41 (c) perfect the proposed application.

42 (4) If the application is rejected, the applicant may not take steps toward the prosecution of:

43 (a) the work proposed in the application; or

44 (b) the proposed diversion and use of the public water in the application.

45 (5) In a decision approving an application, other than an application for a fixed time period or a
46 dedicated water application, the state engineer shall state the time within which:

47 (a) the construction work [~~must~~] shall be completed; and

48 (b) the water [~~must~~] shall be applied to beneficial use.

89 Section 3. Section **73-3-16** is amended to read:

90 **73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof --**

**Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of
proof of appropriation or change.**

53 (1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state
engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when
proof of completion of the works and application of the water to a beneficial use is due.

57 (2)

58 (a) On or before the date set for completing the proof in accordance with the approved application, the
applicant shall file proof with the state engineer on forms furnished by the state engineer.

60 (b) The filing of a proof in accordance with this section is a request for agency action under Title 63G,
Chapter 4, Administrative Procedures Act, only between the applicant and the state engineer.

63 (3) Except as provided in Subsection (4), the applicant shall submit the following information:

65 (a) a description of the works constructed;

66 (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

67 (c) the method of:

68 (i) applying the water to beneficial use; or

69 (ii) verifying a net decrease in depletion or net reduction in diversion in accordance with an application
to quantify saved water, as defined in Section 73-3-3; and

71 (d)

72 (i) detailed measurements:

73 (A) of water put to beneficial use; and

74 (B) if applicable, demonstrating the quantity of saved water, as defined in Section 73-3-3;

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75 (ii) the date the measurements were made; and

76 (iii) the name of the person making the measurements.

77 (4)

78 (a)

79 (i) On applications filed for appropriation or permanent change of use of water to provide a water
80 supply for state projects constructed [pursuant to] in accordance with Chapter 10, Board of
81 Water Resources - Division of Water Resources, or for federal projects constructed by the
82 United States Bureau of Reclamation for the use and benefit of the state, any of [its] the state's
83 agencies, [its] the state's political subdivisions, public and quasi-municipal corporations,
84 or water users' associations of which the state, [its] the state's agencies, the state's political
85 subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall
86 include:

87 (A) a statement indicating construction of the project works has been completed;

88 (B) a description of the major features with appropriate maps, profiles, drawings, and reservoir
89 area-capacity curves;

90 (C) a description of the point or points of diversion and rediversion;

91 (D) project operation data;

92 (E) a map showing the place of use of water and a statement of the purpose and method of use;

93 (F) the project plan for beneficial use of water under the applications and the quantity of water
94 required; and

95 (G) a statement indicating what type of measuring devices have been installed.

96 (ii) The director of the Division of Water Resources shall sign proofs for the state projects and
97 an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects
98 specified in Subsection (4)(a)(i).

99 (b) Proof on an application for appropriation or permanent change for a surface storage facility in
100 excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the
101 reasonable requirements of the public shall include:

102 (i) a description of the completed water storage facility;

103 (ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir
104 area-capacity curves as required by the state engineer;

105 (iii) the quantity of water stored in acre-feet;

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105 (iv) a description of the water distribution facility for the delivery of the water; and
106 (v) the project plan for beneficial use of water including any existing contracts for water delivery.
108 (5) The proof on an application shall be sworn to by the applicant or the applicant's appointed
representative.
110 (6)
111 (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit [maps,
112 profiles, and drawings] a map, profile, or drawing made by a Utah licensed land surveyor or Utah
113 licensed professional engineer that [show] shows:
114 (i) the location of the completed works;
115 (ii) the nature and extent of the completed works;
116 (iii) the natural stream or source from which and the point where the water is diverted and, in the
117 case of a nonconsumptive use, the point where the water is returned; and
118 (iv) the place of use.
119 (b) The state engineer may waive the filing of [maps, profiles, and drawings] a map, profile, or drawing
120 if in the state engineer's opinion the written proof adequately describes the works and the nature and
121 extent of beneficial use.
122 (7) In those areas in which general determination proceedings are pending, or have been concluded,
123 under Chapter 4, Determination of Water Rights, the state engineer may petition the [district{}}
124 court with jurisdiction for permission to:
125 (a) waive the requirements of this section and Section 73-3-17; and
126 (b) permit each owner of an application to file a verified statement to the effect that the applicant has
127 completed the appropriation or change and elects to file a statement of water users claim in the
128 proposed determination of water rights or any supplement to [it] the determination of water rights
129 in accordance with Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or
130 proof of change.
131 (8) This section does not apply to an application for a fixed time[-or] , a temporary change application,
132 or dedicated water application as defined in Section 73-3-30.3.
133 Section 4. Section **73-3-27** is amended to read:
134 **73-3-27. Requests for segregation or consolidation.**
135 (1)

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(a) Upon written request, the state engineer shall segregate into two or more parts the following in the state engineer's records:

137 (i) an application to:

138 (A) under Section 73-3-2, appropriate water; or

139 (B) under Section 73-3-3, permanently change:

140 (I) the point of diversion;

141 (II) the place of water use; or

142 (III) the purpose of water use; and

143 (ii) a water right for which:

144 (A) the state engineer has issued a certificate according to Section 73-3-17;

145 (B) a court has entered a judgment according to Section 73-4-15; and

146 (C) a person has filed a claim according to Section 73-5-13.

147 (b) A person shall:

148 (i) submit the request authorized by Subsection (1)(a) on a form furnished by the state engineer; and

150 (ii) include:

151 (A) the water right number to be segregated;

152 (B) the name and post-office address of the owner of the application or water right;

153 (C) a statement of the nature of the proposed segregation;

154 (D) the reasons for the proposed segregation; and

155 (E) other information the state engineer may require to accomplish the segregation.

156 (c) Notwithstanding Subsection (1)(a)[,] :

157 (i) a person may not segregate saved water, as defined in Section 73-3-3, [may not be segregated] from the underlying water right that serves as the basis of the saved water, except in accordance with rules made under Section 73-2-1 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act[.] ; and

161 (ii) a person may not segregate a dedicated water application, as defined in Section 73-3-30.3, from the underlying water right or application that serves as the basis of the dedicated water application.

164 (2)

(a) An action taken by the state engineer on an application or water right before segregation is applicable in all respects to the segregated parts of the application or water right.

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- (b) After the state engineer segregates the application or water right, each segregated part is a separate application or water right in the state engineer's records.
- (c) The segregation of an application or a water right in the state engineer's records does not:
 - (i) confirm the validity or good standing of the segregated parts of the application or water right; or
 - (ii) extend the time for the construction of works for an application.
- (3) Upon written request, the state engineer may consolidate two or more applications or water rights if the applications or water rights:
 - (a) are from the same source;
 - (b) have the same priority date; and
 - (c) are sufficiently consistent in definition that the consolidated application or water right may be described without referring to the characteristics of the individual application or water right that existed before consolidation.

Section 5. Section **73-3-30** is amended to read:

73-3-30. Application for an instream flow or use on sovereign lands -- Application for delivery to a reservoir.

- (1) As used in this section:
 - (a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2 and 73-13-10.
 - (b) "Dedicated water application" means the same as that term is defined in Section 73-3-30.3.
 - [~~(b~~) (c) "Division" means:
 - (i) the Division of Wildlife Resources created in Section 23A-2-201[~~,~~] ;
 - (ii) the Division of State Parks created in Section 79-4-201[~~,~~] ; or
 - (iii) the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.
 - [~~(e)~~] (d) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.
 - [~~(d)~~] (e) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.
 - (f) "Wildlife" means the same as that term is defined in Section 23A-1-101.
 - [~~(e)~~ "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.]
- (2)
 - (a) [Pursuant to] In accordance with Section 73-3-3, for a purpose described in Subsection (2)(b):

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- (i) a division may file a permanent change application, a fixed time change application, [or] a temporary change application, or a dedicated water application; or
- (ii) a person entitled to the use of water may file a fixed time change application[or], a temporary change application, or a dedicated water application.

(b) A division or person entitled to the use of water may file an application described in Subsection (2)

- (a) to provide water within the state for:
 - (i) an instream flow within a specified section of a natural or altered stream; or
 - (ii) use on sovereign lands.
- [~~(b)~~] (c) The state engineer may not approve [a change] an application filed under this Subsection (2) unless the proposed instream flow or use on sovereign lands will contribute to:
 - (i) the propagation or maintenance of wildlife;
 - (ii) the management of state parks; or
 - (iii) the reasonable preservation or enhancement of the natural aquatic environment.
- [~~(e)~~] (d) A division may file [a change] an application described in Subsection (2)(a)(i) on:
 - (i) a perfected water right:
 - (A) presently owned by the division;
 - (B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or
 - (C) secured by lease, agreement, gift, exchange, or contribution; or
 - (ii) an appurtenant water right acquired with the acquisition of real property by the division.
- [~~(d)~~] (e) A division may:
 - (i) purchase a water right for the purposes described in Subsection [(2)(a)] (2)(b) only with [funds] money specifically appropriated by the Legislature for water rights purchases; or
 - (ii) accept a donated water right without legislative approval.
- [~~(e)~~] (f) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

- (3)
- (a) [A] Before filing an application described by Subsection (2)(a)(ii), a person entitled to the use of water shall obtain a division director's [approval of the proposed change before filing a fixed time change application or a temporary change application with the state engineer] written concurrence with the application.

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237 (b) By [approving a proposed fixed time change application or temporary change application] ~~concurring with a proposed application filed under Subsection (2)(a)(ii)~~, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

241 (4)

242 (a) [Pursuant to] In accordance with Section 73-3-3, a person entitled to the use of water may file a fixed time change application[~~or~~], a temporary change application, or a dedicated water application for a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with:

243 (i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;

244 (ii) a water conservation program funded by the Bureau of Reclamation; or

245 (iii) a water conservation program authorized by the state.

246 (b) Before filing [a~~change~~] an application under this Subsection (4), a person entitled to the use of water shall obtain the [approval] written concurrence to the application from the executive director of the Colorado River Authority of Utah, appointed under Section 63M-14-401.

247 (c) By [approving] concurring with a proposed [fixed time change application or temporary change application], the executive director of the Colorado River Authority of Utah attests that the water that is the subject of the application can be used consistent with this section.

248 (5) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:

249 (a) a legal description of:

250 (i) the segment of the natural or altered stream that will be the place of use for an instream flow;

251 (ii) the location where the water will be used on sovereign lands; or

252 (iii) the reservoir located partially or entirely within the Colorado River System in the state that the water will be delivered to; and

253 (b) appropriate studies, reports, or other information required by the state engineer demonstrating:

254 (i) the projected benefits to the public resulting from the [e~~change~~] application; and

255 (ii) the necessity for the proposed instream flow or use on sovereign lands.

256 (6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.

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- (7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.
- (8) A physical structure or physical diversion from the stream is not required to implement [a change] an application under this section.
- (9) An approved [change]-application described in this section does not create a right of access across private property or allow any infringement of a private property right.

Section 6. Section 6 is enacted to read:

73-3-30.3. Dedicated water application.

(1) As used in this section:

(a) "Agricultural land" means land in agricultural use, as defined in Section 59-2-502.

(b) "Dedicated water" means water that has been recognized for delivery or use under Section 73-3-30 and a dedicated water application.

(c) "Dedicated water application" means an application to change the existing nature of use {under and place of use for a water right by adding a nature of use for:

(i) an instream flow within a specified {section} reach of a natural or altered stream;

(ii) use on sovereign lands; or

(iii) a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with this section.

(d) "Split season use" means making sequential use of a portion of a water right in the same calendar year.

(2) A dedicated water application may:

(a) be filed for:

(i) a fixed period of time; or

(ii) an indefinite period of time; and

(b) include a split season use.

(3) Approval of a dedicated water application does not:

(a) change an existing element of the underlying water right;

(b) extend the time for filing proof or taking other required action associated with the underlying water right; or

(c) require the applicant to make dedicated water available for use in a given year or in a specific quantity or volume.

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300 (4)

301 (a) The state engineer shall process a dedicated water application in accordance with Sections 73-3-3 and 73-3-8.

302 (b) The state engineer shall prioritize the processing of a dedicated water application.

303 (c) The state engineer may deny a dedicated water application if the state engineer determines that the dedicated water application would result in land being removed from agricultural land for a full irrigation season in more than two years out of a five-year period on the same agricultural field.

307 (5) The state engineer may require an owner of an approved dedicated water application under this section to provide:

309 (a) annual notice of intent to exercise the dedicated water application;

310 (b) information about the annual volume of water to be dedicated by the owner from the underlying water right; and

312 (c) other information the state engineer considers necessary to:

313 (i) ensure the dedication of water is taking place;

314 (ii) establish that the owner still has a legal interest in the underlying water right used as the basis for the dedication of water; or

316 (iii) determine the quantity of water being dedicated.

317 (6) An approved dedicated water application lapses:

318 (a) automatically on the date the underlying water right that is the basis of the dedicated application:

320 (i) lapses;

321 (ii) is withdrawn; or

322 (iii) is declared forfeited or abandoned; or

323 (b) upon notice from the state engineer if:

324 (i) the applicant {has lost} ~~no longer holds~~ a legal interest in the underlying water right that is the basis of the dedicated water application;

326 (ii) the delivery of dedicated water can no longer be carried out as stated in the dedicated water application;

328 (iii) the applicant has not complied with the conditions established by the state engineer in the order approving the dedicated water application; or

330 (iv) the applicant fails to provide the information requested by the state engineer under Subsection (5).

373 Section 7. **Effective date.**

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Effective Date.

This bill takes effect on May 6, 2026.

2-5-26 2:55 PM