

HB0494S01 compared with HB0494

~~{Omitted text}~~ shows text that was in HB0494 but was omitted in HB0494S01

inserted text shows text that was not in HB0494 but was inserted into HB0494S01

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1

Transfer of Water Interests

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor:Derrin R. Owens

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LONG TITLE

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General Description:

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This bill addresses water rights, shares in water companies, and their relationship to land conveyances.

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Highlighted Provisions:

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This bill:

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- modifies provisions related to the transfer of shares in water companies;

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- addresses that ownership of a share of stock is not maintained on the records of the state engineer;

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- addresses the nature of water company shares and the relationship to water companies; and

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- makes technical and conforming amendments.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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20 AMENDS:

21 **16-6a-606** , as last amended by Laws of Utah 2017, Chapter 358

22 **73-1-10** , as last amended by Laws of Utah 2013, Chapter 363

23 **73-1-11** , as last amended by Laws of Utah 2025, First Special Session, Chapter 17

24

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

26 Section 1. Section **16-6a-606** is amended to read:

27 **16-6a-606. Transfers.**

28 (1) Except as provided in Subsection (3), and unless otherwise provided in the articles of incorporation
or the bylaws, a member of a nonprofit corporation may not transfer:

30 (a) a membership; or

31 (b) any right arising from a membership.

32 (2) Except as provided in Subsection (3), where transfer rights have been provided in the articles
of incorporation or the bylaws of a nonprofit corporation, a restriction on transfer rights may not
be binding with respect to a member holding a membership issued before the adoption of the
restriction, unless the restriction is approved by the affected member.

37 (3)

(a) For a water company, unless otherwise provided by the articles of incorporation or bylaws[;] :

39 (i) ~~[]~~ownership of [~~shares~~] a share is transferrable[;] ; and

40 (ii) notwithstanding Subsection (3)(a)(i):

41 (A) a shareholder may not transfer a share on or after May 14, 2013, except in accordance with Title
70A, Chapter 8, Uniform Commercial Code - Investment Securities; and

44 (B) a share is not appurtenant to land.

45 (b) ~~[Any]~~ A restriction on the transfer of ownership under Subsection [~~(3)(a)~~] (3)(a)(i):

46 (i) shall be reasonable;

47 (ii) shall be adopted in good faith and for a legitimate purpose;

48 (iii) shall be adopted in the best interest of the water company and [~~its~~] the water company's
shareholders; and

50 (iv) may not discriminate against [~~any~~] an individual shareholder or class of shareholders, but in a water
company where there are classes or divisions of stock, restrictions may differ between the classes or
divisions.

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- 53 (c) A person who receives a water company share transferred under this section assumes the obligation
for any unpaid assessment related to the share.
- 55 (d) When {by way of} a water company's articles of incorporation or bylaws authorize the water
company {designates} to designate a specific unit of land or location on the unit of land to which
the water company {delivers} will deliver water, the designation obligates the water company to
deliver water only to the unit of land or location so designated unless the water company consents in
writing for the water to be delivered to a different unit of land or a different location.
- 61 [(e)] (e) Nothing in this section is intended to alter any right or remedy a shareholder may have under
Sections 16-6a-612, 16-6a-808, 16-6a-809, 16-6a-822, 16-6a-824, and 16-6a-825, or any other
applicable law.

64 Section 2. Section **73-1-10** is amended to read:

65 **73-1-10. Conveyance of water rights -- Deed -- Exceptions -- Filing and recording of deed --**
Report of water right conveyance.

67 (1)

- (a) A [water right] person shall transfer a water right by deed in substantially the same manner as real
estate, whether the water right is evidenced by:
- 69 (i) [] a decree[;] ;
- 70 (ii) [] a certificate of appropriation[;] ;
- 71 (iii) [] a {diligence{}} { \hat{H} } { } {diligence}{ } $\leftarrow \hat{H}$ } claim to the use of surface or underground
water[;] ; { \hat{H} } { } { } {filed with the } or }
- 72 (iv) { { $\leftarrow \hat{H}$ } { \hat{H} } { } { } {state engineer} a water user's claim filed in {accordance with Section
73-5-13 or as otherwise provided by law} general determination proceedings{ } { } $\leftarrow \hat{H}$ } ; [{ or
 } , shall be transferred by deed in substantially the same manner as is real estate
- 74 (iv) [] {a water user's claim filed in general determination proceedings} ;
- 74 (b) [{, shall be transferred by deed in substantially the same manner as is real estate} The deed must
be recorded] A person shall record the deed described in Subsection (1)(a) {;} in the office of the
recorder of
- 76 {(b)} { } ;
- 76 (i) [] {The deed must be recorded} the county where the point of diversion of the water is located{ }
{ A person shall record the deed described in Subsection (1)(a) - } ; in the office of the recorder of
and { :

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- 78 ~~{(i)}~~ [{the county where the point of diversion of the water is located} in]
- 77 (ii) {;and} the county where the water is used.
- 78 (c) ~~{[in]} A recorded deed of a water right shall from the time of {}~~
- 79 {(ii)} [the county where the water is used.] its
- 80 {(e)} [the deed's{A recorded deed of a water right shall from the time-} recording in the office of the
county recorder constitute notice of [its] the recorded deed's{-recording in the office of the county
recorder constitute notice of-} contents to all persons.
- 81 (d)
- (i) ~~{[its]} Beginning July 1, 2011, a deed under Subsection (1)(a) may include a water rights addendum~~
as provided in Section 57-3-109.{} the recorded deed's}
- 83 (ii) ~~{-contents to all persons}~~ The state engineer shall consider a water rights addendum that is recorded
and forwarded to the state engineer by a county recorder, in accordance with Section 57-3-109, as a
submitted report of water right conveyance under Subsection (3).
- 86 (2)
- (a) A transfer of ownership of a share of stock in a water company, as defined in Section 16-4-102, is
accomplished only in accordance with Section 16-6a-606.
- 88 (b) The records of a water company, and not the records of the state engineer, determine a person's
ownership of a share of stock in the water company.
- 83 [~~{(d)}~~] (2)
- {(i)} ~~{Beginning July 1, 2011,}~~ The right to the use of water evidenced by shares of stock in a {deed
under Subsection (1)(a) may include a water rights addendum as provided in Section 57-3-109}
corporation shall be transferred in accordance with the procedures applicable to securities set forth
in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities.
- 85 {(ii)} [
- 93 (3)
- (a) ~~{The state engineer shall consider a-}~~ To update water {rights addendum that is recorded and
forwarded to-} right ownership on the records of the state engineer {by-} , a {county recorder, in
accordance with Section 57-3-109, as-} water right owner shall submit a {submitted-} report of
water right conveyance {under Subsection (3)} to the state engineer.
- 88 {(2)}

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- {(a)} {A transfer of ownership of a share of stock in a water company, as defined in Section 16-4-102, is accomplished only in accordance with Section 16-6a-606.}
- 90 { ~~H~~ → (i) ~~(b)~~ ← ~~H~~ } The records of a water company, and not the records of the state engineer, determine a person's ownership of a share of stock in the water company.}
- 92 ~~{{(2)}~~ (b) } The ~~report~~ right to the use of water ~~right conveyance~~ evidenced by shares of stock in a corporation shall be ~~{on forms provided by}~~ transferred in accordance with the {state engineer} procedures applicable to securities set forth in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities:{}
- 95 ~~{(3)}~~ (c)
- {(a)} ~~To update water right ownership on the records of the state engineer, a water right owner~~ } The report shall ~~{submit a report of water right conveyance to the state engineer.}~~ be prepared by:
- 97 ~~{(b)}~~ (i) ~~{The report of water right conveyance shall be on forms provided}~~ } or prepared under the direction of and certified by , any of the {state engineer.} following persons licensed in Utah:
- 99 ~~{(c)}~~ (A) ~~{The report shall be prepared by:}~~ an attorney;
- 100 ~~{(i)}~~ (B) ~~{or prepared under the direction of and certified by, any of the following persons licensed in Utah:}~~ a professional engineer;
- 102 ~~{(A)}~~ (C) a ~~{title insurance producer}~~ n attorney; {or}
- 103 ~~{(B)}~~ (D) a professional ~~{engineer;}~~ land surveyor; or
- 104 ~~{{(C)}~~ (ii) ~~{a title insurance producer; or}~~ the water right owner as authorized by rule of the state engineer.
- 105 ~~{(D)}~~ (d) ~~{a professional land surveyor; or}~~ The filing and processing of a report of water right conveyance with the state engineer is neither an adjudication of water right ownership nor an opinion as to title or validity of the water right.
- 106 ~~{(ii)}~~ (e) ~~{the water right owner as authorized by rule of the}~~ } The state engineer{:} shall
- 107 ~~{(d)}~~ [~~{The filing and processing of a report of water right conveyance with the state engineer is neither an adjudication of water right ownership nor an opinion as to title or validity of the water right.}~~ adopt
- 110 ~~{(e)}~~] make ~~{The state engineer shall}~~ rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~{{adopt}}~~ that specify:{}
- 110 (i) ~~{rules}~~ the information required in a report of water right conveyance; and
- 111

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(ii) ~~{, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:}~~ the procedures for processing

112 ~~{(i)}~~ [the {reports} information required in a report of water right conveyance; and

113 ~~{(ii)}~~] a report of water right conveyance ~~{the procedures for processing}~~ .

~~{{{the reports}}}{}~~ ~~{{a report of water right conveyance}};~~

112 Section 3. Section **73-1-11** is amended to read:

113 **73-1-11. Appurtenant water rights pass to grantee of land -- Exceptions -- Conveyance of a portion of irrigated land -- Right to the use of water evidenced by shares of stock -- Appurtenant water rights -- Evidence -- Where appurtenant -- Partial conveyances of water and land.**

119 (1)

(a) A water right appurtenant to land ~~[shall pass]~~ passes to the grantee of the land unless the grantor:

121 (i) specifically reserves the water right or any part of the water right in the land conveyance document;

123 (ii) conveys a part of the water right in the land conveyance document; or

124 (iii) conveys the water right in a separate conveyance document ~~[prior to]~~ before or contemporaneously with the execution of the land conveyance document.

126 (b) If a county recorder records a document that conveys a water right appurtenant to land as described in Subsection (1)(a) and relies on the document to maintain a tract index described in Section 17-71-302, the state engineer shall rely on the document as an effective conveyance of a water right appurtenant to land.

130 (2)

(a) If the water right has been ~~[exercised]~~ beneficially used in irrigating different parcels of land at different times, it shall pass to the grantee of a parcel of land on which the water right was ~~[exercised]~~ beneficially used next preceding the time the land conveyance was executed.

134 (b) Subsection (2)(a) applies only to land conveyances executed before May 4, 1998.

135 (3) In any conveyance, the grantee assumes the obligation for any unpaid assessment described in Subsection 73-5-1(3).

137 (4)

(a) ~~[The right to the use of water evidenced by shares of stock in a corporation]~~ A share of stock in a water company, as defined in Section 16-4-102:

139 (i) is not a water right;

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- 140 (ii) unless specifically provided for in Section 16-6a-606, is not appurtenant to land[-] ; and
142 (iii) is transferred only as provided in Section 16-6a-606.
- 143 (b) A person may not use a share of stock in a water company, as defined in Section 16-4-102, for
which the water company designates a specific unit of land or a location on a specific unit of land
where the water company delivers water in accordance with Section 16-6a-606 as the basis for
transferring ownership of or changing title to a water right belonging to the water company.
- 148 [~~(b) On or after May 14, 2013, unless provided otherwise in a corporation's articles of incorporation or~~
~~bylaws, the right to the use of water evidenced by shares of stock in a corporation shall transfer only~~
~~as provided in Subsection 73-1-10(2).]~~
- 151 (5)
- (a) This Subsection (5) governs land conveyances executed on or after May 4, 1998, and has no retrospective operation.
- 153 (b) For purposes of land conveyances only, a water right evidenced by any of the following documents is appurtenant to land:
- 155 (i) a decree entered by a court;
- 156 (ii) a certificate issued under Section 73-3-17;
- 157 (iii) a diligence claim for surface or underground water filed pursuant to Section 73-5-13;
- 159 (iv) a water user's claim executed for general determination of water rights proceedings conducted pursuant to Title 73, Chapter 4, Determination of Water Rights, or pursuant to Section 73-3-16;
- 162 (v) an approval for an application to appropriate water issued under Section 73-3-10;
- 163 (vi) an approval for an application to permanently change the place of use of water issued under Section 73-3-10; or
- 165 (vii) an approval for an application to exchange water issued under Section 73-3-20.
- 166 (c) For purposes of land conveyances only, the land to which a water right is appurtenant is the authorized place of use of water as described in the:
- 168 (i) decree;
- 169 (ii) certificate;
- 170 (iii) diligence claim;
- 171 (iv) water user's claim;
- 172 (v) approved application to appropriate water;
- 173 (vi) approved application to permanently change the place of use of water; or

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- 174 (vii) approved exchange application.
- 175 (d) If a grantor conveys part of the water right in a land conveyance document pursuant to Subsection
178 (1)(b), the portion of the water right not conveyed is presumed to be reserved by the grantor.
- 178 (e) If the land conveyed constitutes only a portion of the authorized place of use for the water right,
the amount of the appurtenant water right that passes to the grantee shall be proportionate to the
conveyed portion of the authorized place of use.
- 181 (6) Beginning July 1, 2011, a deed conveying fee simple title to land may include a water rights
addendum as provided in Section 57-3-109.

181 Section 4. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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