

HB0363S01 compared with HB0363

~~{Omitted text}~~ shows text that was in HB0363 but was omitted in HB0363S01

inserted text shows text that was not in HB0363 but was inserted into HB0363S01

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1 **Water Easement Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor:



2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses provisions related to a prescriptive easement for water conveyance.

6 **Highlighted Provisions:**

7 This bill:

8 **provides that a municipality has first priority to establish control of a prescriptive easement for water conveyance upon the holder of the easement filing a notice of intent to abandon;**

8 **requires a municipality that ~~{holds}~~ desires to establish control of a prescriptive easement for water conveyance to file a notice describing the use and location of the prescriptive easement in the office of the county recorder in which the easement is located;**

11 **~~{allows a municipality to establish control of a prescriptive easement for water conveyance subject to a notice of intent to abandon the easement;}~~**

13 **allows a municipality to convert the use of a prescriptive easement for water conveyance if the municipality:**

- 15 • mails notice of the converted use of the easement to each affected landowner;
- 16 •

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files a notice describing the converted use of the easement in the office of the county recorder;

- waits 120 days from the day the municipality sends notice to each affected landowner;
- receives no written objection to the converted use from an affected landowner; and
- limits the modified use of the easement to not burden an affected landowner's use of land, interfere with an existing easement, or expand the size of the easement; and
 - makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-13a-103, as enacted by Laws of Utah 2007, Chapter 318

57-13a-104, as last amended by Laws of Utah 2023, Chapter 435

ENACTS:

57-13a-105, Utah Code Annotated 1953

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

Section 1. Section **57-13a-103** is amended to read:

57-13a-103. Notice of easement.

(1) The holder of an easement established [~~as provided by~~] under Section 57-13a-102 may file a notice describing the easement in the office of the county recorder of each county in which the easement or a portion of the easement is located.

(2) A municipality that is a holder of an easement established under Section 57-13a-105 shall file a notice describing the use and location of the easement in the office of the county recorder in which the easement is located.

Section 2. Section **57-13a-104** is amended to read:

57-13a-104. Abandonment of prescriptive easement for water conveyance -- Transfer of abandoned easement to municipality.

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- (1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.
- 48 (2)
- (a) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 ~~[who]~~ that seeks to abandon the easement or part of the easement shall ~~[;]~~ ; :
- 52 (i) in each county {~~[where]~~} in which the easement or part of the easement is located, file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned ~~[;]~~ ; and
- 56 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal government in which the easement or part of the easement is located.
- 53 (b) A county recorder who receives a notice of intent to abandon a prescriptive easement shall:
- 55 (i) publish copies of the notice for the area generally served by the water conveyance that utilizes the easement, as a class A notice under Section 63G-30-102, for at least 45 days; and
- 58 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government ~~[where]~~ in which the easement or part of the easement is located~~[-]~~.
- 66 (c) Upon the filing of a notice of intent to abandon a prescriptive easement under Subsection (2)(a) (i), a municipality in which the prescriptive easement is located shall have first priority to establish control of any portion of the easement located within the municipality's boundaries in accordance with the requirements of Subsection (4)(b).
- 61 (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the last day on which the county recorder posts the notice of intent to abandon the prescriptive easement in accordance with Subsection (2)(b), the holder of the prescriptive easement shall file in the office of the county recorder for each county ~~[where]~~ in which the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a).
- 67 (4)
- (a) ~~[Upon]~~ Except as provided in Subsection (4)(b), upon completion of the requirements described in ~~[Subsection (2)]~~ Subsections (2) and (3):
- 69 (i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and
- 71 (ii) subject to each legal right that exists as described in Subsection ~~[(4)(b)]~~ (4)(c), the owner of a servient estate whose land was encumbered by the easement or part of the easement abandoned

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may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.

76 (b) Notwithstanding Subsection (4)(a), a municipality may establish control of a prescriptive easement that is subject to a notice of intent to abandon described in Subsection (2), if the municipality files a notice of intent to establish control of the prescriptive easement:

80 (i) in the office of the county recorder in which the easement is located; and

81 (ii) before the easement is abandoned under Subsection (4)(a).

82 [~~(b)~~] (c) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.

96 (d) Nothing in this section limits the ability of a municipality to receive a transfer of a prescriptive easement for a water conveyance directly from the holder of the prescriptive easement.

86 (5) A county recorder may bill the holder of the prescriptive easement for the cost of preparing, printing, and publishing the notice required under Subsection (2)(b).

101 Section 3. Section 3 is enacted to read:

102 **57-13a-105. Conversion of a prescriptive easement for water conveyance by municipalities.**

91 (1) A municipality that establishes control of a prescriptive easement that is subject to a notice of intent to abandon, as described in Subsection 57-13a-104(4)(b), shall:

93 (a) file a notice describing the use and location of the easement in the office of the county recorder in which the easement is located; and

95 (b) mail a notice that describes the use and location of the easement to each landowner whose land is encumbered by the easement.

97 (2)

(a) A municipality may convert the use of the prescriptive easement established under Subsection (1) if the municipality:

99 (i) mails a notice of the converted use of the easement to each landowner whose land is encumbered by the easement;

101 (ii) files a notice describing the converted use of the easement in the office of the county recorder in which the easement is located; and

103 (iii) waits 120 days from the day the municipality mails a notice under Subsection (2)(a)(i) before beginning the converted use.

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- 105 (b) A municipality may not convert the use of a portion of a prescriptive easement established under
106 this section if:
- 107 (i) a landowner whose land is encumbered by the portion of the easement provides a written objection
108 to the converted use to the municipality; or
- 109 (ii) the converted use:
- 110 (A) puts any greater burden on the landowner's use or enjoyment of the land;
- 111 (B) interferes with other easement holders; and
- 112 (C) expands the size of the easement.
- 113 (3)
- (a) A landowner waives any objection to a converted use of a prescriptive easement under this section
114 if the landowner does not submit a written objection to the municipality within 120 days of the
115 municipality providing notice described in Subsection (2)(a)(i).
- 116 (b) If a landowner objects to a municipality's converted use within 120 days of the municipality
117 providing notice described in Subsection (2)(a)(i), the municipality shall:
- 118 (i) cease the converted use on the landowner's portion of the easement;
- 119 (ii) negotiate with the landowner for the purchase of an easement or other property interest for the
120 converted use; or
- 121 (iii) bring a legal action to establish an easement or other property interest for the converted use.
- 122 (4) Transfer of a prescriptive easement under this section does not affect a legal right to deliver or
123 discharge water through a valid prescriptive easement established by a person other than the holder
124 of an easement under this section.
- 125 (5) A county recorder may bill the holder of the prescriptive easement for the cost of preparing,
126 printing, and publishing the notice required under Subsections (1) and (2).

142 Section 4. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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