

Jill Koford proposes the following substitute bill:

Industrial Water Users Transparency Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jill Koford

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses reporting related to water use and large industrial facilities.

Highlighted Provisions:

This bill:

- defines terms;
- directs land use authorities to issue certain notices;
- requires certain large industrial facilities to communicate with water providers;
- requires reporting by operators of certain large industrial facilities before construction and annually;
- addresses disclosure of the reported information;
- provides for enforcement mechanisms;
- addresses rulemaking; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

73-5-8.3, Utah Code Annotated 1953

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

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 industrial water users.**

99 (1) As used in this section:

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

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

104 (c) "Industrial business" means a private non-residential customer that uses water
105 primarily for manufacturing, processing, resource extraction, power generation,
106 large-scale computing or processing, or a similar industrial process.

107 (d) "Land use authority" means:

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

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

110 (e) "Large industrial facility" means the following used in connection with the operation
111 of an industrial business with an annual water withdrawal of 75 acre feet per year or
112 more:

113 (i) a factory, mill, plant, mine, refinery, warehouse, or building or collection of
114 buildings;

115 (ii) the land on which the facility is located; and

116 (iii) the machinery and equipment located at or within the facility.

117 (f) "Municipality" means the same as that term is defined in Section 10-1-104.

118 (g) "Operator of a large industrial facility" means the owner or operator of a large
119 industrial facility, or other person who has comparable rights of use over a large
120 industrial facility, including any person responsible for allocating space for external
121 use of information technology and network telecommunications equipment within the
122 large industrial facility.

123 (h) "Water provider" means:

124 (i) a retail water supplier, as defined in Section 19-4-102; or

125 (ii) a water conservancy district formed under Title 17B, Chapter 2a, Part 10, Water
126 Conservancy District Act.

127 (2) Before a land use authority of a municipality or county approves a land use application
128 for a large industrial facility, the land use authority shall notify the following by mail or
129 email:

130 (a) the division;

- 131 (b) the Division of Water Quality; and
132 (c) the relevant water provider, if any.
- 133 (3) On or after January 1, 2027, at least 90 days, but no sooner than 360 days, before the
134 operator of a large industrial facility begins construction activities related to a new large
135 industrial facility, the operator of the large industrial facility shall:
- 136 (a) notify in writing the water provider that provides water to the area where the large
137 industrial facility will be located to detail the anticipated water consumption needs of
138 the large industrial facility so that the water provider can determine whether the
139 anticipated water consumption of the large industrial facility is compatible with the
140 location in which the large industrial facility is being located; and
- 141 (b) report to the division:
- 142 (i) the municipality, if applicable, and county in which the large industrial facility
143 will be located;
- 144 (ii) the estimated amount of water that the large industrial facility will withdraw
145 annually;
- 146 (iii) plans to treat discharges, if applicable;
- 147 (iv) whether and, if so, the estimated extent to which discharge temperature will be
148 adjusted; and
- 149 (v) whether and, if so, the planned extent to which the large industrial facility will
150 engage in water reuse or activities to replace water used by the large industrial
151 facility.
- 152 (4)(a) Subject to Subsection (4)(b), after a large industrial facility begins operation, the
153 operator of the large industrial facility shall report to the division for the calendar
154 year being reported on:
- 155 (i) efforts made to reduce water consumption over the calendar year;
156 (ii) actual withdrawals for the calendar year;
157 (iii) efforts to protect the environment and public from polluted water, if applicable,
158 in the calendar year; and
- 159 (iv) other information required by the division by rule made in accordance with Title
160 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 161 (b) On and after January 1, 2027, an operator of a large industrial facility shall report to
162 the division the information required by Subsection (4)(a):
- 163 (i) unless the state engineer requires the large industrial facility to report water data
164 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

- 165 Rulemaking Act, under a statute other than this section; and
166 (ii)(A) annually by no later than July 1; and
167 (B) for the previous calendar year.
- 168 (5)(a) The division shall publish water withdrawal data for each large industrial facility
169 that is reported by a large industrial facility under Subsection (3)(b) or (4)(a) on the
170 division's public website by no later than September 1 for the previous calendar year,
171 and not in the aggregate.
- 172 (b) Notwithstanding Subsection (5)(a), the division shall treat information as proprietary
173 information that may not be disclosed as a protected record under Subsection
174 63G-2-305(2) if:
- 175 (i) the operator of the large industrial facility complies with Section 63G-2-309; and
176 (ii) the information is reported to the division under:
- 177 (A) Subsections (3)(b)(iii) through (v);
178 (B) Subsection (4)(a)(i) or (iii); or
179 (C) Subsection (4)(a)(iv), if at the time the division requires the information by
180 rule, the division provides that the division will treat the information as a
181 protected record in accordance with this Subsection (5)(b).
- 182 (c) The division shall annually disclose by no later than September 1 aggregated and
183 anonymized data based on the information that is a protected record described in
184 Subsection (5)(b):
- 185 (i) on the division's public website, organized by county; and
186 (ii) to each municipality or county in which is located a large industrial facility
187 required to report under Subsection (4).
- 188 (d) Notwithstanding the other provisions of this Subsection (5), the division shall
189 provide non-proprietary information from a report under Subsection (3) or (4) to the
190 Division of Water Quality and the relevant water provider, if any.
- 191 (6)(a) The division may enforce the reporting requirements in accordance with this
192 Subsection (6).
- 193 (b) If the operator of a large industrial facility fails to submit a report required under
194 Subsection (3) or (4) or submits an incomplete report, the division shall notify the
195 operator of the large industrial facility of the failure or incompleteness.
- 196 (c) If the operator of the large industrial facility fails to submit a complete report after
197 receipt of notice under Subsection (6)(b), the division shall impose a fine in
198 accordance with Section 73-2-25 of up to \$100 for each day the operator of the large

199 industrial facility fails to comply with this Subsection (6).

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

202 **Section 3. Effective Date.**

203 This bill takes effect on May 6, 2026.