

1

**Dedicated Water Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jill Koford**

Senate Sponsor:

2

**LONG TITLE**

3

**General Description:**

4

This bill addresses the approval of dedicated water applications.

5

**Highlighted Provisions:**

6

This bill:

7

- ▶ addresses provisions applicable to dedicated water applications;
- ▶ prohibits segregation of an underlying water right from dedicated water;
- ▶ addresses process for approval of instream flow and related actions;
- ▶ defines terms;
- ▶ provides for the filing and approval of a dedicated water application;
- ▶ addresses land in agricultural use;
- ▶ authorizes the state engineer to require certain reporting;
- ▶ addresses lapsing of a dedicated water application; and
- ▶ makes technical and conforming amendments.

8

**Money Appropriated in this Bill:**

9

None

10

**Other Special Clauses:**

11

None

12

**Utah Code Sections Affected:**

13

**AMENDS:**

14

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

15

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

16

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

17

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

18

**ENACTS:**

19

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

20

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

H.B. 348

31       Section 1. Section **73-3-10** is amended to read:

32       **73-3-10 . Approval or rejection of application.**

33       (1) When the state engineer approves or rejects an application, the state engineer shall  
34       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  
36       decision described in Subsection (1), the state engineer shall mail, or send electronically  
37       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  
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  
46       or a 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.

49       Section 2. Section **73-3-16** is amended to read:

50       **73-3-16 . Proof of appropriation or permanent change -- Notice -- Manner of  
51       proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing --  
52       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  
54       made, the state engineer shall notify the applicant by mail, or send notice electronically  
55       if receipt is verifiable, when proof of completion of the works and application of the  
56       water to a beneficial use is due.

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

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

63       (3) Except as provided in Subsection (4), the applicant shall submit the following  
64       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

70 with an application to quantify saved water, as defined in Section 73-3-3; and

71 (d)(i) detailed measurements:

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

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

74 73-3-3;

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

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

77 (4)(a)(i) On applications filed for appropriation or permanent change of use of water

78 to provide a water supply for state projects constructed ~~[pursuant to]~~ in accordance

79 with Chapter 10, Board of Water Resources - Division of Water Resources, or for

80 federal projects constructed by the United States Bureau of Reclamation for the

81 use and benefit of the state, any of ~~[its]~~ the state's agencies, ~~[its]~~ the state's political

82 subdivisions, public and quasi-municipal corporations, or water users' associations

83 of which the state, ~~[its]~~ the state's agencies, the state's political subdivisions, or

84 public and quasi-municipal corporations are stockholders, the proof shall include:

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

86 (B) a description of the major features with appropriate maps, profiles, drawings,

87 and reservoir area-capacity curves;

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

89 (D) project operation data;

90 (E) a map showing the place of use of water and a statement of the purpose and

91 method of use;

92 (F) the project plan for beneficial use of water under the applications and the

93 quantity of water required; and

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

95 (ii) The director of the Division of Water Resources shall sign proofs for the state

96 projects and an authorized official of the Bureau of Reclamation shall sign proofs

97 for the federal projects specified in Subsection (4)(a)(i).

98 (b) Proof on an application for appropriation or permanent change for a surface storage

99 facility in excess of 1,000 acre-feet constructed by a public water supplier to provide  
100 a water supply for the reasonable requirements of the public shall include:

101 (i) a description of the completed water storage facility;  
102 (ii) a description of the major project features and appropriate maps, profiles,  
103 drawings, and reservoir area-capacity curves as required by the state engineer;  
104 (iii) the quantity of water stored in acre-feet;  
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  
107 water delivery.

108 (5) The proof on an application shall be sworn to by the applicant or the applicant's  
109 appointed representative.

110 (6)(a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall  
111 submit [maps, profiles, and drawings] a map, profile, or drawing made by a Utah  
112 licensed land surveyor or Utah licensed professional engineer that [show] shows:

113 (i) the location of the completed works;  
114 (ii) the nature and extent of the completed works;  
115 (iii) the natural stream or source from which and the point where the water is diverted  
116 and, in the case of a nonconsumptive use, the point where the water is returned;  
117 and  
118 (iv) the place of use.

119 (b) The state engineer may waive the filing of [maps, profiles, and drawings] a map,  
120 profile, or drawing if in the state engineer's opinion the written proof adequately  
121 describes the works and the nature and extent of beneficial use.

122 (7) In those areas in which general determination proceedings are pending, or have been  
123 concluded, under Chapter 4, Determination of Water Rights, the state engineer may  
124 petition the [district] 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  
127 applicant has completed the appropriation or change and elects to file a statement of  
128 water users claim in the proposed determination of water rights or any supplement to [  
129 it] the determination of water rights in accordance with Chapter 4, Determination of  
130 Water Rights, in lieu of proof of appropriation or proof of change.

131 (8) This section does not apply to an application for a fixed time[-or] , a temporary change  
132 application, or dedicated water application as defined in Section 73-3-30.3.

133       Section 3. Section **73-3-27** is amended to read:

134       **73-3-27 . Requests for segregation or consolidation.**

135       (1)(a) Upon written request, the state engineer shall segregate into two or more parts the  
136       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  
149            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~~  
158            segregated] from the underlying water right that serves as the basis of the saved  
159            water, except in accordance with rules made under Section 73-2-1 and Title 63G,  
160            Chapter 3, Utah Administrative Rulemaking Act[.] ; and

161           (ii) a person may not segregate a dedicated water application, as defined in Section  
162            73-3-30.3, from the underlying water right or application that serves as the basis  
163            of the dedicated water application.

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

167 (b) After the state engineer segregates the application or water right, each segregated  
168 part is a separate application or water right in the state engineer's records.

169 (c) The segregation of an application or a water right in the state engineer's records does  
170 not:

171 (i) confirm the validity or good standing of the segregated parts of the application or  
172 water right; or

173 (ii) extend the time for the construction of works for an application.

174 (3) Upon written request, the state engineer may consolidate two or more applications or  
175 water rights if the applications or water rights:

176 (a) are from the same source;

177 (b) have the same priority date; and

178 (c) are sufficiently consistent in definition that the consolidated application or water  
179 right may be described without referring to the characteristics of the individual  
180 application or water right that existed before consolidation.

181 Section 4. Section **73-3-30** is amended to read:

182 **73-3-30 . Application for an instream flow or use on sovereign lands --**

183 **Application for delivery to a reservoir.**

184 (1) As used in this section:

185 (a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2  
186 and 73-13-10.

187 (b) "Dedicated water application" means the same as that term is defined in Section  
188 73-3-30.3.

189 [(b)] (c) "Division" means:

190 (i) the Division of Wildlife Resources created in Section 23A-2-201[;];

191 (ii) the Division of State Parks created in Section 79-4-201[;]; or

192 (iii) the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

193 [(e)] (d) "Person entitled to the use of water" means the same as that term is defined in  
194 Section 73-3-3.

195 [(d)] (e) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

196 (f) "Wildlife" means the same as that term is defined in Section 23A-1-101.

197 [(e)] (e) "Wildlife" means species of animals, including mammals, birds, fish, reptiles,  
198 amphibians, mollusks, and crustaceans, that are protected or regulated by a statute,  
199 law, regulation, ordinance, or administrative rule.]

200 (2)(a) [Pursuant to] In accordance with Section 73-3-3, for a purpose described in

201 Subsection (2)(b):

202 (i) a division may file a permanent change application, a fixed time change  
203 application, [or] a temporary change application, or a dedicated water application;  
204 or

205 (ii) a person entitled to the use of water may file a fixed time change application[or] ,  
206 a temporary change application, or a dedicated water application.

207 (b) A division or person entitled to the use of water may file an application described in  
208 Subsection (2)(a) to provide water within the state for:

209 (i) an instream flow within a specified section of a natural or altered stream; or  
210 (ii) use on sovereign lands.

211 [(b)] (c) The state engineer may not approve [a change] an application filed under this  
212 Subsection (2) unless the proposed instream flow or use on sovereign lands will  
213 contribute to:

214 (i) the propagation or maintenance of wildlife;  
215 (ii) the management of state parks; or  
216 (iii) the reasonable preservation or enhancement of the natural aquatic environment.

217 [(e)] (d) A division may file [a change] an application described in Subsection (2)(a)(i) on:  
218 (i) a perfected water right:

219 (A) presently owned by the division;  
220 (B) purchased by the division for the purpose of providing water for an instream  
221 flow or use on sovereign lands, through funding provided for that purpose by  
222 legislative appropriation; or  
223 (C) secured by lease, agreement, gift, exchange, or contribution; or

224 (ii) an appurtenant water right acquired with the acquisition of real property by the  
225 division.

226 [(d)] (e) A division may:

227 (i) purchase a water right for the purposes described in Subsection [(2)(a)] (2)(b) only  
228 with [funds] money specifically appropriated by the Legislature for water rights  
229 purchases; or  
230 (ii) accept a donated water right without legislative approval.

231 [(e)] (f) A division may not acquire water rights by eminent domain for an instream flow,  
232 use on sovereign lands, or for any other purpose.

233 (3)(a) [A] Before filing an application described by Subsection (2)(a)(ii), a person  
234 entitled to the use of water shall obtain a division director's [approval of the proposed

235 change before filing a fixed time change application or a temporary change  
236 application with the state engineer] written concurrence with the application.

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

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

- 245 (i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;
- 246 (ii) a water conservation program funded by the Bureau of Reclamation; or
- 247 (iii) a water conservation program authorized by the state.

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

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

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

258 (a) a legal description of:

- 259 (i) the segment of the natural or altered stream that will be the place of use for an  
260 instream flow;
- 261 (ii) the location where the water will be used on sovereign lands; or
- 262 (iii) the reservoir located partially or entirely within the Colorado River System in the  
263 state that the water will be delivered to; and

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

- 266 (i) the projected benefits to the public resulting from the [ehange] application; and
- 267 (ii) the necessity for the proposed instream flow or use on sovereign lands.

268 (6) A person may not appropriate unappropriated water under Section 73-3-2 for the

269 purpose of providing an instream flow or use on sovereign lands.

270 (7) Water used in accordance with this section is considered to be beneficially used, as  
271 required by Section 73-3-1.

272 (8) A physical structure or physical diversion from the stream is not required to implement [  
273 a change] an application under this section.

274 (9) An approved [echange] application described in this section does not create a right of  
275 access across private property or allow any infringement of a private property right.  
276 Section 5. Section **73-3-30.3** is enacted to read:

277 **73-3-30.3 . Dedicated water application.**

278 (1) As used in this section:

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

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

282 (c) "Dedicated water application" means an application to change the existing nature of  
283 use under a water right by adding a nature of use for:  
284 (i) an instream flow within a specified section of a natural or altered stream;  
285 (ii) use on sovereign lands; or  
286 (iii) a project to deliver water to a reservoir located partially or entirely within the  
287 Colorado River System in the state in accordance with this section.

288 (d) "Split season use" means making sequential use of a portion of a water right.

289 (2) A dedicated water application may:

290 (a) be filed for:  
291 (i) a fixed period of time; or  
292 (ii) an indefinite period of time; and  
293 (b) include a split season use.

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

295 (a) change an existing element of the underlying water right;  
296 (b) extend the time for filing proof or taking other required action associated with the  
297 underlying water right; or  
298 (c) require the applicant to make dedicated water available for use in a given year or in a  
299 specific quantity or volume.

300 (4)(a) The state engineer shall process a dedicated water application in accordance with  
301 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  
304 determines that the dedicated water application would result in land being removed  
305 from agricultural land for a full irrigation season in more than two years out of a  
306 five-year period on the same agricultural field.

307 (5) The state engineer may require an owner of an approved dedicated water application  
308 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  
311 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  
315 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  
319 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 a legal interest in the underlying water right that is the basis  
325 of the dedicated water application;  
326 (ii) the delivery of dedicated water can no longer be carried out as stated in the  
327 dedicated water application;  
328 (iii) the applicant has not complied with the conditions established by the state  
329 engineer in the order approving the dedicated water application; or  
330 (iv) the applicant fails to provide the information requested by the state engineer  
331 under Subsection (5).

332 **Section 6. Effective Date.**

333 This bill takes effect on May 6, 2026.