

Nelson T. Abbott proposes the following substitute bill:

Water Easement Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor:

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▸ 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;

▸ requires a municipality that 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;

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

- mails notice of the converted use of the easement to each affected landowner;
- 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:

29 AMENDS:

30 **57-13a-103**, as enacted by Laws of Utah 2007, Chapter 318

31 **57-13a-104**, as last amended by Laws of Utah 2023, Chapter 435

32 ENACTS:

33 **57-13a-105**, Utah Code Annotated 1953



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

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

37 **57-13a-103 . Notice of easement.**

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

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

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

45 **57-13a-104 . Abandonment of prescriptive easement for water conveyance --**
46 **Transfer of abandoned easement to municipality.**

47 (1) A holder of a prescriptive easement for a water conveyance established under Section
48 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

49 (2)(a) A holder of a prescriptive easement for a water conveyance established under
50 Section 57-13a-102 [~~who~~] that seeks to abandon the easement or part of the easement
51 shall[;] :

52 (i) in each county where the easement or part of the easement is located, file in the
53 office of the county recorder a notice of intent to abandon the prescriptive
54 easement that describes the easement or part of the easement to be abandoned[;] ;

55 and

56 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each
57 municipal government in which the easement or part of the easement is located.

58 (b) A county recorder who receives a notice of intent to abandon a prescriptive easement
59 shall:

60 (i) publish copies of the notice for the area generally served by the water conveyance
61 that utilizes the easement, as a class A notice under Section 63G-30-102, for at
62 least 45 days; and

63 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each
 64 municipal and county government [where] in which the easement or part of the
 65 easement is located[-].

66 (c) Upon the filing of a notice of intent to abandon a prescriptive easement under
 67 Subsection (2)(a)(i), a municipality in which the prescriptive easement is located
 68 shall have first priority to establish control of any portion of the easement located
 69 within the municipality's boundaries in accordance with the requirements of
 70 Subsection (4)(b).

71 (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the last
 72 day on which the county recorder posts the notice of intent to abandon the prescriptive
 73 easement in accordance with Subsection (2)(b), the holder of the prescriptive easement
 74 shall file in the office of the county recorder for each county [where] in which the
 75 easement or part of the easement is located a notice of abandonment that contains the
 76 same description required by Subsection (2)(a).

77 (4)(a) [~~Upon-~~] Except as provided in Subsection (4)(b), upon completion of the
 78 requirements described in [~~Subsection (2)-~~] Subsections (2) and (3):

79 (i) all interest to the easement or part of the easement abandoned by the holder of the
 80 easement is extinguished; and

81 (ii) subject to each legal right that exists as described in Subsection [~~(4)(b)~~] (4)(c), the
 82 owner of a servient estate whose land was encumbered by the easement or part of
 83 the easement abandoned may reclaim the land area occupied by the former
 84 easement or part of the easement and resume full utilization of the land without
 85 liability to the former holder of the easement.

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

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

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

92 [~~(b)~~] (c) Abandonment of a prescriptive easement under this section does not affect a
 93 legal right to have water delivered or discharged through the water conveyance and
 94 easement established by a person other than the holder of the easement who abandons
 95 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

97 prescriptive easement for a water conveyance directly from the holder of the
98 prescriptive easement.

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

101 Section 3. Section **57-13a-105** is enacted to read:

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

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

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

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

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

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

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

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

118 (b) A municipality may not convert the use of a portion of a prescriptive easement
119 established under this section if:

120 (i) a landowner whose land is encumbered by the portion of the easement provides a
121 written objection to the converted use to the municipality; or

122 (ii) the converted use:

123 (A) puts any greater burden on the landowner's use or enjoyment of the land;

124 (B) interferes with other easement holders; and

125 (C) expands the size of the easement.

126 (3)(a) A landowner waives any objection to a converted use of a prescriptive easement
127 under this section if the landowner does not submit a written objection to the
128 municipality within 120 days of the municipality providing notice described in
129 Subsection (2)(a)(i).

130 (b) If a landowner objects to a municipality's converted use within 120 days of the

131 municipality providing notice described in Subsection (2)(a)(i), the municipality shall:

132 (i) cease the converted use on the landowner's portion of the easement;

133 (ii) negotiate with the landowner for the purchase of an easement or other property
134 interest for the converted use; or

135 (iii) bring a legal action to establish an easement or other property interest for the
136 converted use.

137 (4) Transfer of a prescriptive easement under this section does not affect a legal right to
138 deliver or discharge water through a valid prescriptive easement established by a person
139 other than the holder of an easement under this section.

140 (5) A county recorder may bill the holder of the prescriptive easement for the cost of
141 preparing, printing, and publishing the notice required under Subsections (1) and (2).

142 **Section 4. Effective Date.**

143 This bill takes effect on May 6, 2026.