

Nelson T. Abbott proposes the following substitute bill:

Water Easement Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor:

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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 political subdivision 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 political subdivision to convert the use of a prescriptive easement for water conveyance if the political subdivision:
 - 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 political subdivision 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

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **57-13a-101**, as enacted by Laws of Utah 1997, Chapter 17532 **57-13a-103**, as enacted by Laws of Utah 2007, Chapter 31833 **57-13a-104**, as last amended by Laws of Utah 2023, Chapter 435

34 ENACTS:

35 **57-13a-105**, Utah Code Annotated 1953

36

37 *Be it enacted by the Legislature of the state of Utah:*38 Section 1. Section **57-13a-101** is amended to read:39 **57-13a-101 . Definitions.**

40 As used in this chapter:

41 (1) "Political subdivision" means:42 (a) a county;43 (b) a municipality, as that term is defined in Section 10-1-104;44 (c) a special district, as that term is defined in Section 17B-1-102;45 (d) a special service district, as that term is defined in Section 17D-1-102;46 (e) an interlocal entity, as that term is defined in Section 11-13-103; or47 (f) a conservation district, as that term is defined in Section 17D-3-102.48 [(+) (2) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying
49 water.50 [(2)] (3) "Water user" means a water user or the water user's predecessor whose water being
51 conveyed is represented by a water right recognized under state law or by shares in a
52 mutual irrigation company.53 Section 2. Section **57-13a-103** is amended to read:54 **57-13a-103 . Notice of easement.**55 (1) The holder of an easement established [~~as provided by~~] under Section 57-13a-102
56 may file a notice describing the easement in the office of the county recorder of each
57 county in which the easement or a portion of the easement is located.58 (2) A political subdivision that is a holder of an easement established under Section
59 57-13a-105 shall file a notice describing the use and location of the easement in the
60 office of the county recorder in which the easement is located.61 Section 3. Section **57-13a-104** is amended to read:62 **57-13a-104 . Abandonment of prescriptive easement for water conveyance --**

63 **Transfer of abandoned easement to political subdivision.**

64 (1) A holder of a prescriptive easement for a water conveyance established under Section
65 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

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

69 (i) in each county where the easement or part of the easement is located, file in the
70 office of the county recorder a notice of intent to abandon the prescriptive
71 easement that describes the easement or part of the easement to be abandoned[-] ;
72 and

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

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

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

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

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

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

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

96 (i) all interest to the easement or part of the easement abandoned by the holder of the

97 easement is extinguished; and
98 (ii) subject to each legal right that exists as described in Subsection [~~(4)(b)~~] (4)(c), the
99 owner of a servient estate whose land was encumbered by the easement or part of
100 the easement abandoned may reclaim the land area occupied by the former
101 easement or part of the easement and resume full utilization of the land without
102 liability to the former holder of the easement.

103 (b) Notwithstanding Subsection (4)(a), a political subdivision may establish control of a
104 prescriptive easement that is subject to a notice of intent to abandon described in
105 Subsection (2), if the political subdivision files a notice of intent to establish control
106 of the prescriptive easement:

- 107 (i) in the office of the county recorder in which the easement is located; and
108 (ii) before the easement is abandoned under Subsection (4)(a).

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

113 (d) Nothing in this section limits the ability of a political subdivision to receive a
114 transfer of a prescriptive easement for a water conveyance directly from the holder of
115 the prescriptive easement.

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

118 Section 4. Section **57-13a-105** is enacted to read:

119 **57-13a-105 . Conversion of a prescriptive easement for water conveyance by**
120 **political subdivisions.**

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

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

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

127 (2)(a) A political subdivision may convert the use of the prescriptive easement
128 established under Subsection (1) if the political subdivision:

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

- 131 (ii) files a notice describing the converted use of the easement in the office of the
132 county recorder in which the easement is located; and
- 133 (iii) waits 120 days from the day the political subdivision mails a notice under
134 Subsection (2)(a)(i) before beginning the converted use.
- 135 (b) A political subdivision may not convert the use of a portion of a prescriptive
136 easement established under this section if:
- 137 (i) a landowner whose land is encumbered by the portion of the easement provides a
138 written objection to the converted use to the political subdivision; or
- 139 (ii) the converted use:
- 140 (A) puts any greater burden on the landowner's use or enjoyment of the land;
141 (B) interferes with other easement holders; and
142 (C) expands the size of the easement.
- 143 (3)(a) A landowner waives any objection to a converted use of a prescriptive easement
144 under this section if the landowner does not submit a written objection to a political
145 subdivision within 120 days of the political subdivision providing a notice described
146 in Subsection (2)(a)(i).
- 147 (b) If a landowner objects to a political subdivision's converted use within 120 days of
148 the political subdivision providing notice described in Subsection (2)(a)(i), the
149 political subdivision shall:
- 150 (i) cease the converted use on the landowner's portion of the easement;
151 (ii) negotiate with the landowner for the purchase of an easement or other property
152 interest for the converted use; or
- 153 (iii) bring a legal action to establish an easement or other property interest for the
154 converted use.
- 155 (4) Transfer of a prescriptive easement under this section does not affect a legal right to
156 deliver or discharge water through a valid prescriptive easement established by a person
157 other than the holder of an easement under this section.
- 158 (5) A county recorder may bill the holder of the prescriptive easement for the cost of
159 preparing, printing, and publishing the notice required under Subsections (1) and (2).

160 Section 5. **Effective Date.**

161 This bill takes effect on May 6, 2026.