

1 **Water Planning Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Shallenberger

Senate Sponsor:

2 **LONG TITLE**3 **General Description:**

4 This bill modifies provisions related to the planning of future water supply.

5 **Highlighted Provisions:**

6 This bill:

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- 8 ▶ defines and modifies terms;
- 9 ▶ provides that the state engineer may grant a non-use application for a qualified entity's

10 water right;

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- 12 ▶ requires counties, municipalities, and special districts to adopt a written plan for
- 13 determining the reasonable future water requirement of the public before imposing a
- 14 water exaction;

15

- 16 ▶ requires the state engineer to make rules to establish standards for the written plan; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**23 **AMENDS:**24 **10-20-911 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
25 First Special Session, Chapter 1526 **17-79-812 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
27 First Special Session, Chapter 1428 **17B-1-120 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 15, 255
29 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30)**, as last amended by Laws of
30 Utah 2024, Chapter 233

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

31 Section 1. Section **10-20-911** is amended to read:

32 **10-20-911 (Effective 05/06/26). Exactions -- Exaction for water interest --**

33 **Requirement to offer to original owner property acquired by exaction.**

34 (1) A municipality may impose an exaction or exactions on development proposed in a land
35 use application, including, subject to Subsection (3), an exaction for a water interest, if:

36 (a) an essential link exists between a legitimate governmental interest and each exaction;
37 and
38 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
39 proposed development.

40 (2) If a land use authority imposes an exaction for another governmental entity:

41 (a) the governmental entity shall request the exaction; and
42 (b) the land use authority shall transfer the exaction to the governmental entity for which
43 it was exacted.

44 (3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base
45 an exaction for a water interest on the culinary water authority's established
46 calculations of projected water interest requirements.

47 (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
48 an exaction for a culinary water interest on:

49 (A) consideration of the system-wide minimum sizing standards established for
50 the culinary water authority by the Division of Drinking Water in accordance
51 with Section 19-4-114; and
52 (B) the number of equivalent residential connections associated with the culinary
53 water demand for each specific development proposed in the development's
54 land use application, applying lower exactions for developments with lower
55 equivalent residential connections as demonstrated by at least five years of
56 usage data for like land uses within the municipality.

57 (iii) A municipality may impose an exaction for a culinary water interest that results
58 in less water being exacted than would otherwise be exacted under Subsection
59 (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there
60 is good cause to do so.

61 (iv)(A) A municipality shall make public the methodology used to comply with
62 Subsection (3)(a)(ii)(B).

63 (B) A land use applicant may appeal to the municipality's governing body an
64 exaction calculation used by the municipality under Subsection (3)(a)(ii).

65 (C) A land use applicant may present data and other information that illustrates a
66 need for an exaction recalculation and the municipality's governing body shall
67 respond with due process.

68 (v) Upon an applicant's request, the culinary water authority shall provide the
69 applicant with the basis for the culinary water authority's calculations under
70 Subsection (3)(a)(i) on which an exaction for a water interest is based.

71 (b)(i) A municipality may not impose an exaction for a water interest if:

72 (A) the culinary water authority's existing available water interests exceed the
73 water interests needed to meet the reasonable future water requirement of the
74 public[, as determined under Subsektion 73-1-4(2)(f).] ; or

75 (B) the municipality or the municipality's culinary water authority does not have a
76 written plan described in Subsection (3)(b)(ii).

77 (ii) Beginning on January 1, 2027, a municipality shall determine the municipality's
78 water interests needed to meet the reasonable future water requirement of the
79 public by completing a written plan described in Subsection 73-1-4(2)(f).

80 (4)(a) If a municipality plans to dispose of surplus real property that was acquired under
81 this section and has been owned by the municipality for less than 15 years, the
82 municipality shall first offer to reconvey the property, without receiving additional
83 consideration, to the person who granted the property to the municipality.

84 (b) A person to whom a municipality offers to reconvey property under Subsection (4)(a)
85 has 90 days to accept or reject the municipality's offer.

86 (c) If a person to whom a municipality offers to reconvey property declines the offer, the
87 municipality may offer the property for sale.

88 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by
89 a community reinvestment agency.

90 (5)(a) A municipality may not, as part of an infrastructure improvement, require the
91 installation of pavement on a residential roadway at a width in excess of 32 feet.

92 (b) Subsection (5)(a) does not apply if a municipality requires the installation of
93 pavement in excess of 32 feet:

94 (i) in a vehicle turnaround area;

95 (ii) in a cul-de-sac;

96 (iii) to address specific traffic flow constraints at an intersection, mid-block
97 crossings, or other areas;

98 (iv) to address an applicable general or master plan improvement, including

99 transportation, bicycle lanes, trails, or other similar improvements that are not
100 included within an impact fee area;

101 (v) to address traffic flow constraints for service to or abutting higher density
102 developments or uses that generate higher traffic volumes, including community
103 centers, schools, and other similar uses;

104 (vi) as needed for the installation or location of a utility which is maintained by the
105 municipality and is considered a transmission line or requires additional roadway
106 width;

107 (vii) for third-party utility lines that have an easement preventing the installation of
108 utilities maintained by the municipality within the roadway;

109 (viii) for utilities over 12 feet in depth;

110 (ix) for roadways with a design speed that exceeds 25 miles per hour;

111 (x) as needed for flood and stormwater routing;

112 (xi) as needed to meet fire code requirements for parking and hydrants; or

113 (xii) as needed to accommodate street parking.

114 (c) Nothing in this section shall be construed to prevent a municipality from approving a
115 road cross section with a pavement width less than 32 feet.

116 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
117 excess of 32 feet on a residential roadway.

118 (ii) A land use applicant that has appealed a municipal specification for a residential
119 roadway pavement width in excess of 32 feet may request that the municipality
120 assemble a panel of qualified experts to serve as the appeal authority for purposes
121 of determining the technical aspects of the appeal.

122 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
123 described in Subsection (5)(d)(ii) shall consist of the following three experts:

124 (A) one licensed engineer, designated by the municipality;

125 (B) one licensed engineer, designated by the land use applicant; and

126 (C) one licensed engineer, agreed upon and designated by the two designated
127 engineers under Subsections (5)(d)(iii)(A) and (B).

128 (iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii)
129 may not have an interest in the application that is the subject of the appeal.

130 (v) The land use applicant shall pay:

131 (A) 50% of the cost of the panel; and

132 (B) the municipality's published appeal fee.

133 (vi) The decision of the panel is a final decision, subject to a petition for review under
134 Subsection (5)(d)(vii).

135 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
136 may file a petition for review of the decision with the district court within 30 days
137 after the date that the decision is final.

138 (6) A provider of culinary or secondary water that commits to provide a water service
139 required by a land use application process is subject to the provisions of this section the
140 same as if the provider were a municipality.

141 Section 2. Section **17-79-812** is amended to read:

142 **17-79-812 (Effective 05/06/26). Exactions -- Exaction for water interest --**

143 **Requirement to offer to original owner property acquired by exaction.**

144 (1) A county may impose an exaction or exactions on development proposed in a land use
145 application, including, subject to Subsection (3), an exaction for a water interest, if:
146 (a) an essential link exists between a legitimate governmental interest and each exaction;
147 and

148 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
149 proposed development.

150 (2) If a land use authority imposes an exaction for another governmental entity:

151 (a) the governmental entity shall request the exaction; and

152 (b) the land use authority shall transfer the exaction to the governmental entity for which
153 it was exacted.

154 (3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if applicable,
155 the county's culinary water authority shall base any exaction for a water interest
156 on the culinary water authority's established calculations of projected water
157 interest requirements.

158 (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
159 an exaction for a culinary water interest on:

160 (A) consideration of the system-wide minimum sizing standards established for
161 the culinary water authority by the Division of Drinking Water in accordance
162 with Section 19-4-114; and

163 (B) the number of equivalent residential connections associated with the culinary
164 water demand for each specific development proposed in the development's
165 land use application, applying lower exactions for developments with lower
166 equivalent residential connections as demonstrated by at least five years of

167 usage data for like land uses within the county.

168 (iii) A county or culinary water authority may impose an exaction for a culinary
169 water interest that results in less water being exacted than would otherwise be
170 exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the
171 county's or culinary water authority's sole discretion, determines there is good
172 cause to do so.

173 (iv) A county shall make public the methodology used to comply with Subsection
174 (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an
175 exaction calculation used by the county or the county's culinary water authority
176 under Subsection (3)(a)(ii). A land use applicant may present data and other
177 information that illustrates a need for an exaction recalculation and the county's
178 governing body shall respond with due process.

179 (v) Upon an applicant's request, the culinary water authority shall provide the
180 applicant with the basis for the culinary water authority's calculations under
181 Subsection (3)(a)(i) on which an exaction for a water interest is based.

182 (b)(i) A county or the county's culinary water authority may not impose an exaction
183 for a water interest if:

184 (A) the culinary water authority's existing available water interests exceed the
185 water interests needed to meet the reasonable future water requirement of the
186 public[, as determined under Subsection 73-1-4(2)(f).] ; or

187 (B) the county or the county's culinary water authority does not have a written
188 plan described in Subsection (3)(b)(ii).

189 (ii) Beginning on January 1, 2027, a county shall determine the county's water
190 interests needed to meet the reasonable future water requirement of the public by
191 completing a written plan described in Subsection 73-1-4(2)(f).

192 (4)(a) If a county plans to dispose of surplus real property under Section 17-78-103 that
193 was acquired under this section and has been owned by the county for less than 15
194 years, the county shall first offer to reconvey the property, without receiving
195 additional consideration, to the person who granted the property to the county.

196 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has
197 90 days to accept or reject the county's offer.

198 (c) If a person to whom a county offers to reconvey property declines the offer, the
199 county may offer the property for sale.

200 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by

201 a community development or urban renewal agency.

202 (5)(a) A county may not, as part of an infrastructure improvement, require the

203 installation of pavement on a residential roadway at a width in excess of 32 feet.

204 (b) Subsection (5)(a) does not apply if a county requires the installation of pavement in
205 excess of 32 feet:

206 (i) in a vehicle turnaround area;

207 (ii) in a cul-de-sac;

208 (iii) to address specific traffic flow constraints at an intersection, mid-block
209 crossings, or other areas;

210 (iv) to address an applicable general or master plan improvement, including
211 transportation, bicycle lanes, trails, or other similar improvements that are not
212 included within an impact fee area;

213 (v) to address traffic flow constraints for service to or abutting higher density
214 developments or uses that generate higher traffic volumes, including community
215 centers, schools, and other similar uses;

216 (vi) as needed for the installation or location of a utility which is maintained by the
217 county and is considered a transmission line or requires additional roadway width;

218 (vii) for third-party utility lines that have an easement preventing the installation of
219 utilities maintained by the county within the roadway;

220 (viii) for utilities over 12 feet in depth;

221 (ix) for roadways with a design speed that exceeds 25 miles per hour;

222 (x) as needed for flood and stormwater routing;

223 (xi) as needed to meet fire code requirements for parking and hydrants; or

224 (xii) as needed to accommodate street parking.

225 (c) Nothing in this section shall be construed to prevent a county from approving a road
226 cross section with a pavement width less than 32 feet.

227 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
228 excess of 32 feet on a residential roadway.

229 (ii) A land use applicant that has appealed a municipal specification for a residential
230 roadway pavement width in excess of 32 feet may request that the county
231 assemble a panel of qualified experts to serve as the appeal authority for purposes
232 of determining the technical aspects of the appeal.

233 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
234 Subsection (5)(d)(ii) shall consist of the following three experts:

235 (A) one licensed engineer, designated by the county;
236 (B) one licensed engineer, designated by the land use applicant; and
237 (C) one licensed engineer, agreed upon and designated by the two designated
238 engineers under Subsections (5)(d)(iii)(A) and (B).

239 (iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may
240 not have an interest in the application that is the subject of the appeal.

241 (v) The land use applicant shall pay:
242 (A) 50% of the cost of the panel; and
243 (B) the county's published appeal fee.

244 (vi) The decision of the panel is a final decision, subject to a petition for review under
245 Subsection (5)(d)(vii).

246 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may
247 file a petition for review of the decision with the district court within 30 days after
248 the date that the decision is final.

249 Section 3. Section **17B-1-120** is amended to read:

250 **17B-1-120 (Effective 05/06/26). Exactions -- Exaction for water interest --**

251 **Requirement to offer to original owner property acquired by exaction.**

252 (1) A special district may impose an exaction on a service received by an applicant,
253 including, subject to Subsection (2), an exaction for a water interest if:
254 (a) the special district establishes that a legitimate special district interest makes the
255 exaction essential; and
256 (b) the exaction is roughly proportionate, both in nature and extent, to the impact of the
257 proposed service on the special district.

258 (2)(a)(i) Subject to the requirements of this Subsection (2), a special district shall
259 base an exaction for a water interest on the culinary water authority's established
260 calculations of projected water interest requirements.

261 (ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base
262 an exaction for a culinary water interest on:
263 (A) consideration of the system-wide minimum sizing standards established for
264 the culinary water authority by the Division of Drinking Water [pursuant to] in
265 accordance with Section 19-4-114; and
266 (B) the number of equivalent residential connections associated with the culinary
267 water demand for each specific development proposed in the development's
268 land use application, applying lower exactions for developments with lower

269 equivalent residential connections as demonstrated by at least five years of
270 usage data for like land uses within the special district.

271 (iii) A special district may impose an exaction for a culinary water interest that
272 results in less water being exacted than would otherwise be exacted under
273 Subsection (2)(a)(ii) if the special district, at the special district's sole discretion,
274 determines there is good cause to do so.

275 (iv) A special district shall make public the methodology used to comply with
276 Subsection (2)(a)(ii)(B). A service applicant may appeal to the special district's
277 governing body an exaction calculation used by the special district under
278 Subsection (2)(a)(ii). A service applicant may present data and other information
279 that illustrates a need for an exaction recalculation and the special district's
280 governing body shall respond with due process.

281 (v) If requested by a service applicant, the culinary authority shall provide the basis
282 for the culinary water authority's calculations described in Subsection (2)(a)(i).

283 (b)(i) A special district may not impose an exaction for a water interest if:

284 (A) the culinary water authority's existing available water interests exceed the
285 water interests needed to meet the reasonable future water requirement of the
286 public[~~, as determined in accordance with Section 73-1-4.~~] ; or

287 (B) the special district or the special district's culinary water authority does not
288 have a written plan described in Subsection (2)(b)(ii).

289 (ii) Beginning on January 1, 2027, a special district shall determine the special
290 district's water interests needed to meet the reasonable future water requirement of
291 the public by completing a written plan described in Subsection 73-1-4(2)(f).

292 (3)(a) If a special district plans to dispose of surplus real property that was acquired
293 under this section and has been owned by the special district for less than 15 years,
294 the special district shall offer to reconvey the surplus real property, without receiving
295 additional consideration, first to a person who granted the real property to the special
296 district.

297 (b) The person described in Subsection (3)(a) shall, within 90 days after the day on
298 which a special district makes an offer under Subsection (3)(a), accept or reject the
299 offer.

300 (c) If a person rejects an offer under Subsection (3)(b), the special district may sell the
301 real property.

302 Section 4. Section **73-1-4** is amended to read:

303 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30). Reversion to the public**
304 **by abandonment or forfeiture for nonuse within seven years -- Saved water -- Nonuse**
305 **application.**

306 (1) As used in this section:

307 (a) "Public entity" means:

308 (i) the United States;

309 (ii) an agency of the United States;

310 (iii) the state;

311 (iv) a state agency;

312 (v) a political subdivision of the state; or

313 (vi) an agency of a political subdivision of the state.

314 (b) "Public water supplier" means an entity that:

315 (i) supplies water, directly or indirectly, to the public for municipal, domestic, or
316 industrial use; and

317 (ii) is:

318 (A) a public entity;

319 (B) a water corporation, as defined in Section 54-2-1, that is regulated by the
320 Public Service Commission;

321 (C) a community water system:

322 (I) that:

323 (Aa) supplies water to at least 100 service connections used by year-round
324 residents; or

325 (Bb) regularly serves at least 200 year-round residents; and

326 (II) whose voting members:

327 (Aa) own a share in the community water system;

328 (Bb) receive water from the community water system in proportion to the
329 member's share in the community water system; and

330 (Cc) pay the rate set by the community water system based on the water the
331 member receives; or

332 (D) a water users association:

333 (I) in which one or more public entities own at least 70% of the outstanding
334 shares; and

335 (II) that is a local sponsor of a water project constructed by the United States
336 Bureau of Reclamation.

337 (c) "Qualified entity" mean a person authorized by statute to:

338 (i) acquire or lease water or water rights for the benefit of the Great Salt Lake;

339 (ii) manage sovereign lands, as that term is defined in Section 65A-1-1; or

340 (iii) develop a management plan for the protection and development of the Colorado

341 River system.

342 [(e)] (d) "Saved water" means the same as that term is defined in Section 73-3-3.

343 [(d)] (e) "Shareholder" means the same as that term is defined in Section 73-3-3.5.

344 [(e)] (f) "Water company" means the same as that term is defined in Section 73-3-3.5.

345 [(f)] (g) "Water supply entity" means an entity that supplies water as a utility service or

346 for irrigation purposes and is also:

347 (i) a municipality, water conservancy district, metropolitan water district, irrigation

348 district, or other public agency;

349 (ii) a water company regulated by the Public Service Commission; or

350 (iii) any other owner of a community water system.

351 (2)(a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the

352 appropriator's successor in interest abandons or ceases to beneficially use all or a

353 portion of a water right for a period of at least seven years, the water right or the

354 unused portion of that water right is subject to forfeiture in accordance with

355 Subsection (2)(c).

356 (b)(i) An appropriator or the appropriator's successor in interest may file an

357 application for nonuse with the state engineer.

358 (ii) A nonuse application may be filed on all or a portion of the water right, including

359 water rights held by a water company.

360 (iii) After giving written notice to the water company, a shareholder may file a

361 nonuse application with the state engineer on the water represented by the stock.

362 (iv)(A) The approval of a nonuse application excuses the requirement of

363 beneficial use of water from the date of filing.

364 (B) The time during which an approved nonuse application is in effect does not

365 count toward the seven-year period described in Subsection (2)(a).

366 (v) The filing or approval of a nonuse application or a series of nonuse applications

367 under Subsection (3) does not:

368 (A) constitute beneficial use of a water right;

369 (B) protect a water right that is already subject to forfeiture under this section; or

370 (C) bar a water right owner from:

- (I) using the water under the water right as permitted under the water right; or
- (II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense provided by law.

(c)(i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced:

- (A) within 15 years from the end of the latest period of nonuse of at least seven years; or
- (B) within the combined time of 15 years from the end of the most recent period of nonuse of at least seven years and the time the water right was subject to one or more nonuse applications.

(ii)(A) The state engineer, in a proposed determination of rights filed with the court and prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless the most recent period of nonuse of seven years ends or occurs:

- (I) during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court; or
- (II) during the combined time immediately preceding the day on which the state engineer files the proposed determination of rights consisting of 15 years and the time the water right was subject to one or more approved nonuse applications.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited before the issuance of the proposed determination, unless the state engineer asserts forfeiture in the proposed determination, or a person, in accordance with Section 73-4-11, makes an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

405 (A) the right to beneficially use the water reverts to the public; and
406 (B) the water made available by the forfeiture:
407 (I) first, satisfies other water rights in the hydrologic system in order of priority
408 date; and
409 (II) second, may be appropriated as provided in this title.

410 (d) Except as provided in Subsection (2)(e), this section applies whether the unused or
411 abandoned water or a portion of the water is:
412 (i) permitted to run to waste; or
413 (ii) beneficially used by others without right with the knowledge of the water right
414 holder.

415 (e) This section does not apply to:
416 (i) the beneficial use of water according to a written, terminable lease or other
417 agreement with the appropriator or the appropriator's successor in interest;
418 (ii) a water right if its place of use is contracted under an approved state agreement or
419 federal conservation fallowing program;
420 (iii) those periods of time when a surface water or groundwater source fails to yield
421 sufficient water to satisfy the water right;
422 (iv) a water right when water is unavailable because of the water right's priority date;
423 (v) a water right to store water in a surface reservoir, or an aquifer in accordance with
424 Chapter 3b, Groundwater Recharge and Recovery Act, if the water is stored for
425 present or future beneficial use;
426 (vi) a water right if a water user has beneficially used substantially all of the water
427 right within a seven-year period, provided that this exemption does not apply to
428 the adjudication of a water right in a general determination of water rights under
429 Chapter 4, Determination of Water Rights;
430 (vii) except as provided by Subsection (2)(g), a water right:
431 (A)(I) owned by a public water supplier;
432 (II) represented by a public water supplier's ownership interest in a water
433 company; or
434 (III) to which a public water supplier owns the right of beneficial use; and
435 (B) conserved or held for the reasonable future water requirement of the public,
436 which is determined according to Subsection (2)(f);
437 (viii) a supplemental water right during a period of time when another water right
438 available to the appropriator or the appropriator's successor in interest provides

439 sufficient water so as to not require beneficial use of the supplemental water right;

440 (ix) a period of nonuse of a water right during the time the water right is subject to an

441 approved change application where the applicant is diligently pursuing

442 certification;

443 (x) a water right to store water in a surface reservoir if:

444 (A) storage is limited by a safety, regulatory, or engineering restraint that the

445 appropriator or the appropriator's successor in interest cannot reasonably

446 correct; and

447 (B) not longer than seven years have elapsed since the limitation described in

448 Subsection (2)(e)(x)(A) is imposed;

449 (xi) a water right subject to an approved change application for use within a water

450 bank that has been authorized but not dissolved under Chapter 31, Water Banking

451 Act, during the period of time the state engineer authorizes the water right to be

452 used within the water bank; or

453 (xii) subject to Subsection (2)(h), that portion of a water right that is quantified as

454 saved water in a final order from the state engineer approving a change

455 application, but not to exceed the amount subsequently verified by the state

456 engineer in a certificate issued under Section 73-3-17.

457 (f)(i) The reasonable future water requirement of the public is the amount of water

458 needed in the next 40 years by:

459 (A) the persons within the public water supplier's reasonably anticipated service

460 area based on reasonably anticipated population growth; or

461 (B) other water use demand.

462 (ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably

463 anticipated service area:

464 (A) is the area served by the community water system's distribution facilities; and

465 (B) expands as the community water system expands the distribution facilities in

466 accordance with Title 19, Chapter 4, Safe Drinking Water Act.

467 [(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4)

468 establish standards for a written plan that may be presented as evidence in

469 conformance with this Subsection (2)(f), except that before a rule establishing

470 standards for a written plan under this Subsection (2)(f) takes effect, in addition to

471 complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

472 state engineer shall present the rule to:]

473 [(A) if the Legislature is not in session, the Natural Resources, Agriculture, and
474 Environment Interim Committee; or]

475 [(B) if the Legislature is in session, the House of Representatives and Senate
476 Natural Resources, Agriculture, and Environment standing committees.]

477 (iii) In accordance with Subsection 73-2-1(4) and Title 63G, Chapter 3, Utah
478 Administrative Rulemaking Act, the state engineer shall make rules to establish
479 standards for a written plan under this Subsection (2)(f) that:

480 (A) determines the reasonable future water requirement of the public for a public
481 water supplier; and
482 (B) a public water supplier shall complete to demonstrate compliance with this
483 Subsection (2)(f).

484 (iv) The state engineer shall present rules developed under Subsection (2)(f)(iii),
485 before the rules take effect, to:

486 (A) if the Legislature is not in session, the Natural Resources, Agriculture, and
487 Environment Interim Committee; or
488 (B) if the Legislature is in session, the House and Senate Natural Resources,
489 Agriculture, and Environment standing committees.

490 (v) The rules that the state engineer makes to establish standards for a written plan in
491 accordance with Subsection (2)(f)(iii) shall include a standard for determining:

492 (A) a population estimate, including current population and anticipated population
493 growth;
494 (B) an impact of current and future drought conditions;
495 (C) an anticipated loss of a water source due to a natural disaster, including an
496 earthquake or a change in climate;
497 (D) an impact of a water conservation activity described in a public water
498 supplier's water conservation plan described in Section 73-10-32;
499 (E) the amount of water a public water supplier needs per capita; and
500 (F) any other factor relevant to establishing the reasonable future water
501 requirement of the public for a public water supplier.

502 (g) For a water right acquired by a public water supplier on or after May 5, 2008,
503 Subsection (2)(e)(vii) applies if:
504 (i) the public water supplier submits a change application under Section 73-3-3; and
505 (ii) the state engineer approves the change application.
506 (h) Saved water does not retain the protection of Subsection (2)(e)(xii) and any period of

507 nonuse for saved water begins to run the day on which:

508 (i) the underlying water right that serves as the basis for the saved water is declared
509 by court decree to have been lost due to forfeiture under this section; or
510 (ii) the title of a right to saved water segregated under Section 73-3-27 is conveyed
511 independent of the underlying water right.

512 (3)(a) The state engineer shall furnish a nonuse application form requiring the following
513 information:

514 (i) the name and address of the applicant;
515 (ii) a description of the water right or a portion of the water right, including the point
516 of diversion, place of use, and priority;
517 (iii) the quantity of water;
518 (iv) the period of use;
519 (v) the extension of time applied for;
520 (vi) a statement of the reason for the nonuse of the water; and
521 (vii) any other information that the state engineer requires.

522 (b)(i) Upon receipt of the application, the state engineer shall publish a notice of the
523 application once a week for two successive weeks:

524 (A) in a newspaper of general circulation in the county in which the source of the
525 water supply is located and where the water is to be beneficially used; and
526 (B) as required in Section 45-1-101.

527 (ii) The notice shall:

528 (A) state that an application has been made; and
529 (B) specify where the interested party may obtain additional information relating
530 to the application.

531 (c) An interested person may file a written protest with the state engineer against the
532 granting of the application:

533 (i) within 20 days after the notice is published, if the adjudicative proceeding is
534 informal; and
535 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
536 formal.

537 (d) In a proceeding to determine whether the nonuse application should be approved or
538 rejected, the state engineer shall follow Title 63G, Chapter 4, Administrative
539 Procedures Act.

540 (e) After further investigation, the state engineer may approve or reject the application.

541 (4)(a) The state engineer shall grant a nonuse application on all or a portion of a water
542 right for a period of time not exceeding seven years if the applicant shows a
543 reasonable cause for nonuse.

544 (b) A reasonable cause for nonuse includes:

545 (i) a demonstrable financial hardship or economic depression;

546 (ii) a physical cause or change that renders use beyond the reasonable control of the
547 water right owner so long as the water right owner acts with reasonable diligence
548 to resume or restore the use;

549 (iii) the initiation of water conservation or an efficiency practice, or the operation of a
550 groundwater recharge recovery program approved by the state engineer;

551 (iv) operation of a legal proceeding;

552 (v) the holding of a water right or stock in a mutual water company without use by a
553 water supply entity to meet the reasonable future requirements of the public;

554 (vi) situations where, in the opinion of the state engineer, the nonuse would assist in
555 implementing an existing, approved water management plan;[-or]
556 (vii) the loss of capacity caused by deterioration of the water supply or delivery
557 equipment if the applicant submits, with the application, a specific plan to resume
558 full use of the water right by replacing, restoring, or improving the equipment[.] ;
559 or
560 (viii) the non-diversion of water under a water right if the water right is leased by,
561 under agreement with, or acknowledged in writing by a qualified entity for the
562 purpose of:
563 (A) benefiting the Great Salt Lake; or
564 (B) complying with an interstate water compact ratified by the state.

565 (5)(a) Sixty days before the expiration of a nonuse application, the state engineer shall
566 notify the applicant by mail or by a form of electronic communication through which
567 receipt is verifiable, of the date when the nonuse application will expire.

568 (b) An applicant may file a subsequent nonuse application in accordance with this
569 section.

570 **Section 5. Effective Date.**

571 This bill takes effect on May 6, 2026.