

David Shallenberger proposes the following substitute bill:

1 **Water Planning Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David Shallenberger**

Senate Sponsor:

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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 ▶ requires counties, municipalities, and special districts to adopt a written plan, beginning
- 10 on January 1, 2028, for determining the reasonable future water requirement of the
- 11 public before imposing a water exaction;
- 12 ▶ requires the state engineer to make rules to establish standards for the written plan; and
- 13 ▶ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 **AMENDS:**

20 **10-20-911 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,  
21 First Special Session, Chapter 15

22 **17-79-812 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,  
23 First Special Session, Chapter 14

24 **17B-1-120 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 15, 255

25 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30)**, as last amended by Laws of  
26 Utah 2024, Chapter 233

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

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

30       **10-20-911 (Effective 05/06/26). Exactions -- Exaction for water interest --**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 (B) the municipality or the municipality's culinary water authority does not have a  
74 written plan in accordance with Subsection (3)(b)(ii).

75 (ii) Beginning on January 1, 2028, a municipality shall determine the municipality's  
76 water interests needed to meet the reasonable future water requirement of the  
77 public by completing a written plan described in Subsection 73-1-4(2)(f).

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

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

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

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

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

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

92 (i) in a vehicle turnaround area;

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

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

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

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

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

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

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

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

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

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

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

111 (xii) as needed to accommodate street parking.

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

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

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

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

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

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

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

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

128 (v) The land use applicant shall pay:

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

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

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

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

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

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

140 **17-79-812 (Effective 05/06/26). Exactions -- Exaction for water interest --**

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

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

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

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

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

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

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

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

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

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

165 usage data for like land uses within the county.

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

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

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

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

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

185 (B) the county or the county's culinary water authority does not have a written  
186 plan in accordance with Subsection (3)(b)(ii).

187 (ii) Beginning on January 1, 2028, a county shall determine the county's water  
188 interests needed to meet the reasonable future water requirement of the public by  
189 completing a written plan described in Subsection 73-1-4(2)(f).

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

194 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has  
195 90 days to accept or reject the county's offer.

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

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

199 a community development or urban renewal agency.

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

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

204 (i) in a vehicle turnaround area;

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

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

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

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

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

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

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

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

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

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

222 (xii) as needed to accommodate street parking.

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

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

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

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

233 (A) one licensed engineer, designated by the county;

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

235 (C) one licensed engineer, agreed upon and designated by the two designated

236 engineers under Subsections (5)(d)(iii)(A) and (B).

237 (iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may

238 not have an interest in the application that is the subject of the appeal.

239 (v) The land use applicant shall pay:

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

241 (B) the county's published appeal fee.

242 (vi) The decision of the panel is a final decision, subject to a petition for review under

243 Subsection (5)(d)(vii).

244 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may

245 file a petition for review of the decision with the district court within 30 days after

246 the date that the decision is final.

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

248 **17B-1-120 (Effective 05/06/26). Exactions -- Exaction for water interest --**

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

250 (1) A special district may impose an exaction on a service received by an applicant,

251 including, subject to Subsection (2), an exaction for a water interest if:

252 (a) the special district establishes that a legitimate special district interest makes the

253 exaction essential; and

254 (b) the exaction is roughly proportionate, both in nature and extent, to the impact of the

255 proposed service on the special district.

256 (2)(a)(i) Subject to the requirements of this Subsection (2), a special district shall

257 base an exaction for a water interest on the culinary water authority's established

258 calculations of projected water interest requirements.

259 (ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base

260 an exaction for a culinary water interest on:

261 (A) consideration of the system-wide minimum sizing standards established for

262 the culinary water authority by the Division of Drinking Water [pursuant to] in

263 accordance with Section 19-4-114; and

264 (B) the number of equivalent residential connections associated with the culinary

265 water demand for each specific development proposed in the development's

266 land use application, applying lower exactions for developments with lower

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

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

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

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

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

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

285 (B) the special district or the special district's culinary water authority does not  
286 have a written plan in accordance with Subsection (2)(b)(ii).

287 (ii) Beginning on January 1, 2028, a special district shall determine the special  
288 district's water interests needed to meet the reasonable future water requirement of  
289 the public by completing a written plan described in Subsection 73-1-4(2)(f).

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

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

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

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

301           **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30). Reversion to the public**  
302           **by abandonment or forfeiture for nonuse within seven years -- Saved water -- Nonuse**  
303           **application.**

304           (1) As used in this section:

305           (a) "Public entity" means:

306           (i) the United States;

307           (ii) an agency of the United States;

308           (iii) the state;

309           (iv) a state agency;

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

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

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

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

315           (ii) is:

316           (A) a public entity;

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

319           (C) a community water system:

320           (I) that:

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

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

324           (II) whose voting members:

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

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

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

330           (D) a water users association:

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

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

335 (c) "Saved water" means the same as that term is defined in Section 73-3-3.

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

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

338 (f) "Water supply entity" means an entity that supplies water as a utility service or for  
339 irrigation purposes and is also:

340 (i) a municipality, water conservancy district, metropolitan water district, irrigation  
341 district, or other public agency;

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

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

344 (2)(a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the  
345 appropriator's successor in interest abandons or ceases to beneficially use all or a  
346 portion of a water right for a period of at least seven years, the water right or the  
347 unused portion of that water right is subject to forfeiture in accordance with  
348 Subsection (2)(c).

349 (b)(i) An appropriator or the appropriator's successor in interest may file an  
350 application for nonuse with the state engineer.

351 (ii) A nonuse application may be filed on all or a portion of the water right, including  
352 water rights held by a water company.

353 (iii) After giving written notice to the water company, a shareholder may file a  
354 nonuse application with the state engineer on the water represented by the stock.

355 (iv)(A) The approval of a nonuse application excuses the requirement of  
356 beneficial use of water from the date of filing.

357 (B) The time during which an approved nonuse application is in effect does not  
358 count toward the seven-year period described in Subsection (2)(a).

359 (v) The filing or approval of a nonuse application or a series of nonuse applications  
360 under Subsection (3) does not:

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

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

363 (C) bar a water right owner from:

364 (I) using the water under the water right as permitted under the water right; or

365 (II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense  
366 provided by law.

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

369 forfeited is commenced:

370 (A) within 15 years from the end of the latest period of nonuse of at least seven  
371 years; or

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

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

379 (I) during the 15 years immediately preceding the day on which the state  
380 engineer files the proposed determination of rights with the court; or

381 (II) during the combined time immediately preceding the day on which the  
382 state engineer files the proposed determination of rights consisting of 15  
383 years and the time the water right was subject to one or more approved  
384 nonuse applications.

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

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

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

398 (A) the right to beneficially use the water reverts to the public; and

399 (B) the water made available by the forfeiture:

400 (I) first, satisfies other water rights in the hydrologic system in order of priority  
401 date; and

402 (II) second, may be appropriated as provided in this title.

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

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

437 (A) storage is limited by a safety, regulatory, or engineering restraint that the  
438 appropriator or the appropriator's successor in interest cannot reasonably  
439 correct; and  
440 (B) not longer than seven years have elapsed since the limitation described in  
441 Subsection (2)(e)(x)(A) is imposed;  
442 (xi) a water right subject to an approved change application for use within a water  
443 bank that has been authorized but not dissolved under Chapter 31, Water Banking  
444 Act, during the period of time the state engineer authorizes the water right to be  
445 used within the water bank; or  
446 (xii) subject to Subsection (2)(h), that portion of a water right that is quantified as  
447 saved water in a final order from the state engineer approving a change  
448 application, but not to exceed the amount subsequently verified by the state  
449 engineer in a certificate issued under Section 73-3-17.

450 (f)(i) The reasonable future water requirement of the public is the amount of water  
451 needed in the next 40 years by:  
452 (A) the persons within the public water supplier's reasonably anticipated service  
453 area based on reasonably anticipated population growth; or  
454 (B) other water use demand.  
455 (ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably  
456 anticipated service area:  
457 (A) is the area served by the community water system's distribution facilities; and  
458 (B) expands as the community water system expands the distribution facilities in  
459 accordance with Title 19, Chapter 4, Safe Drinking Water Act.  
460 [((iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4)  
461 establish standards for a written plan that may be presented as evidence in  
462 conformance with this Subsection (2)(f), except that before a rule establishing  
463 standards for a written plan under this Subsection (2)(f) takes effect, in addition to  
464 complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
465 state engineer shall present the rule to:  
466 [(A) if the Legislature is not in session, the Natural Resources, Agriculture, and  
467 Environment Interim Committee; or]  
468 [(B) if the Legislature is in session, the House of Representatives and Senate  
469 Natural Resources, Agriculture, and Environment standing committees.]  
470 (iii) In accordance with Subsection 73-2-1(4) and Title 63G, Chapter 3, Utah

471       Administrative Rulemaking Act, the state engineer shall make rules to establish  
472       standards for a written plan under this Subsection (2)(f) that:

473       (A) determines the reasonable future water requirement of the public for a public  
474       water supplier; and  
475       (B) a public water supplier shall complete to demonstrate compliance with this  
476       Subsection (2)(f).

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

479       (A) if the Legislature is not in session, the Natural Resources, Agriculture, and  
480       Environment Interim Committee; or  
481       (B) if the Legislature is in session, the House and Senate Natural Resources,  
482       Agriculture, and Environment standing committees.

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

485       (A) a population estimate, including anticipated population growth, consistent  
486       with an estimate or methodology under Title 63C, Chapter 20, Utah Population  
487       Committee;  
488       (B) an impact of current and future drought conditions;  
489       (C) an anticipated loss of a water source due to a natural disaster, including an  
490       earthquake or a change in climate;  
491       (D) an impact of a water conservation activity described in a public water  
492       supplier's water conservation plan described in Section 73-10-32;  
493       (E) the amount of water a public water supplier needs per capita; and  
494       (F) any other factor relevant to establishing the reasonable future water  
495       requirement of the public for a public water supplier.

496       (g) For a water right acquired by a public water supplier on or after May 5, 2008,  
497       Subsection (2)(e)(vii) applies if:

498       (i) the public water supplier submits a change application under Section 73-3-3; and  
499       (ii) the state engineer approves the change application.

500       (h) Saved water does not retain the protection of Subsection (2)(e)(xii) and any period of  
501       nonuse for saved water begins to run the day on which:

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

independent of the underlying water right.

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

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

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

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

(ii) The notice shall:

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

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

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

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

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

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

(b) A reasonable cause for nonuse includes:

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

540 (ii) a physical cause or change that renders use beyond the reasonable control of the

541 water right owner so long as the water right owner acts with reasonable diligence

542 to resume or restore the use;

543 (iii) the initiation of water conservation or an efficiency practice, or the operation of a

544 groundwater recharge recovery program approved by the state engineer;

545 (iv) operation of a legal proceeding;

546 (v) the holding of a water right or stock in a mutual water company without use by a

547 water supply entity to meet the reasonable future requirements of the public;

548 (vi) situations where, in the opinion of the state engineer, the nonuse would assist in

549 implementing an existing, approved water management plan; or

550 (vii) the loss of capacity caused by deterioration of the water supply or delivery

551 equipment if the applicant submits, with the application, a specific plan to resume

552 full use of the water right by replacing, restoring, or improving the equipment.

553 (5)(a) Sixty days before the expiration of a nonuse application, the state engineer shall

554 notify the applicant by mail or by a form of electronic communication through which

555 receipt is verifiable, of the date when the nonuse application will expire.

556 (b) An applicant may file a subsequent nonuse application in accordance with this

557 section.

558 **Section 5. Effective Date.**

559 This bill takes effect on May 6, 2026.