

David Shallenberger proposes the following substitute bill:

Water Planning Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Shallenberger

Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- defines and modifies terms;
- requires counties, municipalities, and special districts to adopt a written plan, beginning on January 1, 2028, for determining the reasonable future water requirement of the public before imposing a water exaction;
- requires the state engineer to make rules to establish standards for the written plan;
- provides a coordination clause with S.B. 284, Local Land Use Modifications, to address a requirement for counties and municipalities to complete a written plan; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

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

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

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

73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30), as last amended by Laws of Utah 2024, Chapter 233

29 **Utah Code Sections affected by Coordination Clause:**30 **10-20-912 (05/06/26)**, as as enacted in S.B. 284 (2026)31 **17-79-813 (05/06/26)**, as as enacted in S.B. 284 (2026)

32

33 *Be it enacted by the Legislature of the state of Utah:*34 Section 1. Section **10-20-911** is amended to read:35 **10-20-911 (Effective 05/06/26). Exactions -- Exaction for water interest --**36 **Requirement to offer to original owner property acquired by exaction.**37 (1) A municipality may impose an exaction or exactions on development proposed in a land
38 use application, including, subject to Subsection (3), an exaction for a water interest, if:39 (a) an essential link exists between a legitimate governmental interest and each exaction;
40 and41 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
42 proposed development.

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

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

45 (b) the land use authority shall transfer the exaction to the governmental entity for which
46 it was exacted.47 (3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base
48 an exaction for a water interest on the culinary water authority's established
49 calculations of projected water interest requirements.50 (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
51 an exaction for a culinary water interest on:52 (A) consideration of the system-wide minimum sizing standards established for
53 the culinary water authority by the Division of Drinking Water in accordance
54 with Section 19-4-114; and55 (B) the number of equivalent residential connections associated with the culinary
56 water demand for each specific development proposed in the development's
57 land use application, applying lower exactions for developments with lower
58 equivalent residential connections as demonstrated by at least five years of
59 usage data for like land uses within the municipality.60 (iii) A municipality may impose an exaction for a culinary water interest that results
61 in less water being exacted than would otherwise be exacted under Subsection

62 (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there

- 63 is good cause to do so.
- 64 (iv)(A) A municipality shall make public the methodology used to comply with
65 Subsection (3)(a)(ii)(B).
- 66 (B) A land use applicant may appeal to the municipality's governing body an
67 exaction calculation used by the municipality under Subsection (3)(a)(ii).
- 68 (C) A land use applicant may present data and other information that illustrates a
69 need for an exaction recalculation and the municipality's governing body shall
70 respond with due process.
- 71 (v) Upon an applicant's request, the culinary water authority shall provide the
72 applicant with the basis for the culinary water authority's calculations under
73 Subsection (3)(a)(i) on which an exaction for a water interest is based.
- 74 (b)(i) A municipality may not impose an exaction for a water interest if:
75 (A) the culinary water authority's existing available water interests exceed the
76 water interests needed to meet the reasonable future water requirement of the
77 public~~[, as determined under Subsection 73-1-4(2)(f).]~~ ; or
78 (B) the municipality or the municipality's culinary water authority does not have a
79 written plan in accordance with Subsection (3)(b)(ii).
- 80 (ii) Beginning on January 1, 2028, a municipality shall determine the municipality's
81 water interests needed to meet the reasonable future water requirement of the
82 public by completing a written plan described in Subsection 73-1-4(2)(f).
- 83 (4)(a) If a municipality plans to dispose of surplus real property that was acquired under
84 this section and has been owned by the municipality for less than 15 years, the
85 municipality shall first offer to reconvey the property, without receiving additional
86 consideration, to the person who granted the property to the municipality.
- 87 (b) A person to whom a municipality offers to reconvey property under Subsection (4)(a)
88 has 90 days to accept or reject the municipality's offer.
- 89 (c) If a person to whom a municipality offers to reconvey property declines the offer, the
90 municipality may offer the property for sale.
- 91 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by
92 a community reinvestment agency.
- 93 (5)(a) A municipality may not, as part of an infrastructure improvement, require the
94 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 95 (b) Subsection (5)(a) does not apply if a municipality requires the installation of
96 pavement in excess of 32 feet:

- 97 (i) in a vehicle turnaround area;
- 98 (ii) in a cul-de-sac;
- 99 (iii) to address specific traffic flow constraints at an intersection, mid-block
100 crossings, or other areas;
- 101 (iv) to address an applicable general or master plan improvement, including
102 transportation, bicycle lanes, trails, or other similar improvements that are not
103 included within an impact fee area;
- 104 (v) to address traffic flow constraints for service to or abutting higher density
105 developments or uses that generate higher traffic volumes, including community
106 centers, schools, and other similar uses;
- 107 (vi) as needed for the installation or location of a utility which is maintained by the
108 municipality and is considered a transmission line or requires additional roadway
109 width;
- 110 (vii) for third-party utility lines that have an easement preventing the installation of
111 utilities maintained by the municipality within the roadway;
- 112 (viii) for utilities over 12 feet in depth;
- 113 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 114 (x) as needed for flood and stormwater routing;
- 115 (xi) as needed to meet fire code requirements for parking and hydrants; or
- 116 (xii) as needed to accommodate street parking.
- 117 (c) Nothing in this section shall be construed to prevent a municipality from approving a
118 road cross section with a pavement width less than 32 feet.
- 119 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
120 excess of 32 feet on a residential roadway.
- 121 (ii) A land use applicant that has appealed a municipal specification for a residential
122 roadway pavement width in excess of 32 feet may request that the municipality
123 assemble a panel of qualified experts to serve as the appeal authority for purposes
124 of determining the technical aspects of the appeal.
- 125 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
126 described in Subsection (5)(d)(ii) shall consist of the following three experts:
- 127 (A) one licensed engineer, designated by the municipality;
- 128 (B) one licensed engineer, designated by the land use applicant; and
- 129 (C) one licensed engineer, agreed upon and designated by the two designated
130 engineers under Subsections (5)(d)(iii)(A) and (B).

- 131 (iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii)
 132 may not have an interest in the application that is the subject of the appeal.
 133 (v) The land use applicant shall pay:
 134 (A) 50% of the cost of the panel; and
 135 (B) the municipality's published appeal fee.
 136 (vi) The decision of the panel is a final decision, subject to a petition for review under
 137 Subsection (5)(d)(vii).
 138 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
 139 may file a petition for review of the decision with the district court within 30 days
 140 after the date that the decision is final.

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

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

145 **17-79-812 (Effective 05/06/26). Exactions -- Exaction for water interest --**

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

- 147 (1) A county may impose an exaction or exactions on development proposed in a land use
 148 application, including, subject to Subsection (3), an exaction for a water interest, if:
 149 (a) an essential link exists between a legitimate governmental interest and each exaction;
 150 and
 151 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
 152 proposed development.
 153 (2) If a land use authority imposes an exaction for another governmental entity:
 154 (a) the governmental entity shall request the exaction; and
 155 (b) the land use authority shall transfer the exaction to the governmental entity for which
 156 it was exacted.
 157 (3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if applicable,
 158 the county's culinary water authority shall base any exaction for a water interest
 159 on the culinary water authority's established calculations of projected water
 160 interest requirements.
 161 (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
 162 an exaction for a culinary water interest on:
 163 (A) consideration of the system-wide minimum sizing standards established for
 164 the culinary water authority by the Division of Drinking Water in accordance

- 165 with Section 19-4-114; and
- 166 (B) the number of equivalent residential connections associated with the culinary
167 water demand for each specific development proposed in the development's
168 land use application, applying lower exactions for developments with lower
169 equivalent residential connections as demonstrated by at least five years of
170 usage data for like land uses within the county.
- 171 (iii) A county or culinary water authority may impose an exaction for a culinary
172 water interest that results in less water being exacted than would otherwise be
173 exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the
174 county's or culinary water authority's sole discretion, determines there is good
175 cause to do so.
- 176 (iv) A county shall make public the methodology used to comply with Subsection
177 (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an
178 exaction calculation used by the county or the county's culinary water authority
179 under Subsection (3)(a)(ii). A land use applicant may present data and other
180 information that illustrates a need for an exaction recalculation and the county's
181 governing body shall respond with due process.
- 182 (v) Upon an applicant's request, the culinary water authority shall provide the
183 applicant with the basis for the culinary water authority's calculations under
184 Subsection (3)(a)(i) on which an exaction for a water interest is based.
- 185 (b)(i) A county or the county's culinary water authority may not impose an exaction
186 for a water interest if:
- 187 (A) the culinary water authority's existing available water interests exceed the
188 water interests needed to meet the reasonable future water requirement of the
189 public~~[, as determined under Subsection 73-1-4(2)(f).]~~ ; or
- 190 (B) the county or the county's culinary water authority does not have a written
191 plan in accordance with Subsection (3)(b)(ii).
- 192 (ii) Beginning on January 1, 2028, a county shall determine the county's water
193 interests needed to meet the reasonable future water requirement of the public by
194 completing a written plan described in Subsection 73-1-4(2)(f).
- 195 (4)(a) If a county plans to dispose of surplus real property under Section 17-78-103 that
196 was acquired under this section and has been owned by the county for less than 15
197 years, the county shall first offer to reconvey the property, without receiving
198 additional consideration, to the person who granted the property to the county.

- 199 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has
200 90 days to accept or reject the county's offer.
- 201 (c) If a person to whom a county offers to reconvey property declines the offer, the
202 county may offer the property for sale.
- 203 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by
204 a community development or urban renewal agency.
- 205 (5)(a) A county may not, as part of an infrastructure improvement, require the
206 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 207 (b) Subsection (5)(a) does not apply if a county requires the installation of pavement in
208 excess of 32 feet:
- 209 (i) in a vehicle turnaround area;
- 210 (ii) in a cul-de-sac;
- 211 (iii) to address specific traffic flow constraints at an intersection, mid-block
212 crossings, or other areas;
- 213 (iv) to address an applicable general or master plan improvement, including
214 transportation, bicycle lanes, trails, or other similar improvements that are not
215 included within an impact fee area;
- 216 (v) to address traffic flow constraints for service to or abutting higher density
217 developments or uses that generate higher traffic volumes, including community
218 centers, schools, and other similar uses;
- 219 (vi) as needed for the installation or location of a utility which is maintained by the
220 county and is considered a transmission line or requires additional roadway width;
- 221 (vii) for third-party utility lines that have an easement preventing the installation of
222 utilities maintained by the county within the roadway;
- 223 (viii) for utilities over 12 feet in depth;
- 224 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 225 (x) as needed for flood and stormwater routing;
- 226 (xi) as needed to meet fire code requirements for parking and hydrants; or
227 (xii) as needed to accommodate street parking.
- 228 (c) Nothing in this section shall be construed to prevent a county from approving a road
229 cross section with a pavement width less than 32 feet.
- 230 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
231 excess of 32 feet on a residential roadway.
- 232 (ii) A land use applicant that has appealed a municipal specification for a residential

233 roadway pavement width in excess of 32 feet may request that the county
 234 assemble a panel of qualified experts to serve as the appeal authority for purposes
 235 of determining the technical aspects of the appeal.

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

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

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

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

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

244 (v) The land use applicant shall pay:

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

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

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

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

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

253 **17B-1-120 (Effective 05/06/26). Exactions -- Exaction for water interest --**
 254 **Requirement to offer to original owner property acquired by exaction.**

255 (1) A special district may impose an exaction on a service received by an applicant,
 256 including, subject to Subsection (2), an exaction for a water interest if:

257 (a) the special district establishes that a legitimate special district interest makes the
 258 exaction essential; and

259 (b) the exaction is roughly proportionate, both in nature and extent, to the impact of the
 260 proposed service on the special district.

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

264 (ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base
 265 an exaction for a culinary water interest on:

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

- 267 the culinary water authority by the Division of Drinking Water [~~pursuant to~~] in
268 accordance with Section 19-4-114; and
- 269 (B) the number of equivalent residential connections associated with the culinary
270 water demand for each specific development proposed in the development's
271 land use application, applying lower exactions for developments with lower
272 equivalent residential connections as demonstrated by at least five years of
273 usage data for like land uses within the special district.
- 274 (iii) A special district may impose an exaction for a culinary water interest that
275 results in less water being exacted than would otherwise be exacted under
276 Subsection (2)(a)(ii) if the special district, at the special district's sole discretion,
277 determines there is good cause to do so.
- 278 (iv) A special district shall make public the methodology used to comply with
279 Subsection (2)(a)(ii)(B). A service applicant may appeal to the special district's
280 governing body an exaction calculation used by the special district under
281 Subsection (2)(a)(ii). A service applicant may present data and other information
282 that illustrates a need for an exaction recalculation and the special district's
283 governing body shall respond with due process.
- 284 (v) If requested by a service applicant, the culinary authority shall provide the basis
285 for the culinary water authority's calculations described in Subsection (2)(a)(i).
- 286 (b)(i) A special district may not impose an exaction for a water interest if:
- 287 (A) the culinary water authority's existing available water interests exceed the
288 water interests needed to meet the reasonable future water requirement of the
289 public~~[, as determined in accordance with Section 73-1-4.] ; or~~
- 290 (B) the special district or the special district's culinary water authority does not
291 have a written plan in accordance with Subsection (2)(b)(ii).
- 292 (ii) Beginning on January 1, 2028, a special district shall determine the special
293 district's water interests needed to meet the reasonable future water requirement of
294 the public by completing a written plan described in Subsection 73-1-4(2)(f).
- 295 (3)(a) If a special district plans to dispose of surplus real property that was acquired
296 under this section and has been owned by the special district for less than 15 years,
297 the special district shall offer to reconvey the surplus real property, without receiving
298 additional consideration, first to a person who granted the real property to the special
299 district.
- 300 (b) The person described in Subsection (3)(a) shall, within 90 days after the day on

301 which a special district makes an offer under Subsection (3)(a), accept or reject the
302 offer.

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

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

306 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30). Reversion to the public**
307 **by abandonment or forfeiture for nonuse within seven years -- Saved water -- Nonuse**
308 **application.**

309 (1) As used in this section:

310 (a) "Public entity" means:

311 (i) the United States;

312 (ii) an agency of the United States;

313 (iii) the state;

314 (iv) a state agency;

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

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

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

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

320 (ii) is:

321 (A) a public entity;

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

324 (C) a community water system:

325 (I) that:

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

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

329 (II) whose voting members:

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

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

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

- 335 (D) a water users association:
- 336 (I) in which one or more public entities own at least 70% of the outstanding
- 337 shares; and
- 338 (II) that is a local sponsor of a water project constructed by the United States
- 339 Bureau of Reclamation.
- 340 (c) "Saved water" means the same as that term is defined in Section 73-3-3.
- 341 (d) "Shareholder" means the same as that term is defined in Section 73-3-3.5.
- 342 (e) "Water company" means the same as that term is defined in Section 73-3-3.5.
- 343 (f) "Water supply entity" means an entity that supplies water as a utility service or for
- 344 irrigation purposes and is also:
- 345 (i) a municipality, water conservancy district, metropolitan water district, irrigation
- 346 district, or other public agency;
- 347 (ii) a water company regulated by the Public Service Commission; or
- 348 (iii) any other owner of a community water system.
- 349 (2)(a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the
- 350 appropriator's successor in interest abandons or ceases to beneficially use all or a
- 351 portion of a water right for a period of at least seven years, the water right or the
- 352 unused portion of that water right is subject to forfeiture in accordance with
- 353 Subsection (2)(c).
- 354 (b)(i) An appropriator or the appropriator's successor in interest may file an
- 355 application for nonuse with the state engineer.
- 356 (ii) A nonuse application may be filed on all or a portion of the water right, including
- 357 water rights held by a water company.
- 358 (iii) After giving written notice to the water company, a shareholder may file a
- 359 nonuse application with the state engineer on the water represented by the stock.
- 360 (iv)(A) The approval of a nonuse application excuses the requirement of
- 361 beneficial use of water from the date of filing.
- 362 (B) The time during which an approved nonuse application is in effect does not
- 363 count toward the seven-year period described in Subsection (2)(a).
- 364 (v) The filing or approval of a nonuse application or a series of nonuse applications
- 365 under Subsection (3) does not:
- 366 (A) constitute beneficial use of a water right;
- 367 (B) protect a water right that is already subject to forfeiture under this section; or
- 368 (C) bar a water right owner from:

- 369 (I) using the water under the water right as permitted under the water right; or
370 (II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense
371 provided by law.
- 372 (c)(i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the
373 water right may not be forfeited unless a judicial action to declare the right
374 forfeited is commenced:
- 375 (A) within 15 years from the end of the latest period of nonuse of at least seven
376 years; or
- 377 (B) within the combined time of 15 years from the end of the most recent period
378 of nonuse of at least seven years and the time the water right was subject to one
379 or more nonuse applications.
- 380 (ii)(A) The state engineer, in a proposed determination of rights filed with the
381 court and prepared in accordance with Section 73-4-11, may not assert that a
382 water right was forfeited unless the most recent period of nonuse of seven
383 years ends or occurs:
- 384 (I) during the 15 years immediately preceding the day on which the state
385 engineer files the proposed determination of rights with the court; or
- 386 (II) during the combined time immediately preceding the day on which the
387 state engineer files the proposed determination of rights consisting of 15
388 years and the time the water right was subject to one or more approved
389 nonuse applications.
- 390 (B) After the day on which a proposed determination of rights is filed with the
391 court a person may not assert that a water right subject to that determination
392 was forfeited before the issuance of the proposed determination, unless the
393 state engineer asserts forfeiture in the proposed determination, or a person, in
394 accordance with Section 73-4-11, makes an objection to the proposed
395 determination that asserts forfeiture.
- 396 (iii) A water right, found to be valid in a decree entered in an action for general
397 determination of rights under Chapter 4, Determination of Water Rights, is subject
398 to a claim of forfeiture based on a seven-year period of nonuse that begins after
399 the day on which the state engineer filed the related proposed determination of
400 rights with the court, unless the decree provides otherwise.
- 401 (iv) If in a judicial action a court declares a water right forfeited, on the date on which
402 the water right is forfeited:

- 403 (A) the right to beneficially use the water reverts to the public; and
404 (B) the water made available by the forfeiture:
- 405 (I) first, satisfies other water rights in the hydrologic system in order of priority
406 date; and
407 (II) second, may be appropriated as provided in this title.
- 408 (d) Except as provided in Subsection (2)(e), this section applies whether the unused or
409 abandoned water or a portion of the water is:
- 410 (i) permitted to run to waste; or
411 (ii) beneficially used by others without right with the knowledge of the water right
412 holder.
- 413 (e) This section does not apply to:
- 414 (i) the beneficial use of water according to a written, terminable lease or other
415 agreement with the appropriator or the appropriator's successor in interest;
416 (ii) a water right if its place of use is contracted under an approved state agreement or
417 federal conservation following program;
418 (iii) those periods of time when a surface water or groundwater source fails to yield
419 sufficient water to satisfy the water right;
420 (iv) a water right when water is unavailable because of the water right's priority date;
421 (v) a water right to store water in a surface reservoir, or an aquifer in accordance with
422 Chapter 3b, Groundwater Recharge and Recovery Act, if the water is stored for
423 present or future beneficial use;
424 (vi) a water right if a water user has beneficially used substantially all of the water
425 right within a seven-year period, provided that this exemption does not apply to
426 the adjudication of a water right in a general determination of water rights under
427 Chapter 4, Determination of Water Rights;
428 (vii) except as provided by Subsection (2)(g), a water right:
- 429 (A)(I) owned by a public water supplier;
430 (II) represented by a public water supplier's ownership interest in a water
431 company; or
432 (III) to which a public water supplier owns the right of beneficial use; and
433 (B) conserved or held for the reasonable future water requirement of the public,
434 which is determined according to Subsection (2)(f);
435 (viii) a supplemental water right during a period of time when another water right
436 available to the appropriator or the appropriator's successor in interest provides

- 437 sufficient water so as to not require beneficial use of the supplemental water right;
- 438 (ix) a period of nonuse of a water right during the time the water right is subject to an
- 439 approved change application where the applicant is diligently pursuing
- 440 certification;
- 441 (x) a water right to store water in a surface reservoir if:
- 442 (A) storage is limited by a safety, regulatory, or engineering restraint that the
- 443 appropriator or the appropriator's successor in interest cannot reasonably
- 444 correct; and
- 445 (B) not longer than seven years have elapsed since the limitation described in
- 446 Subsection (2)(e)(x)(A) is imposed;
- 447 (xi) a water right subject to an approved change application for use within a water
- 448 bank that has been authorized but not dissolved under Chapter 31, Water Banking
- 449 Act, during the period of time the state engineer authorizes the water right to be
- 450 used within the water bank; or
- 451 (xii) subject to Subsection (2)(h), that portion of a water right that is quantified as
- 452 saved water in a final order from the state engineer approving a change
- 453 application, but not to exceed the amount subsequently verified by the state
- 454 engineer in a certificate issued under Section 73-3-17.
- 455 (f)(i) The reasonable future water requirement of the public is the amount of water
- 456 needed in the next 40 years by:
- 457 (A) the persons within the public water supplier's reasonably anticipated service
- 458 area based on reasonably anticipated population growth; or
- 459 (B) other water use demand.
- 460 (ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably
- 461 anticipated service area:
- 462 (A) is the area served by the community water system's distribution facilities; and
- 463 (B) expands as the community water system expands the distribution facilities in
- 464 accordance with Title 19, Chapter 4, Safe Drinking Water Act.
- 465 [~~(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4)~~
- 466 ~~establish standards for a written plan that may be presented as evidence in~~
- 467 ~~conformance with this Subsection (2)(f), except that before a rule establishing~~
- 468 ~~standards for a written plan under this Subsection (2)(f) takes effect, in addition to~~
- 469 ~~complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~
- 470 ~~state engineer shall present the rule to:]~~

- 471 ~~[(A) if the Legislature is not in session, the Natural Resources, Agriculture, and~~
 472 ~~Environment Interim Committee; or]~~
- 473 ~~[(B) if the Legislature is in session, the House of Representatives and Senate~~
 474 ~~Natural Resources, Agriculture, and Environment standing committees.]~~
- 475 (iii) In accordance with Subsection 73-2-1(4) and Title 63G, Chapter 3, Utah
 476 Administrative Rulemaking Act, the state engineer shall make rules to establish
 477 standards for a written plan under this Subsection (2)(f) that:
- 478 (A) determines the reasonable future water requirement of the public for a public
 479 water supplier; and
- 480 (B) a public water supplier shall complete to demonstrate compliance with this
 481 Subsection (2)(f).
- 482 (iv) The state engineer shall present rules developed under Subsection (2)(f)(iii),
 483 before the rules take effect, to:
- 484 (A) if the Legislature is not in session, the Natural Resources, Agriculture, and
 485 Environment Interim Committee; or
- 486 (B) if the Legislature is in session, the House and Senate Natural Resources,
 487 Agriculture, and Environment standing committees.
- 488 (v) The rules that the state engineer makes to establish standards for a written plan in
 489 accordance with Subsection (2)(f)(iii) shall include a standard for determining:
- 490 (A) a population estimate, including anticipated population growth, consistent
 491 with an estimate or methodology under Title 63C, Chapter 20, Utah Population
 492 Committee;
- 493 (B) an impact of current and future drought conditions;
- 494 (C) an anticipated loss of a water source due to a natural disaster, including an
 495 earthquake or a change in climate;
- 496 (D) an impact of a water conservation activity described in a public water
 497 supplier's water conservation plan described in Section 73-10-32;
- 498 (E) the amount of water a public water supplier needs per capita; and
- 499 (F) any other factor relevant to establishing the reasonable future water
 500 requirement of the public for a public water supplier.
- 501 (g) For a water right acquired by a public water supplier on or after May 5, 2008,
 502 Subsection (2)(e)(vii) applies if:
- 503 (i) the public water supplier submits a change application under Section 73-3-3; and
- 504 (ii) the state engineer approves the change application.

- 505 (h) Saved water does not retain the protection of Subsection (2)(e)(xii) and any period of
506 nonuse for saved water begins to run the day on which:
- 507 (i) the underlying water right that serves as the basis for the saved water is declared
508 by court decree to have been lost due to forfeiture under this section; or
509 (ii) the title of a right to saved water segregated under Section 73-3-27 is conveyed
510 independent of the underlying water right.
- 511 (3)(a) The state engineer shall furnish a nonuse application form requiring the following
512 information:
- 513 (i) the name and address of the applicant;
514 (ii) a description of the water right or a portion of the water right, including the point
515 of diversion, place of use, and priority;
516 (iii) the quantity of water;
517 (iv) the period of use;
518 (v) the extension of time applied for;
519 (vi) a statement of the reason for the nonuse of the water; and
520 (vii) any other information that the state engineer requires.
- 521 (b)(i) Upon receipt of the application, the state engineer shall publish a notice of the
522 application once a week for two successive weeks:
- 523 (A) in a newspaper of general circulation in the county in which the source of the
524 water supply is located and where the water is to be beneficially used; and
525 (B) as required in Section 45-1-101.
- 526 (ii) The notice shall:
- 527 (A) state that an application has been made; and
528 (B) specify where the interested party may obtain additional information relating
529 to the application.
- 530 (c) An interested person may file a written protest with the state engineer against the
531 granting of the application:
- 532 (i) within 20 days after the notice is published, if the adjudicative proceeding is
533 informal; and
534 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
535 formal.
- 536 (d) In a proceeding to determine whether the nonuse application should be approved or
537 rejected, the state engineer shall follow Title 63G, Chapter 4, Administrative
538 Procedures Act.

- 539 (e) After further investigation, the state engineer may approve or reject the application.
- 540 (4)(a) The state engineer shall grant a nonuse application on all or a portion of a water
 541 right for a period of time not exceeding seven years if the applicant shows a
 542 reasonable cause for nonuse.
- 543 (b) A reasonable cause for nonuse includes:
- 544 (i) a demonstrable financial hardship or economic depression;
- 545 (ii) a physical cause or change that renders use beyond the reasonable control of the
 546 water right owner so long as the water right owner acts with reasonable diligence
 547 to resume or restore the use;
- 548 (iii) the initiation of water conservation or an efficiency practice, or the operation of a
 549 groundwater recharge recovery program approved by the state engineer;
- 550 (iv) operation of a legal proceeding;
- 551 (v) the holding of a water right or stock in a mutual water company without use by a
 552 water supply entity to meet the reasonable future requirements of the public;
- 553 (vi) situations where, in the opinion of the state engineer, the nonuse would assist in
 554 implementing an existing, approved water management plan; or
- 555 (vii) the loss of capacity caused by deterioration of the water supply or delivery
 556 equipment if the applicant submits, with the application, a specific plan to resume
 557 full use of the water right by replacing, restoring, or improving the equipment.
- 558 (5)(a) Sixty days before the expiration of a nonuse application, the state engineer shall
 559 notify the applicant by mail or by a form of electronic communication through which
 560 receipt is verifiable, of the date when the nonuse application will expire.
- 561 (b) An applicant may file a subsequent nonuse application in accordance with this
 562 section.

563 **Section 5. Effective Date.**

564 This bill takes effect on May 6, 2026.

565 **Section 6. Coordinating H.B. 439 with S.B. 284.**

566 If H.B. 439, Water Planning Amendments, and S.B. 284, Local Land Use Modifications,
 567 both pass and become law, the Legislature intends that, on May 6, 2026:

568 (1) Subsection 10-20-912(8) enacted in S.B. 284 be amended to read:

569 "(8)(a) A municipality may not impose an exaction for a water interest if:

- 570 (i) the culinary water authority's existing available water interests exceed the water
 571 interests needed to meet the reasonable future water requirement of the public; or
 572 (ii) the municipality or the municipality's culinary water authority does not have a

573 written plan in accordance with Subsection (8)(b).

574 (b) Beginning on January 1, 2028, a municipality shall determine the municipality's water
575 interests needed to meet the reasonable future water requirement of the public by completing a
576 written plan described in Subsection 73-1-4(2)(f)."; and

577 (2) Subsection 17-79-813(8) enacted in S.B. 284 be amended to read:

578 "(8)(a) A county may not impose an exaction for a water interest if:

579 (i) the culinary water authority's existing available water interests exceed the water
580 interests needed to meet the reasonable future water requirement of the public; or

581 (ii) the county or the county's culinary water authority does not have a written plan in
582 accordance with Subsection (8)(b).

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