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Transfer of Water Interests

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor:

2

LONG TITLE

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General Description:

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This bill addresses water rights, shares in water companies, and their relationship to land conveyances.

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Highlighted Provisions:

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This bill:

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- ▶ modifies provisions related to the transfer of shares in water companies;
- ▶ addresses that ownership of a share of stock is not maintained on the records of the state engineer;
- ▶ addresses the nature of water company shares and the relationship to water companies;
- and
- ▶ makes technical and conforming amendments.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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16-6a-606, as last amended by Laws of Utah 2017, Chapter 358

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73-1-10, as last amended by Laws of Utah 2013, Chapter 363

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73-1-11, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

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

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Section 1. Section **16-6a-606** is amended to read:

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16-6a-606 . Transfers.

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(1) Except as provided in Subsection (3), and unless otherwise provided in the articles of incorporation or the bylaws, a member of a nonprofit corporation may not transfer:

(a) a membership; or

31 (b) any right arising from a membership.

32 (2) Except as provided in Subsection (3), where transfer rights have been provided in the
33 articles of incorporation or the bylaws of a nonprofit corporation, a restriction on
34 transfer rights may not be binding with respect to a member holding a membership
35 issued before the adoption of the restriction, unless the restriction is approved by the
36 affected member.

37 (3)(a) For a water company, unless otherwise provided by the articles of incorporation or
38 bylaws[;] :

39 (i) ownership of [shares] a share is transferrable[;] ; and

40 (ii) notwithstanding Subsection (3)(a)(i):

41 (A) a shareholder may not transfer a share on or after May 14, 2013, except in
42 accordance with Title 70A, Chapter 8, Uniform Commercial Code - Investment
43 Securities; and

44 (B) a share is not appurtenant to land.

45 (b) [Any] A restriction on the transfer of ownership under Subsection [(3)(a)] (3)(a)(i):

46 (i) shall be reasonable;

47 (ii) shall be adopted in good faith and for a legitimate purpose;

48 (iii) shall be adopted in the best interest of the water company and [its] the water
49 company's shareholders; and

50 (iv) may not discriminate against [any] an individual shareholder or class of
51 shareholders, but in a water company where there are classes or divisions of stock,
52 restrictions may differ between the classes or divisions.

53 (c) A person who receives a water company share transferred under this section assumes
54 the obligation for any unpaid assessment related to the share.

55 (d) When by way of a water company's articles of incorporation or bylaws the water
56 company designates a specific unit of land or location on the unit of land to which the
57 water company delivers water, the designation obligates the water company to
58 deliver water only to the unit of land or location so designated unless the water
59 company consents in writing for the water to be delivered to a different unit of land
60 or a different location.

61 [(e)] (e) Nothing in this section is intended to alter any right or remedy a shareholder
62 may have under Sections 16-6a-612, 16-6a-808, 16-6a-809, 16-6a-822, 16-6a-824,
63 and 16-6a-825, or any other applicable law.

64 Section 2. Section **73-1-10** is amended to read:

65 **73-1-10 . Conveyance of water rights -- Deed -- Exceptions -- Filing and**
66 **recording of deed -- Report of water right conveyance.**

67 (1)(a) A [water right] person shall transfer a water right by deed in substantially the same
68 manner as real estate, whether the water right is evidenced by:

69 (i) a decree[,-] ;
70 (ii) a certificate of appropriation[,-] ;
71 (iii) a [diligenee] claim to the use of surface or underground water[,-] filed with the
72 state engineer in accordance with Section 73-5-13 or as otherwise provided by law;
73 or
74 (iv) a water user's claim filed in general determination proceedings[, shall be
75 transferred by deed in substantially the same manner as is real estate].

76 (b) [The deed must be recorded] A person shall record the deed described in Subsection
77 (1)(a) in the office of the recorder of:
78 (i) the county where the point of diversion of the water is located; and[~~in~~]
79 (ii) the county where the water is used.

80 (c) A recorded deed of a water right shall from the time of [its] the deed's recording in
81 the office of the county recorder constitute notice of [its] the recorded deed's contents
82 to all persons.

83 (d)(i) Beginning July 1, 2011, a deed under Subsection (1)(a) may include a water
84 rights addendum as provided in Section 57-3-109.
85 (ii) The state engineer shall consider a water rights addendum that is recorded and
86 forwarded to the state engineer by a county recorder, in accordance with Section
87 57-3-109, as a submitted report of water right conveyance under Subsection (3).

88 (2)(a) A transfer of ownership of a share of stock in a water company, as defined in
89 Section 16-4-102, is accomplished only in accordance with Section 16-6a-606.
90 (i) The records of a water company, and not the records of the state engineer,
91 determine a person's ownership of a share of stock in the water company.

92 [(2) The right to the use of water evidenced by shares of stock in a corporation shall be
93 transferred in accordance with the procedures applicable to securities set forth in Title
94 70A, Chapter 8, Uniform Commercial Code - Investment Securities.]

95 (3)(a) To update water right ownership on the records of the state engineer, a water right
96 owner shall submit a report of water right conveyance to the state engineer.
97 (b) The report of water right conveyance shall be on forms provided by the state
98 engineer.

99 (c) The report shall be prepared by:

100 (i) or prepared under the direction of and certified by, any of the following persons
101 licensed in Utah:
102 (A) an attorney;
103 (B) a professional engineer;
104 (C) a title insurance producer; or
105 (D) a professional land surveyor; or
106 (ii) the water right owner as authorized by rule of the state engineer.

107 (d) The filing and processing of a report of water right conveyance with the state
108 engineer is neither an adjudication of water right ownership nor an opinion as to title
109 or validity of the water right.

110 (e) The state engineer shall adopt make rules, in accordance with Title 63G, Chapter 3,
111 Utah Administrative Rulemaking Act, that specify:
112 (i) the information required in a report of water right conveyance; and
113 (ii) the procedures for processing [the reports] a report of water right conveyance.

114 Section 3. Section **73-1-11** is amended to read:

115 **73-1-11 . Appurtenant water rights pass to grantee of land -- Exceptions --**

116 **Conveyance of a portion of irrigated land -- Right to the use of water evidenced by shares**
117 **of stock -- Appurtenant water rights -- Evidence -- Where appurtenant -- Partial**
118 **conveyances of water and land.**

119 (1)(a) A water right appurtenant to land [shall pass] passes to the grantee of the land
120 unless the grantor:
121 (i) specifically reserves the water right or any part of the water right in the land
122 conveyance document;
123 (ii) conveys a part of the water right in the land conveyance document; or
124 (iii) conveys the water right in a separate conveyance document [prior to] before or
125 contemporaneously with the execution of the land conveyance document.

126 (b) If a county recorder records a document that conveys a water right appurtenant to
127 land as described in Subsection (1)(a) and relies on the document to maintain a tract
128 index described in Section 17-71-302, the state engineer shall rely on the document
129 as an effective conveyance of a water right appurtenant to land.

130 (2)(a) If the water right has been [exercised] beneficially used in irrigating different
131 parcels of land at different times, it shall pass to the grantee of a parcel of land on
132 which the water right was [exercised] beneficially used next preceding the time the

133 land conveyance was executed.

134 (b) Subsection (2)(a) applies only to land conveyances executed before May 4, 1998.

135 (3) In any conveyance, the grantee assumes the obligation for any unpaid assessment
136 described in Subsection 73-5-1(3).

137 (4)(a) [The right to the use of water evidenced by shares of stock in a corporation] A
138 share of stock in a water company, as defined in Section 16-4-102:

139 (i) is not a water right;

140 (ii) unless specifically provided for in Section 16-6a-606, is not appurtenant to land[.] ;
141 and

142 (iii) is transferred only as provided in Section 16-6a-606.

143 (b) A person may not use a share of stock in a water company, as defined in Section
144 16-4-102, for which the water company designates a specific unit of land or a
145 location on a specific unit of land where the water company delivers water in
146 accordance with Section 16-6a-606 as the basis for transferring ownership of or
147 changing title to a water right belonging to the water company.

148 [(b) On or after May 14, 2013, unless provided otherwise in a corporation's articles of
149 incorporation or bylaws, the right to the use of water evidenced by shares of stock in
150 a corporation shall transfer only as provided in Subsection 73-1-10(2).]

151 (5)(a) This Subsection (5) governs land conveyances executed on or after May 4, 1998,
152 and has no retrospective operation.

153 (b) For purposes of land conveyances only, a water right evidenced by any of the
154 following documents is appurtenant to land:

155 (i) a decree entered by a court;

156 (ii) a certificate issued under Section 73-3-17;

157 (iii) a diligence claim for surface or underground water filed pursuant to Section
158 73-5-13;

159 (iv) a water user's claim executed for general determination of water rights
160 proceedings conducted pursuant to Title 73, Chapter 4, Determination of Water
161 Rights, or pursuant to Section 73-3-16;

162 (v) an approval for an application to appropriate water issued under Section 73-3-10;

163 (vi) an approval for an application to permanently change the place of use of water
164 issued under Section 73-3-10; or

165 (vii) an approval for an application to exchange water issued under Section 73-3-20.

166 (c) For purposes of land conveyances only, the land to which a water right is appurtenant

167 is the authorized place of use of water as described in the:

168 (i) decree;
169 (ii) certificate;
170 (iii) diligence claim;
171 (iv) water user's claim;
172 (v) approved application to appropriate water;
173 (vi) approved application to permanently change the place of use of water; or
174 (vii) approved exchange application.

175 (d) If a grantor conveys part of the water right in a land conveyance document pursuant
176 to Subsection (1)(b), the portion of the water right not conveyed is presumed to be
177 reserved by the grantor.

178 (e) If the land conveyed constitutes only a portion of the authorized place of use for the
179 water right, the amount of the appurtenant water right that passes to the grantee shall
180 be proportionate to the conveyed portion of the authorized place of use.

181 (6) Beginning July 1, 2011, a deed conveying fee simple title to land may include a water
182 rights addendum as provided in Section 57-3-109.

183 **Section 4. Effective Date.**

184 This bill takes effect on May 6, 2026.