

Scott H. Chew proposes the following substitute bill:

**Transfer of Water Interests**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Doug Owens**

Senate Sponsor: Derrin R. Owens

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- 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.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

**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:*

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

**16-6a-606 . Transfers.**

(1) Except as provided in Subsection (3), and unless otherwise provided in the articles of

- 29 incorporation or the bylaws, a member of a nonprofit corporation may not transfer:
- 30 (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 a water company's articles of incorporation or bylaws authorize the water
- 56 company to designate a specific unit of land or location on the unit of land to which
- 57 the water company will deliver 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 diligence claim to the use of surface or underground water[;] ; or~~

72 (iv) ~~a water user's claim filed in general determination proceedings[; shall be~~  
 73 ~~transferred by deed in substantially the same manner as is real estate].~~

74 (b) ~~[The deed must be recorded-] A person shall record the deed described in Subsection~~  
 75 ~~(1)(a) in the office of the recorder of:~~

76 (i) ~~[-]the county where the point of diversion of the water is located; and[-in-]~~

77 (ii) ~~the county where the water is used.~~

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

81 (d)(i) Beginning July 1, 2011, a deed under Subsection (1)(a) may include a water  
 82 rights addendum as provided in Section 57-3-109.

83 (ii) The state engineer shall consider a water rights addendum that is recorded and  
 84 forwarded to the state engineer by a county recorder, in accordance with Section  
 85 57-3-109, as a submitted report of water right conveyance under Subsection (3).

86 (2)(a) A transfer of ownership of a share of stock in a water company, as defined in  
 87 Section 16-4-102, is accomplished only in accordance with Section 16-6a-606.

88 (b) The records of a water company, and not the records of the state engineer, determine  
 89 a person's ownership of a share of stock in the water company.

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

93 (3)(a) To update water right ownership on the records of the state engineer, a water right  
 94 owner shall submit a report of water right conveyance to the state engineer.

95 (b) The report of water right conveyance shall be on forms provided by the state  
 96 engineer.

- 97 (c) The report shall be prepared by:
- 98 (i) or prepared under the direction of and certified by, any of the following persons
- 99 licensed in Utah:
- 100 (A) an attorney;
- 101 (B) a professional engineer;
- 102 (C) a title insurance producer; or
- 103 (D) a professional land surveyor; or
- 104 (ii) the water right owner as authorized by rule of the state engineer.
- 105 (d) The filing and processing of a report of water right conveyance with the state
- 106 engineer is neither an adjudication of water right ownership nor an opinion as to title
- 107 or validity of the water right.
- 108 (e) The state engineer shall ~~adopt~~ make rules, in accordance with Title 63G, Chapter 3,
- 109 Utah Administrative Rulemaking Act, that specify:
- 110 (i) the information required in a report of water right conveyance; and
- 111 (ii) the procedures for processing ~~[the reports]~~ a report of water right conveyance.

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

113 **73-1-11 . Appurtenant water rights pass to grantee of land -- Exceptions --**

114 **Conveyance of a portion of irrigated land -- Right to the use of water evidenced by shares**

115 **of stock -- Appurtenant water rights -- Evidence -- Where appurtenant -- Partial**

116 **conveyances of water and land.**

- 117 (1)(a) A water right appurtenant to land ~~[shall pass]~~ passes to the grantee of the land
- 118 unless the grantor:
- 119 (i) specifically reserves the water right or any part of the water right in the land
- 120 conveyance document;
- 121 (ii) conveys a part of the water right in the land conveyance document; or
- 122 (iii) conveys the water right in a separate conveyance document ~~[prior to]~~ before or
- 123 contemporaneously with the execution of the land conveyance document.
- 124 (b) If a county recorder records a document that conveys a water right appurtenant to
- 125 land as described in Subsection (1)(a) and relies on the document to maintain a tract
- 126 index described in Section 17-71-302, the state engineer shall rely on the document
- 127 as an effective conveyance of a water right appurtenant to land.
- 128 (2)(a) If the water right has been ~~[exereised]~~ beneficially used in irrigating different
- 129 parcels of land at different times, it shall pass to the grantee of a parcel of land on
- 130 which the water right was ~~[exereised]~~ beneficially used next preceding the time the

- 131 land conveyance was executed.
- 132 (b) Subsection (2)(a) applies only to land conveyances executed before May 4, 1998.
- 133 (3) In any conveyance, the grantee assumes the obligation for any unpaid assessment  
134 described in Subsection 73-5-1(3).
- 135 (4)(a) [~~The right to the use of water evidenced by shares of stock in a corporation~~] A  
136 share of stock in a water company, as defined in Section 16-4-102:
- 137 (i) is not a water right;
- 138 (ii) unless specifically provided for in Section 16-6a-606, is not appurtenant to land[-] ;  
139 and
- 140 (iii) is transferred only as provided in Section 16-6a-606.
- 141 (b) A person may not use a share of stock in a water company, as defined in Section  
142 16-4-102, for which the water company designates a specific unit of land or a  
143 location on a specific unit of land where the water company delivers water in  
144 accordance with Section 16-6a-606 as the basis for transferring ownership of or  
145 changing title to a water right belonging to the water company.
- 146 [~~(b) On or after May 14, 2013, unless provided otherwise in a corporation's articles of~~  
147 ~~incorporation or bylaws, the right to the use of water evidenced by shares of stock in~~  
148 ~~a corporation shall transfer only as provided in Subsection 73-1-10(2).]~~
- 149 (5)(a) This Subsection (5) governs land conveyances executed on or after May 4, 1998,  
150 and has no retrospective operation.
- 151 (b) For purposes of land conveyances only, a water right evidenced by any of the  
152 following documents is appurtenant to land:
- 153 (i) a decree entered by a court;
- 154 (ii) a certificate issued under Section 73-3-17;
- 155 (iii) a diligence claim for surface or underground water filed pursuant to Section  
156 73-5-13;
- 157 (iv) a water user's claim executed for general determination of water rights  
158 proceedings conducted pursuant to Title 73, Chapter 4, Determination of Water  
159 Rights, or pursuant to Section 73-3-16;
- 160 (v) an approval for an application to appropriate water issued under Section 73-3-10;
- 161 (vi) an approval for an application to permanently change the place of use of water  
162 issued under Section 73-3-10; or
- 163 (vii) an approval for an application to exchange water issued under Section 73-3-20.
- 164 (c) For purposes of land conveyances only, the land to which a water right is appurtenant

- 165 is the authorized place of use of water as described in the:
- 166 (i) decree;
- 167 (ii) certificate;
- 168 (iii) diligence claim;
- 169 (iv) water user's claim;
- 170 (v) approved application to appropriate water;
- 171 (vi) approved application to permanently change the place of use of water; or
- 172 (vii) approved exchange application.
- 173 (d) If a grantor conveys part of the water right in a land conveyance document pursuant
- 174 to Subsection (1)(b), the portion of the water right not conveyed is presumed to be
- 175 reserved by the grantor.
- 176 (e) If the land conveyed constitutes only a portion of the authorized place of use for the
- 177 water right, the amount of the appurtenant water right that passes to the grantee shall
- 178 be proportionate to the conveyed portion of the authorized place of use.
- 179 (6) Beginning July 1, 2011, a deed conveying fee simple title to land may include a water
- 180 rights addendum as provided in Section 57-3-109.

181 Section 4. **Effective Date.**

182 This bill takes effect on May 6, 2026.