

## **Chapter 10**

### **Board of Water Resources - Division of Water Resources**

#### **73-10-1 State's policy -- Creation of revolving fund -- General construction of chapter.**

- (1)
- (a) The Legislature restates the following, previously-declared policies of the state of Utah:
    - (i) "All waters in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof";
    - (ii) "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state"; and
    - (iii) to "obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law."
  - (b) The Legislature by this chapter reiterates and reaffirms the declaration of the public policy of the state of Utah, described in Subsection (1)(a).
- (2) It is further declared to be the policy of this chapter and of the state of Utah, and the Legislature recognizes:
- (a) that by construction of projects based upon sound engineering the waters within the various counties of the state of Utah can be saved from waste and increased in efficiency of beneficial use by 25% to 100%;
  - (b) that because of well-known conditions such as low prices and lack of market for farm products, particularly the inefficiency of water supply because of lack of late season water and consequent lack of financial strength, water users in small communities have been unable to build projects that would provide full conservation and beneficial use for the limited water supply in this semiarid land;
  - (c) that water, as the property of the public, should be so managed by the public that it can be put to the highest use for public benefit;
  - (d) that Congress of the United States has provided for the building of larger water conservation projects throughout the semiarid states, payment of the capital costs without interest to be made by the water users upon the basis of a fair portion of crop returns;
  - (e) that the Congress of the United States has established in the department of interior and in the department of agriculture, various agencies having authority to develop, protect, and aid in putting to beneficial use the land and water resources of the United States and to cooperate with state agencies having similar authority;
  - (f) that the interests of the state of Utah require that means be provided for close cooperation between all state and federal agencies to the end that the underground waters and waters of the small streams of the state, and the lands thereunder, can be made to yield abundantly and increase the income and well-being of the citizens of the state; and
  - (g) that it appears to be sound public policy for the state of Utah to provide a revolving fund, to be increased at each legislative session, to the end that every mountain stream and every water resource within the state can be made to render the highest beneficial service, such fund to be so administered that no project will be built except upon expert engineering, financial, and geological approval.

Amended by Chapter 261, 2025 General Session

#### **73-10-1.5 Board of Water Resources -- Creation -- Transfer of powers and duties.**

There is created within the Department of Natural Resources a Board of Water Resources which, except as otherwise provided in this act, shall assume all of the policy-making functions, powers, duties, rights and responsibilities of the Utah water and power board, together with all functions, powers, duties, rights and responsibilities granted to the Board of Water Resources by this act. The Board of Water Resources shall be the policy-making body of the Division of Water Resources. Except as otherwise provided in this act, whenever reference is made in Title 73, Water and Irrigation, or any other provision of law, to the Utah Water and Power Board, it shall be construed as referring to the Board of Water Resources where such reference pertains to policy-making functions, powers, duties, rights and responsibilities; but in all other instances such reference shall be construed as referring to the Division of Water Resources.

Enacted by Chapter 176, 1967 General Session

**73-10-2 Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.**

- (1) The Board of Water Resources shall be comprised of nine members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (2) Subject to Section 79-2-203, the Board of Water Resources shall consist of:
  - (a) one member appointed from each of the following districts:
    - (i) Bear River District, comprising the counties of Box Elder, Cache, and Rich;
    - (ii) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;
    - (iii) Salt Lake District, comprising the counties of Salt Lake and Tooele;
    - (iv) Provo River District, comprising the counties of Juab, Utah, and Wasatch;
    - (v) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;
    - (vi) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;
    - (vii) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and
    - (viii) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane; and
  - (b) one member that represents the interests of the Great Salt Lake.
- (3)
  - (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
  - (c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term, with the advice and consent of the Senate, who:
    - (i) is from the same district as the individual leaving the board; or
    - (ii) if the individual leaving the board is appointed under Subsection (2)(b), represents the interests of the Great Salt Lake.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 57, 2025 General Session  
Amended by Chapter 102, 2025 General Session

**73-10-3 Organization of board.**

The board shall elect a chair and one or more vice-chairs who shall be members of the board, and shall establish the board's own rules of organization and procedure.

Amended by Chapter 522, 2024 General Session

**73-10-4 Powers and duties of board.**

- (1) The board shall have the following powers and duties to:
- (a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;
  - (b) enter into contracts subject to the provisions of this chapter for the construction or purchase of a project that in the opinion of the board will conserve and use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;
  - (c) sue and be sued in accordance with applicable law;
  - (d) enter into a contract that the Utah water agent, appointed under Section 73-10g-702, recommends for a water augmentation project under Section 73-10g-703;
  - (e) cooperate with the Utah water agent, appointed under Section 73-10g-702, in matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of:
    - (i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or
    - (ii) state representation under:
      - (A) the Bear River Compact as provided in Section 73-16-4; or
      - (B) the Columbia Interstate Compact as provided in Section 73-19-9;
  - (f) contract with federal and other agencies and with the National Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose that relates to the development, conservation, protection and control of the water and power resources of the state;
  - (g) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;
  - (h) consider and make recommendations on behalf of the state of reclamation projects or other water development projects for construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken; or
  - (i) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.
- (2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by this title, except as specifically otherwise provided in this section.

Amended by Chapter 119, 2025 General Session

**73-10-5 Selection of project by board -- Preparation of plans and estimate of cost -- Contracts by board.**

When a project to be constructed with money made available from the funds created by Section 73-10-8 has been selected by the board, which in its opinion, will conserve the water resources of this state for the best interests of the citizens of the state, the board shall cause plans and cost estimates of such project to be prepared. Such plans and cost estimates shall then be referred to the director of the Division of Finance who shall determine whether or not funds are available for the construction of the project. If the director of the Division of Finance approves the project so far as the availability of funds is concerned, the Utah water and power board shall then enter into a contract or contracts for the construction of the project. Such contracts shall not be binding upon the state until approved by the director of the Division of Finance from the standpoint of whether or not the cost of the work is reasonable and whether the contract has been entered into under the terms and conditions most advantageous to the state.

Amended by Chapter 320, 1983 General Session

**73-10-6 Making water available to citizens of state -- Assessment of charges against water users -- Water Resources Construction Fund.**

The Board of Water Resources may make available for the use of the citizens of the state who are, in its opinion, best able to utilize the same, any or all water and power conserved by any of the projects to which the state may have title and may enter into contracts for the use of said water and power with individuals or with organizations composed of citizens of the state of Utah. The board may assess against any person using such water and power such charges as, in the opinion of the board, are necessary and reasonable for the maintenance of the project and return to the state the actual costs of the project over such term of years as the board may deem it advisable. Any amount collected as charges over and above the amount necessary to maintain any particular project shall become part of the Water Resources Construction Fund.

Amended by Chapter 169, 1988 General Session

**73-10-7 Title to projects -- Contractual powers of board.**

Title of all projects constructed with funds made available by Section 73-10-8 hereof under the terms of this act shall become vested in the state of Utah. The board is empowered to enter into contracts which are, in its opinion, necessary for the maintenance and continued operation of such projects.

No Change Since 1953

**73-10-8 Water Resources Construction Fund -- Creation and contents of fund -- Use -- Investigation Account created -- Interest -- Retainage -- Loans and grants for dam safety work.**

- (1) There is created the Water Resources Construction Fund, which consists of:
  - (a) money appropriated or otherwise made available to it by the Legislature;
  - (b) money from the sale or management of the 500,000 acres of land selected for the establishment of reservoirs under Section 12 of the Utah Enabling Act;
  - (c) charges assessed against water and power users pursuant to Section 73-10-6; and
  - (d) interest accrued pursuant to Subsection (5).

- (2) The board may authorize the use of money in the fund for the following purposes:
  - (a) to develop water conservation projects, including paying the costs of construction, engineering, investigation, inspection, and other related expenses;
  - (b) to provide loans and grants to dam owners to conduct dam safety studies;
  - (c) to provide loans and grants to dam owners:
    - (i) to upgrade dams in conformance with the minimum standards established by the state engineer in rules; or
    - (ii) for nonstructural solutions developed to meet minimum standards or lower hazard ratings that are approved by the state engineer, including the purchase of habitable structures, purchase of flood easements, and installation of early warning systems; or
  - (d) as otherwise provided by law.
- (3) The board may provide for the repayment of the costs of investigation, engineering, and inspection out of the first money to be paid under a contract for the construction of a water project. The money repaid shall be deposited into a subaccount within the Water Resources Construction Fund known as the Investigation Account, to be used by the board for the purpose of making investigations for the development and use of the water resources of the state.
- (4) Contributions of money, property, or equipment may be received from any political subdivision of the state, federal agency, water users' association, person, or corporation for use in making investigations, constructing projects, or otherwise carrying out the purposes of this section.
- (5) All money deposited into the Water Resources Construction Fund shall be invested by the state treasurer with interest accruing to the Water Resources Construction Fund.
- (6) If any payment on a contract with a private contractor to construct a project funded by the Water Resources Construction Fund is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- (7) Loans to dam owners for dam safety studies and to upgrade dams in conformance with minimum standards shall be secured by taking water rights associated with the dam.
- (8) The following restrictions apply to any grant made to a dam owner for a dam safety study:
  - (a) only a nonprofit mutual irrigation company or a water users association is eligible to receive a grant;
  - (b) the dam safety study shall be required by the state engineer pursuant to Section 73-5a-503; and
  - (c) the amount of any grant shall be limited to up to 50% of the costs of the dam safety study.
- (9)
  - (a) The board may provide grants to mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer. Each grant authorized by the board for the upgrade of a dam of a mutual irrigation company or water users association in conformance with the minimum standards shall be sufficient to pay for 80% of the costs to upgrade the dam.
  - (b)
    - (i) Pursuant to guidelines specified in Subsection (9)(b)(ii), the board may provide loans or grants, or both, to entities other than mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer.
    - (ii) In determining the type of financial assistance to be provided to an entity other than a mutual irrigation company or water users association, the board shall consider the dam owner's ability to pay and may consider other factors including:
      - (A) the degree of hazard;
      - (B) the threat to public safety;

- (C) the state engineer's priority list of dams;
  - (D) the cost effectiveness of the restoration;
  - (E) the number of potential and actual applications for financial assistance; and
  - (F) the funds available.
- (10) The amount of money in the fund that may be used for grants for dam safety studies shall be limited to the amount of money appropriated to the fund for that purpose.
- (11) The board shall consult with the state engineer in establishing a priority list of dams to be upgraded with money in the fund.
- (12) A dam owner who has initiated or completed construction approved by the state engineer to upgrade the dam in conformance with minimum standards may apply for a grant or loan from the board as reimbursement for those construction expenditures.

Amended by Chapter 342, 2011 General Session

**73-10-11 Counsel to board and representative -- Utilization of other departments -- Duty of executive secretary of board to collect on water contracts.**

The attorney general shall act as legal counsel to the board, and to its representative as hereinbefore provided for, and the board shall wherever practicable utilize the services and facilities of other departments of the state government. The executive secretary of the Utah water and power board shall be charged with the duty of collecting any and all amounts due on contracts with water users.

Amended by Chapter 133, 1953 Special Session C

**73-10-15 State water plan -- Entities to cooperate in formulation of plan.**

- (1) As used in this section:
- (a) "Division" means the Division of Water Resources created under Section 73-10-18.
  - (b) "State water plan" means a comprehensive framework that identifies available water resources, recommends strategies for water resource optimization, and guides efforts to manage available water supplies.
- (2)
- (a) Beginning on or before December 31, 2026, the division shall publish a state water plan that:
    - (i) is consistent with the state water policy established in Section 73-1-21;
    - (ii) references the state unified water infrastructure plan created by the Water Development Coordinating Council under Section 73-10g-602;
    - (iii) fosters communities and businesses;
    - (iv) facilitates local agriculture;
    - (v) addresses outdoor recreation; and
    - (vi) provides for a healthy environment.
  - (b) The state water plan may include recommendations for policy, fiscal support, implementation of findings by governmental and private institutions, and public engagement.
  - (c) In formulating the state water plan, the division shall seek input from a wide range of stakeholders, including representatives from agriculture and other water dependent businesses, conservationists, recreation interests, government entities, academia, and Utah residents in general.
  - (d) The division shall update the state water plan no less frequently than every ten years.
- (3) The following shall cooperate with the division in the formulation of the state water plan:
- (a) the following state entities:

- (i) the Governor's Office of Planning and Budget;
  - (ii) the Department of Agriculture and Food;
  - (iii) within the Department of Natural Resources:
    - (A) the Division of Water Rights;
    - (B) the Utah Geological Survey;
    - (C) the Division of Wildlife Resources;
    - (D) the Division of Forestry, Fire, and State Lands; and
    - (E) the Public Lands Policy Coordinating Office;
  - (iv) within the Department of Environmental Quality:
    - (A) the Division of Drinking Water; and
    - (B) the Division of Water Quality;
  - (v) the Office of the Great Salt Lake Commissioner; and
  - (vi) the Colorado River Authority of Utah;
  - (b) the following local entities:
    - (i) a water conservancy district created under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and
    - (ii) a local watershed council created under Chapter 10g, Part 3, Watershed Councils Act; and
  - (c) any other state or local entity that the division considers necessary.
- (4) A state entity identified in Subsection (3)(a) shall designate an individual to assist and advise the division in the formulation of a state water plan.
- (5) The division shall use information, including water resources data, that has been or will be assembled by state entities, the United States government, various colleges and universities of the state, or any other source that can profitably contribute to the development of the state water plan.
- (6) In accordance with this section, an entity described in Subsection (3) shall cooperate with the division unless the cooperation would directly impair the authority granted to the entity by statute.
- (7) The Utah Watersheds Council shall advise the division concerning state water planning activities.

Repealed and Re-enacted by Chapter 335, 2024 General Session

**73-10-16 State water plan -- Payment for special studies and investigations.**

Special studies or investigations needed for development of a water plan which might be requested of other agencies, but not included in the budgets or the work programs of such agencies, may be paid for from funds hereby appropriated for the formulation of a state water plan.

Enacted by Chapter 178, 1963 General Session

***Superseded 7/1/2025***

**73-10-18 Division of Water Resources -- Creation -- Power and authority.**

- (1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.
- (2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

- (a) be the water resource authority for the state; and
  - (b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.
- (3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-702, has authority over out-of-state negotiations related to water importation in accordance with Chapter 10g, Part 7, Utah Water Agent, except when limited by Section 73-10g-703.

Amended by Chapter 277, 2025 General Session

***Effective 7/1/2025***

**73-10-18 Division of Water Resources -- Creation -- Power and authority.**

- (1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.
- (2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:
- (a) be the water resource authority for the state; and
  - (b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.
- (3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-702, has authority over out-of-state negotiations related to water importation in accordance with Chapter 10g, Part 7, Utah Water Agent, except when limited by Section 73-10g-703.

Amended by Chapter 93, 2025 General Session

**73-10-19 Director's power and authority.**

The director shall:

- (1) be the executive and administrative head of the Division of Water Resources;
- (2) be selected with special reference to training, experience, and interest in the field of water conservation and development;
- (3) administer the Division of Water Resources;
- (4) succeed to all of the powers and duties conferred upon the executive secretary of the Utah water and power board pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources; and
- (5) have the power, within rules established by the Board of Water Resources, to:
  - (a) make studies, investigations, and plans for the full development and utilization and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state, and other agencies;
  - (b) initiate and conduct water resource investigations, surveys and studies, prepare plans and estimates, make reports thereon, and perform necessary work to develop an over-all state water plan;

- (c) file applications in the name of the division for the appropriation of water;
- (d) take all action necessary to acquire or perfect water rights for projects sponsored by the board; and
- (e) accept, execute, and deliver deeds and all other conveyances.

Amended by Chapter 58, 2016 General Session

**73-10-20 Loans for water systems -- Legislative declaration -- Authority of Division of Water Resources to audit water data.**

The Legislature recognizes and declares that:

- (1) the development, protection, and maintenance of adequate and safe water supplies for human consumption is vital to public health, safety, and welfare;
- (2) there exists within the state a need to assist cities, towns, improvement districts, and special service districts in providing an adequate and safe water supply for those users from municipal and district systems; and
- (3) the acquisition or construction of systems and the improvement and extension of existing systems, based on proper planning and sound engineering, will not only provide safer water supplies, but will also serve to ensure that the water resources of the state are used in an efficient manner and will avoid wasteful practices.

Amended by Chapter 58, 2016 General Session

**73-10-21 Loans for water systems -- Eligible projects.**

This chapter shall apply to all eligible projects of incorporated cities and towns, special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, assessment areas under Title 11, Chapter 42, Assessment Area Act, and special service districts under Title 17D, Chapter 1, Special Service District Act. Eligible projects are those for the acquisition, improvement, or construction of water systems used for the production, supply, transmission, storage, distribution, or treatment of water for cities, towns, metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts, or the improvement or extension of such systems.

Amended by Chapter 16, 2023 General Session

**73-10-23 Loans for water systems -- Board of Water Resources authority -- Procedure.**

- (1) The Board of Water Resources may make loans to cities, towns, metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts within the state for the acquisition or construction of new or existing water systems or the improvement or extension of those systems from money appropriated for the purpose of this chapter.
- (2)
  - (a) Cities, towns, or districts which participate in this program shall submit an application for money to the Board of Water Resources.
  - (b) The application may request a loan to cover all or part of the cost of an eligible project.
  - (c) Requests for loans shall be submitted in a form and shall include information as the Board of Water Resources prescribes.
- (3)

- (a) The Board of Water Resources shall establish criteria for determining eligibility for loans and shall determine appropriate priorities among projects.
- (b) Money received from the repayment of loans shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 and be available for additional loans under the administration of the Board of Water Resources.
- (c) In determining priorities for eligible projects, the Board of Water Resources shall consider:
  - (i) probable growth of population due to actual or prospective economic development in an area;
  - (ii) possible additional sources of state and local revenue;
  - (iii) opportunities for expanded employment;
  - (iv) present or potential health hazards;
  - (v) water systems which do not meet minimum state standards;
  - (vi) cities, towns, or districts which have insufficient water to meet current demands;
  - (vii) feasibility and practicality of the project;
  - (viii) per capita cost of the project;
  - (ix) per capita income of the residents in the area;
  - (x) the borrowing capacity of the city, town, or district and its ability to sell bonds in the open market; and
  - (xi) the availability of federal money for the project.
- (4)
  - (a) The Board of Water Resources shall consult with the Governor's Advisory Council on Community Affairs in the establishment of priorities but that advice is not binding upon the Board of Water Resources.
  - (b) If an application is rejected, the Board of Water Resources shall notify the applicant stating the reasons for the rejection.
- (5) The Board of Water Resources shall review the plans and specifications for the project prior to approval and may condition approval and the availability of money on assurances the Board of Water Resources considers necessary to ensure that the proceeds of the loan will be used to pay the cost of the project and that the project will be completed.
- (6) Any loan shall specify the terms for repayment and may be evidenced by general obligation bonds, revenue bonds, special assessment bonds, or other bonds or obligations legally issued by the appropriate city, town, metropolitan water district, water conservancy district, improvement district, special improvement district, or special service district and purchased by the Board of Water Resources pursuant to the authority for the issuance that exists at the time of the loan.
- (7)
  - (a) Upon approval of an application, the Board of Water Resources shall advise the applicant and may provide money as a loan to cover all or part of the costs of eligible projects.
  - (b) Costs of an eligible project may include all costs of acquisition and construction as well as costs incurred for preliminary planning to determine the economic and engineering feasibility of a proposed project, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the project and its financing; the cost of erection, building, acquisition, modification, improvement, or extension of water system facilities and the inspection and supervision of the construction of such facilities.
- (8) A loan may not include any project costs for which the applicant receives federal financial assistance, other than federal loans that must be repaid by the applicant.

Amended by Chapter 105, 2025 General Session

**73-10-24 Water Resources Conservation and Development Fund created.**

There is created a Water Resources Conservation and Development Fund to further enhance the state's ability to carry out the policy described in Section 73-10-1. The fund shall be administered by the Board of Water Resources. The fund is a revolving fund established for the construction, operation, and maintenance of projects considered by the board to be outside the scope of financing by the Water Resources Construction Fund, as created by Section 73-10-8, and shall include, but not be limited to, flood control projects.

Amended by Chapter 169, 1988 General Session

**73-10-25 Contents of fund -- Investment -- Contributions -- Transfers.**

- (1) The Water Resources Conservation and Development Fund consists of:
  - (a) money appropriated to it by the Legislature;
  - (b) money received from the sale of project water and power, less operating and maintenance costs;
  - (c) annual payments on contracts for projects constructed under Section 73-10-24 or the State Water Conservation Program;
  - (d) other money or tax revenues designated by the Legislature to be credited to the Water Resources Conservation and Development Fund; and
  - (e) money transferred from the Water Infrastructure Fund in accordance with Subsection 73-10g-603(1)(f).
- (2) Money deposited into the Water Resources Conservation and Development Fund shall be invested by the state treasurer with interest accruing to the Water Resources Conservation and Development Fund, except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986.
- (3) A contribution of money, property, or equipment may be received from a political subdivision of the state, federal agency, water users' association, or person for use in carrying out the purposes of Section 73-10-24.
- (4) Notwithstanding Subsection (1), the division shall transfer a payment on a loan to the Water Infrastructure Restricted Account, created in Section 73-10g-103, if the loan:
  - (a) is issued from the Water Resources Conservation and Development Fund on or after July 1, 2023; and
  - (b) relates to a project described in Subsection 73-10g-104(4).
- (5) The Board of Water Resources may direct the transfer of money out of the Water Resources Conservation and Development Fund to the Water Infrastructure Fund in accordance with Section 73-10g-107.

Amended by Chapter 105, 2025 General Session

**73-10-25.1 Credit enhancement and interest buy-down agreements.**

- (1) The Board of Water Resources may enter into credit enhancement agreements with political subdivisions containing terms and provisions that the board determines will reasonably improve the security for or marketability of water project obligations financed using the Water Resources Conservation and Development Fund created in Section 73-10-24. Credit enhancement agreements may include provisions for loans to political subdivisions to pay the costs of

obtaining letters of credit or other forms of insurance or security to provide security for water project obligations.

- (2) The Board of Water Resources may make loans or grants from the Water Resources Conservation and Development Fund to political subdivisions for interest buy-down agreements for water development projects.

Amended by Chapter 105, 2025 General Session

**73-10-26 Definitions -- Construction of a project by board -- Ownership and operation -- Transfer of a water right -- Purchase of a bond from an Indian tribe.**

(1) As used in this section:

- (a) "Board" means the Board of Water Resources created in Section 73-10-1.5.
- (b) "Bond" means:
  - (i) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and
  - (ii) a lease agreement, installment purchase agreement, or other agreement that includes an obligation to pay money.
- (c) "Division" means the Division of Water Resources created in Section 73-10-18.
- (d) "Project" means a facility, works, or other real or personal property that:
  - (i) conserves or develops the water or hydroelectric power resources of the state; or
  - (ii) controls flooding.

(2)

- (a) The board, through the division, may construct a project.
- (b) An electric public utility or a municipality of the state may construct an electrical facility incidental to a project.
- (c) If the state constructs the electrical facility, the state must first offer the power and energy derived from the hydroelectric generating project to an electric public utility or municipality in the state for distribution to electric consumers.

(3)

- (a) The board, through the division, may consider a flood control project in the same manner and apply the same procedures and rules as the board would consider or apply to another project within its statutory authority.
- (b) If funds controlled by the board are to be used for the flood control project, the planning of the project is subject to the review of the board.
- (c) If the flood control project is authorized for construction, the plans, specifications, and construction supervision shall be undertaken as prescribed by the board.

(4) The board may enter into an agreement for the construction or financing of a project financed with money from the Water Resources Conservation and Development Fund with another state, the federal government, a political subdivision of the state, an Indian tribe, or a private corporation.

(5)

- (a)
  - (i) Except as provided by Subsections (5)(a)(ii) and (b), title to a project, including a water right, constructed or acquired with money from the Water Resources Conservation and Development Fund is vested in the state.
  - (ii) The board may take a bond legally issued by the project sponsor in lieu of or in addition to taking title to the project and water right.

- (b) If an Indian tribe sponsors a project, the board may take a bond legally issued by the tribe, to the extent that federal law allows the tribe to issue a bond, in lieu of taking title to the project and water right, if the tribe:
  - (i) waives the defense of sovereign immunity regarding the bond issue in an action arising out of the issuance or default under the bond; and
  - (ii) agrees in writing that it will not challenge state court jurisdiction over any litigation resulting from default on its obligation in the transaction.
- (c) Before entering into an agreement with or purchasing a bond from a tribe, the board shall:
  - (i) require that the tribe obtain the written approval of the Secretary of the United States Department of the Interior or the secretary's designee to all aspects of the agreement or bond;
  - (ii) obtain a legal opinion from a recognized bond counsel certifying:
    - (A) that the tribe has legal authority to:
      - (I) enter into the agreement; or
      - (II) issue the bond;
    - (B) that the pledge of an asset or revenue by the tribe as security for the payments under the agreement or bond is a valid and legally enforceable pledge; and
    - (C) that the agreement or bond may be enforced in a court of general jurisdiction in the state; and
  - (iii) determine whether it has sufficient legal recourse against the tribe and against a security pledged by the tribe in the event of default.
- (6)
  - (a) The board may own and operate a project if:
    - (i) the project is consistent with the plan adopted by the board; and
    - (ii) in the opinion of the board the ownership and operation of the project by the board is in the best interest of the state.
  - (b) In the ownership and operation of a project referred to in Subsection (6)(a), the board shall use a water right held in its name under authority of Section 73-10-19.
  - (c)
    - (i) The board may enter into a contract with another state, the federal government, a political subdivision of the state, an Indian tribe, or a private corporation for operation, maintenance, and administration of the project.
    - (ii) The board may pay the contracting agency a reasonable sum for operation, maintenance, and administration of the project.
- (7)
  - (a) The board may also:
    - (i) enter into an agreement in which title to a project is conveyed to a cooperating project sponsor after charges assessed against the project have been paid to the state in accordance with the terms of the construction agreement or amendment to the agreement;
    - (ii) make the water and power available to the state's citizens who are, in the board's opinion, best able to use the water and power:
      - (A) that is conserved by the project; and
      - (B) to which the state has title;
    - (iii) enter into a contract for the use of the water and power with an individual or an organization composed of the state's citizens; and
    - (iv) assess a reasonable fee against a person using water and power from a project.

- (b) The amount collected over the amount to be returned to the state for payment of the principal, interest, and maintenance of the project shall be deposited in the Water Resources Conservation and Development Fund as established by Section 73-10-24.
- (8) The board shall retain ownership of a water right used for a project owned and operated by the board unless:
  - (a) the water right originally held by a cooperating project sponsor is conveyed to the project sponsor upon payment to the state of charges assessed against the project in accordance with the terms of the construction agreement or an amendment to the agreement; or
  - (b) the board transfers an unperfected water right held by the board that is not being used in a state-owned project to a political subdivision of the state, an agency of the federal government, or a nonprofit water company.
- (9) A transfer of the board's water right shall be made to the entity that is best able to use the water right for the benefit of the state's citizens.

Amended by Chapter 267, 2008 General Session

**73-10-27 Definitions -- Project priorities -- Considerations -- Bids and contracts --  
Definitions -- Retainage.**

- (1) As used in this section:
  - (a) "Board" means the Board of Water Resources created in Section 73-10-1.5.
  - (b) "Estimated cost" means the cost of the labor, material, and equipment necessary for construction of the contemplated project.
  - (c) "Lowest responsible bidder" means a licensed contractor:
    - (i) who:
      - (A) submits the lowest bid; and
      - (B) furnishes a payment bond and a performance bond under Sections 14-1-18 and 63G-6a-1103; and
    - (ii) whose bid:
      - (A) is in compliance with the invitation for a bid; and
      - (B) meets the plans and specifications.
- (2) In considering the priority for a project to be built or financed with funds made available under Section 73-10-24, the board shall give preference to a project that:
  - (a) is sponsored by, or for the benefit of, the state or a political subdivision of the state;
  - (b) meets a critical local need;
  - (c) has greater economic feasibility;
  - (d) will yield revenue to the state within a reasonable time or will return a reasonable rate of interest, based on financial feasibility; and
  - (e) meets other considerations deemed necessary by the board, including wildlife management and recreational needs.
- (3) A project may not be built if the project is not:
  - (a) in the public interest, as determined by the board; or
  - (b) adequately designed based on sound engineering and geologic considerations.
- (4) In preparing a project constructed by the board, the board shall:
  - (a) based on a competitive bid, award a contract for:
    - (i) a flood control project:
      - (A) involving a city or county; and
      - (B) costing in excess of \$35,000;
    - (ii) the construction of a storage reservoir in excess of 100 acre-feet; or

- (iii) the construction of a hydroelectric generating facility;
  - (b) publish an advertisement for a competitive bid:
    - (i) at least once a week for three consecutive weeks in a newspaper with general circulation in the state, with the last date of publication appearing at least five days before the schedule bid opening; and
    - (ii) indicating that the board:
      - (A) will award the contract to the lowest responsible bidder; and
      - (B) reserves the right to reject any and all bids;
  - (c) readvertise the project in the manner specified in Subsection (4)(b) if the board rejects all of the initial bids on the project; and
  - (d) keep an accurate record of all facts and representations relied upon in preparing the board's estimated cost for a project that is subject to the competitive bidding requirements of this section.
- (5) If no satisfactory bid is received by the board upon the readvertisement of the project in accordance with Subsection (4), the board may proceed to construct the project in accordance with the plan and specifications used to calculate the estimated cost of the project.
- (6) If a payment on a contract with a private contractor for construction of a project under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 88, 2024 General Session

**73-10-28 Charges for use -- Interest.**

- (1) As used in this section, "board" means the Board of Water Resources created in Section 73-10-1.5.
- (2) The board shall establish:
  - (a) a charge for the use of water, power, or a facility based on:
    - (i) a contractual agreement approved by the board for a project owned by the state; and
    - (ii) the ability of an individual project to return the investment to the state; and
  - (b) an interest rate for the money the board lends to finance a project based on:
    - (i) market conditions;
    - (ii) the repayment ability of the project; and
    - (iii) other factors considered relevant by the board.

Amended by Chapter 267, 2008 General Session

**73-10-29 Additional amounts allocated -- Repayment.**

The board, in addition to the amount allocated to a project to cover the actual cost of construction, may allocate to the project constructed by it, under contract or otherwise, such amounts as may be determined by it for investigating, engineering, inspection, and other expenses, and may provide for the repayment of the same out of the first money repayable from the project under the contract for its construction, and such money so repaid shall be accounted for within the Water Resources Construction Fund, to be used by the board for the purpose of making investigations for the development of the water resources of the state.

Amended by Chapter 169, 1988 General Session

**73-10-30 Construction in conjunction with Water Resources Construction Fund -- Supplemental financing.**

- (1) Projects authorized under this chapter may be constructed in participation with money from the Water Resources Construction Fund when authorized by the board.
- (2) Projects specified by the Legislature to be financed by general obligation bonds of the state may receive supplemental financing from the Water Resources Conservation and Development Fund when needed and money is available.

Amended by Chapter 342, 2011 General Session

**73-10-32 Definitions -- Water conservation plan required.**

- (1) As used in this section:
  - (a) "Division" means the Division of Water Resources created under Section 73-10-18.
  - (b) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.
  - (c) "Water conservation plan" means a written document that contains existing and proposed water conservation measures describing what will be done by a water provider, and the end user of culinary water to help conserve water in the state in terms of per capita use of water provided through culinary water infrastructure owned or operated by the water provider so that adequate supplies of water are available for future needs.
  - (d) "Water provider" means:
    - (i) a retail water supplier, as defined in Section 19-4-102; or
    - (ii) a water conservancy district.
- (2)
  - (a) A water conservation plan shall contain:
    - (i)
      - (A) a clearly stated overall water use reduction goal that is consistent with Subsection (2)(d); and
      - (B) an implementation plan for each water conservation measure a water provider chooses to use, including a timeline for action and an evaluation process to measure progress;
    - (ii) a requirement that a notification procedure be implemented that includes the delivery of the water conservation plan to the media and to the governing body of each municipality and county served by the water provider;
    - (iii) a copy of the minutes of the meeting regarding a water conservation plan and the notification procedure required in Subsection (2)(a)(ii) that shall be added as an appendix to the water conservation plan; and
    - (iv) for a retail water supplier, as defined in Section 19-4-102, the retail water supplier's rate structure that is:
      - (A) adopted by the retail water supplier's governing body in accordance with Section 73-10-32.5; and
      - (B) current as of the day the retail water supplier files a water conservation plan.
  - (b) A water conservation plan may include information regarding:
    - (i) the installation and use of water efficient fixtures and appliances, including toilets, shower fixtures, and faucets;
    - (ii) residential and commercial landscapes and irrigation that require less water to maintain;
    - (iii) more water efficient industrial and commercial processes involving the use of water;
    - (iv) water reuse systems, both potable and not potable;
    - (v) distribution system leak repair;

- (vi) dissemination of public information regarding more efficient use of water, including public education programs, customer water use audits, and water saving demonstrations;
  - (vii) water rate structures designed to encourage more efficient use of water;
  - (viii) statutes, ordinances, codes, or regulations designed to encourage more efficient use of water by means such as water efficient fixtures and landscapes;
  - (ix) incentives to implement water efficient techniques, including rebates to water users to encourage the implementation of more water efficient measures;
  - (x) regional conservation planning and shared shortage agreements; and
  - (xi) other measures designed to conserve water.
- (c) The division may be contacted for information and technical resources regarding measures listed in Subsection (2)(b).
- (d)
- (i) The division shall adopt by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regional water conservation goals that:
    - (A) are developed by the division;
    - (B) take into consideration goals established in the Colorado River management plan adopted pursuant to Section 63M-14-204;
    - (C) for areas in the Great Salt Lake watershed, take into consideration the Great Salt Lake, including the water budget associated with the integrated surface and ground water assessment described in Section 73-10g-402;
    - (D) take into consideration how growth and regional conservation goals impact agriculture water use;
    - (E) are reevaluated by December 31, 2030, and every 10 years after December 31, 2030; and
    - (F) define what constitutes "water being conserved" under a water conservation goal after considering factors such as depletion, diversion, use, consumption, or return flows.
  - (ii) As part of a water conservation plan, a water provider shall adopt one of the following:
    - (A) the regional water conservation goal applicable to the water provider;
    - (B) a water conservation goal that would result in more water being conserved than would be conserved under the regional water conservation goal; or
    - (C) a water conservation goal that would result in less water being conserved than would be conserved under the regional water conservation goal with a reasonable justification as to why the different water conservation goal is adopted and an explanation of the factors supporting the reasonable justification, such as demographics, geography, lot sizes, make up of water service classes, or availability of secondary water.
- (3)
- (a) A water provider shall:
    - (i) prepare and adopt a water conservation plan; and
    - (ii) file a copy of the water conservation plan with the division.
  - (b)
    - (i) Before adopting or amending a water conservation plan, a water provider shall hold a public hearing with reasonable, advance public notice in accordance with this Subsection (3)(b).
    - (ii) The water provider shall provide public notice at least 14 days before the date of the public hearing.
    - (iii) A water provider meets the requirements of reasonable notice required by this Subsection (3)(b) if the water provider posts notice of the public hearing:
      - (A) for the service area of the water provider, as a class A notice under Section 63G-30-102, for at least 14 days; and

- (B) if the water provider is a private entity and has a public website, on the water provider's public website.
- (iv) Proof that notice described in Subsection (3)(b)(iii) was given is prima facie evidence that notice was properly given.
- (v) If notice given under authority of this Subsection (3)(b) is not challenged within 30 days from the date of the public hearing for which the notice was given, the notice is considered adequate and proper.
- (c) A water provider shall:
  - (i) post the water provider's water conservation plan on a public website; or
  - (ii) if the water provider does not have a public website, make the water provider's water conservation plan publicly available for inspection upon request.
- (4)
  - (a) The division shall:
    - (i) provide guidelines and technical resources to help water providers prepare and implement water conservation plans;
    - (ii) assist water providers by identifying water conservation methods upon request; and
    - (iii) provide an online submission form that allows for an electronic copy of the water conservation plan to be filed with the division under Subsection (3)(a)(ii).
  - (b) The division shall post an annual report at the end of a calendar year listing water providers in compliance with this section.
- (5) A water provider may only receive state funds for water development if the water provider complies with the requirements of this section.
- (6) A water provider specified under Subsection (3)(a) shall:
  - (a) update the water provider's water conservation plan no less frequently than every five years; and
  - (b) follow the procedures required under Subsection (3) when updating the water conservation plan.
- (7) It is the intent of the Legislature that the water conservation plans, amendments to existing water conservation plans, and the studies and report by the division be handled within the existing budgets of the respective entities or agencies.

Amended by Chapter 238, 2023 General Session

Amended by Chapter 435, 2023 General Session

### **73-10-32.5 Culinary water pricing structure.**

- (1) As used in this section:
  - (a) "Public water system" means the same as that term is defined in Section 19-4-102.
  - (b) "Retail water supplier" means the same as that term is defined in Section 19-4-102.
  - (c)
    - (i) "Water conservation effort" means a program that is designed to incentivize, encourage, or result in reduced water usage or more efficient use of water.
    - (ii) "Water conservation effort" includes the costs associated with designing, implementing, and operating a program described in Subsection (1)(c)(i).
  - (d) "Wholesale water supplier" means the same as that term is defined in Section 19-4-102.
- (2) A retail water supplier shall:
  - (a) consider water conservation, including at least one water conservation effort, in setting water rates with the goal of encouraging efficient water use and eliminating wasteful or excessive water use;

- (b) establish a culinary water rate structure that:
    - (i) incorporates increasing block units of water used;
    - (ii) provides for an increase in the rate charged for additional block units of water used as usage increases from one block unit to the next;
    - (iii) by July 1, 2027, includes one or more water conservation efforts as an element in determining the rate charged for at least the highest usage block unit of water for a customer classification that primarily serves residential customers; and
    - (iv) is based on a generally accepted rate setting method, including a standard or method established by the American Water Works Association;
  - (c) provide in customer billing notices, or in a notice that is distributed to customers at least annually, block unit rates and the customer's billing cycle;
  - (d) include individual customer water usage in customer billing notices; and
  - (e) consider urban farming that improves food security, reduces pollution, and creates green spaces in setting rates.
- (3) This section does not prohibit:
- (a) a public water system with 500 or fewer service connections from taking an action or adopting a culinary water rate structure described in Subsection (2); or
  - (b) a retail water supplier from including water conservation and a water conservation effort as an element in setting rates for customer classifications that do not primarily serve residential customers.
- (4) A public water system:
- (a) is not required to establish or show that the portion of the rate designed to encourage water conservation, and fund a water conservation effort, within the highest usage block unit of water for a customer classification:
    - (i) is based on the public water system's actual cost of service;
    - (ii) has a reasonable basis when compared to rates the public water system charges:
      - (A) for other block units of water within a customer classification; or
      - (B) for block units of water in other customer classifications; or
    - (iii) is limited to a reasonable profit or return on investment;
  - (b) may include in a customer billing a fee, surcharge, penalty, or other charge that is collected pursuant to an agreement between the public water system and the wholesale water supplier from whom the public water system purchases water; and
  - (c) if the public water system is a for-profit entity, may not use revenue from the highest usage block unit of water designed to encourage water conservation to pay profits or dividends to the public water system's investors or owners.
- (5) The use of revenue collected from the portion of any block unit of water designed to encourage water conservation may include funding water conservation efforts that are shared with or administered by another public water system or a wholesale water supplier.
- (6) The adoption and implementation of that portion of a public water system's water rate that includes water conservation as an element in determining the rate charged for the highest usage block unit of water, as provided in this section, is conclusively presumed:
- (a) to be reasonable; and
  - (b) to reflect the reasonable estimated cost of delivering the service for which the fee was paid.

Amended by Chapter 102, 2025 General Session

**73-10-33 Management plan for water conveyance facilities.**

- (1) As used in this section:

- (a) "Board" means the Board of Water Resources created by Section 73-10-1.5.
  - (b) "Conservation district" means a conservation district created under Title 17D, Chapter 3, Conservation District Act.
  - (c) "Division" means the Division of Water Resources created by Section 73-10-18.
  - (d) "Facility owner or operator" means:
    - (i) a water company as defined in Subsection 73-3-3.5(1)(b); or
    - (ii) an owner or operator of a water conveyance facility.
  - (e) "Management plan" means a written document meeting the requirements of Subsection (3).
  - (f) "Potential risk" means a condition where, if a water conveyance facility fails, the failure would create a high probability of:
    - (i) causing loss of human life; or
    - (ii) causing extensive economic loss, including damage to critical transportation facilities, utility facilities, or public buildings.
  - (g) "Potential risk location" means a segment of a water conveyance facility that constitutes a potential risk due to:
    - (i) location;
    - (ii) elevation;
    - (iii) soil conditions;
    - (iv) structural instability;
    - (v) water volume or pressure; or
    - (vi) other conditions.
  - (h)
    - (i) "Water conveyance facility" means a water conveyance defined in Section 57-13a-101.
    - (ii) "Water conveyance facility" does not include:
      - (A) a pipeline conveying water for industrial use, or municipal use, within a public water system as defined in Section 19-4-102;
      - (B) a natural channel used to convey water for use within a water conveyance facility; or
      - (C) a fully piped irrigation system.
- (2)
- (a) For a water conveyance facility that has a potential risk location, the board or division may issue a grant or loan to the facility owner or operator, and the facility owner or operator may receive state money for water development or water conveyance facility repair or improvements, only if the facility owner or operator promptly adopts a management plan in accordance with this section.
  - (b) For a management plan to be considered to be promptly adopted for purposes of this Subsection (2), the facility owner or operator shall:
    - (i) adopt the management plan by an affirmative vote of the facility owner or operator's board of directors, or persons occupying a similar status or performing similar functions before receiving money under Subsection (2)(a);
    - (ii)
      - (A) adopt the management plan as described in Subsection (2)(b)(i) by no later than:
        - (I) May 1, 2013, for a water conveyance facility in operation on May 11, 2011; or
        - (II) for a water conveyance facility that begins operation after May 11, 2011, one year after the day on which the water conveyance facility begins operation; or
      - (B)
        - (I) adopt the management plan as described in Subsection (2)(b)(i); and

- (II) provide written justification satisfactory to the board as to why the facility owner or operator was unable to adopt a management plan during the time period provided in Subsection (2)(b)(ii)(A); and
  - (iii) update the management plan adopted under Subsection (2)(b)(i) no less frequently than every 10 years.
- (3) A management plan described in Subsection (2) shall include at least the following:
- (a) a GIS coverage or drawing of each potential risk location of a water conveyance facility identifying any:
    - (i) existing canal and lateral alignment of the canal facility;
    - (ii) point of diversion;
    - (iii) bridge;
    - (iv) culvert;
    - (v) screen or trash rack; and
    - (vi) spill point;
  - (b) an evaluation of any potential slope instability that may cause a potential risk, including:
    - (i) failure of the facility;
    - (ii) land movement that might result in failure of the facility; or
    - (iii) land movement that might result from failure of the facility;
  - (c) proof of insurance coverage or other means of financial responsibility against liability resulting from failure of the water conveyance facility;
  - (d) a maintenance and improvement plan;
  - (e) a schedule for implementation of a maintenance and improvement plan;
  - (f) an emergency response plan that:
    - (i) is developed after consultation with local emergency response officials;
    - (ii) is updated annually; and
    - (iii) includes, in the case of an emergency, how a first responder can:
      - (A) contact the facility owner or operator; and
      - (B) obtain information described in Subsection (3)(a);
  - (g) any potential source of financing for maintenance and improvements under a maintenance and improvement plan;
  - (h) identification of each municipality or county through which water is conveyed or delivered by the water conveyance facility;
  - (i) a statement concerning whether storm water enters the water conveyance facility; and
  - (j) if storm water enters the water conveyance facility:
    - (i) an estimate of the maximum volume and flow of all water present in the water conveyance facility as a result of a six-hour, 25-year storm event;
    - (ii) on the basis of information provided in accordance with Subsection (4), identification of the points at which any storm structures introduce water into the water conveyance facility and the anticipated flow that may occur at each structure; and
    - (iii) the name of each governmental agency that has responsibility for storm water management within the area from which storm water drains into the water conveyance facility.
- (4) A private or public entity that introduces storm water into a water conveyance facility shall provide the facility owner or operator with an estimate of the maximum volume and flow of water that may occur at each structure that introduces storm water into the water conveyance facility.
- (5)

- (a) A facility owner or operator of a water conveyance facility shall provide a municipality or county in which is located a potential risk location of the water conveyance facility an outline of the information provided in Subsection (3)(f).
  - (b) A facility owner or operator shall give notice to the planning and zoning department of each municipality and county identified in Subsection (3)(h) outlining the information provided in Subsections (3)(f), (i), and (j).
  - (c) An outline of information provided under this Subsection (5) is a protected record under Section 63G-2-305.
- (6)
- (a) The division may provide information and technical resources to a facility owner or operator of a water conveyance facility, regardless of whether the water conveyance facility has a potential risk location.
  - (b) In providing the information and resources described in Subsection (6)(a), the division may coordinate with efforts of any association of conservation districts that may provide similar information and technical resources.
  - (c) The information and technical resources described in Subsection (6)(a) include:
    - (i) engaging state and local water users in voluntary completion of a management plan;
    - (ii) developing standard guidelines, checklists, or templates that may be used by a facility owner or operator;
    - (iii) using conservation districts as points of contact with a facility owner or operator;
    - (iv) providing training to help a facility owner or operator to adopt a management plan; and
    - (v) assisting, at the request and under the direction of, a facility owner or operator with efforts to adopt or implement a management plan.
- (7)
- (a) A facility owner or operator of a water conveyance facility that has a potential risk location shall provide the board or division upon request:
    - (i) written certification signed under oath by a person authorized to act for the board of directors or persons occupying a similar status or performing similar functions, certifying that the management plan complies with this section; and
    - (ii) an opportunity to review a management plan.
  - (b) A management plan received by the board or division under this section is a protected record under Section 63G-2-305.
- (8) The board shall report concerning compliance with this section to the Natural Resources, Agriculture, and Environment Interim Committee of the Legislature before November 30, 2013.
- (9) The division and board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the requirements of this section.
- (10) This section does not:
- (a) create a private right of action for a violation of this section; or
  - (b) limit, impair, or enlarge a person's right to sue and recover damages from a facility owner or operator in a civil action for a cause of action that is not based on a violation of this section.
- (11) The following may not be introduced as evidence in any civil litigation on the issue of negligence, injury, or the calculation of damages:
- (a) a management plan prepared in accordance with this section;
  - (b) the failure to prepare or adopt a management plan in accordance with this section; or
  - (c) the failure to update a management plan in accordance with this section.

Amended by Chapter 355, 2014 General Session

**73-10-34 Secondary water metering -- Loans and grants.**

(1) As used in this section:

- (a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.
- (b)
  - (i) "Commercial user" means a secondary water user that is a place of business.
  - (ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.
- (c) "Critical area" means an area:
  - (i) serviced by one of the four largest water conservancy districts, as defined in Section 17B-1-102, measured by operating budgets; or
  - (ii) within the Great Salt Lake basin, which includes:
    - (A) the surveyed meander line of the Great Salt Lake;
    - (B) the drainage areas of the Bear River or the Bear River's tributaries;
    - (C) the drainage areas of Bear Lake or Bear Lake's tributaries;
    - (D) the drainage areas of the Weber River or the Weber River's tributaries;
    - (E) the drainage areas of the Jordan River or the Jordan River's tributaries;
    - (F) the drainage areas of Utah Lake or Utah Lake's tributaries;
    - (G) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii)(B) through (F); and
    - (H) the drainage area of Tooele Valley.
- (d) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.
- (e)
  - (i) "Industrial user" means a secondary water user that manufactures or produces materials.
  - (ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.
- (f)
  - (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.
  - (ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.
- (g) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.
- (h)
  - (i) "Residential user" means a secondary water user in a residence.
  - (ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.
- (i) "Secondary water" means water that is:
  - (i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and
  - (ii) delivered to and used by an end user for the irrigation of landscaping or a garden.
- (j) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.
- (k) "Secondary water supplier" means an entity that supplies pressurized secondary water.
- (l) "Small secondary water retail supplier" means an entity that:

- (i) supplies pressurized secondary water only to the end user of the secondary water; and
  - (ii)
    - (A) is a city or town; or
    - (B) supplies 5,000 or fewer secondary water connections.
- (2)
- (a)
    - (i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.
    - (ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.
  - (b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.
  - (c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.
  - (d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:
    - (i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or
    - (ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.
  - (e)
    - (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.
    - (ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:
      - (A) the costs of full metering by the secondary water supplier;
      - (B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and
      - (C) how the secondary water supplier will finance metering.
- (3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:
- (a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;
  - (b) the number of secondary water meters within the secondary water supplier's service boundary;

- (c) a description of the secondary water supplier's service boundary;
  - (d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:
    - (i) commercial;
    - (ii) industrial;
    - (iii) institutional; and
    - (iv) residential;
  - (e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and
  - (f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.
- (4)
- (a) Beginning July 1, 2019, the Board of Water Resources may make up to \$10,000,000 in low-interest loans available each year:
    - (i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and
    - (ii) for financing the cost of secondary water metering.
  - (b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.
- (5)
- (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:
    - (i) is not for new service described in Subsection (2)(a); and
    - (ii) matches the amount of the grant.
  - (b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.
  - (c) The amount of a grant under this Subsection (5) may not:
    - (i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or
    - (ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.
  - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:
    - (i) the procedure for applying for a grant under this Subsection (5); and
    - (ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).
- (6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.
- (7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:
- (a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and
  - (b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

- (8)
  - (a)
    - (i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.
    - (ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:
      - (A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and
      - (B) determines an enforcement action is necessary to conserve or protect a water resource in the state.
  - (b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.
  - (c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.
  - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:
    - (i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;
    - (ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and
    - (iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).
  - (e) A person may not intervene in an enforcement action commenced under this section.
  - (f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:
    - (i) personal service under Utah Rules of Civil Procedure, Rule 5; or
    - (ii) certified mail.
  - (g)
    - (i) The state engineer's final order may be reviewed by trial de novo by the court with jurisdiction in Salt Lake County or the county where the violation occurred.
    - (ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.
  - (h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).
  - (i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.
  - (j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:
    - (i) \$10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;
    - (ii) \$20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

- (iii) \$30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;
  - (iv) \$40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and
  - (v) \$50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.
- (k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.
- (9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:
- (a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;
  - (b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;
  - (c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;
  - (d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and
  - (e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).
- (10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:
- (a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;
  - (b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);
  - (c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;
  - (d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and
  - (e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).
- (11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).
- (12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).
- (13)
- (a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter

at strategic points of the system as approved by the state engineer under this Subsection (13) if:

- (i) the system has no or minimal storage and relies primarily on stream flow;
  - (ii)
    - (A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and
    - (B) less than 50% of the secondary water is used by residential secondary water users; or
  - (iii) the system has a mix of pressurized lines and open ditches and:
    - (A) 1,000 or fewer users if any part of the system is within a critical area; or
    - (B) 2,500 or fewer users for a system not described in Subsection (13)(a)(iii)(A).
- (b)
- (i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.
  - (ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).
- (14)
- (a) A contract entered into or renewed on or after July 1, 2025, between a secondary water supplier and an end user shall allow for billing by tiered conservation rates.
  - (b) Except as provided in Subsection (14)(f), by no later than July 1, 2030, regardless of whether the secondary water supplier is fully metered or has modified existing contracts with end users, a secondary water supplier shall begin billing an end user using a tiered conservation rate that considers:
    - (i) revenue stability;
    - (ii) water conservation; and
    - (iii) cost of service.
  - (c) A secondary water supplier may comply with Subsection (14)(b) by entering into a contract with a third-party, including the public water system that serves an end user of the secondary water supplier, to bill the end user according to end user's usage of secondary water and the secondary water supplier's tiered conservation rate.
  - (d) By no later than April 1, 2030, a secondary water supplier shall provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by an end user specific Internet portal that provides information on the end user's usage more frequently than monthly.
  - (e) A public water system:
    - (i) shall enter into a contract with a secondary water supplier described in Subsection (14)(c) upon request from the secondary water supplier if the secondary water supplier agrees to provide water use and other data necessary for accurate billing in a file format compatible with the public water supplier's billing system;
    - (ii) may collect the costs associated with billing on behalf of a secondary water supplier under this section from the secondary water end users, including reasonable administrative and overhead expenses; and
    - (iii) shall, as the public water supplier and the secondary water supplier find necessary or convenient, exchange with the secondary water supplier, for the purpose of maintaining accurate records, relevant information with regard to an end user of the secondary water supplier, such as:

- (A) a billing address;
  - (B) an address where the secondary water is delivered;
  - (C) a parcel identification number; and
  - (D) ownership information.
- (f)
- (i) A secondary water supplier is not required to bill an end user a tiered conservation rate if the secondary water supplier is:
    - (A) exempt from metering under Subsection (9), (10), or (11); or
    - (B) authorized to meter at strategic points of the system under Subsection (13).
  - (ii) Notwithstanding the other provisions of this section, on or after July 1, 2030, a secondary water supplier with a tiered conservation rate under this Subsection (14) shall charge an end user at the lowest rate of the tiered conservation rate if the end user is using a portion of the water to grow food, including growing a garden, fruit trees, or pasture for grazing.
- (g)
- (i) If a secondary water supplier violates this Subsection (14) on or after April 1, 2030, the secondary water supplier:
    - (A) may not receive state money for water related purposes until the secondary water supplier complies with this Subsection (14); and
    - (B) is subject to an enforcement action of the state engineer in accordance with this Subsection (14)(g).
  - (ii) The state engineer shall commence an enforcement action under this Subsection (14)(g) if the state engineer receives a referral from the director of the Division of Water Resources.
  - (iii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:
    - (A) finds that a secondary water supplier fails to comply with this Subsection (14); and
    - (B) determines an enforcement action is necessary to conserve or protect a water resource in the state.
  - (iv) To commence an enforcement action under this Subsection (14)(g), the state engineer shall issue a notice of violation that includes notice of the administrative fine described in Subsection (14)(g)(xiii) to which a secondary water supplier is subject.
  - (v) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.
  - (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:
    - (A) provisions consistent with this Subsection (14)(g) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;
    - (B) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and
    - (C) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (14)(g)(vi)(B).
  - (vii) A person may not intervene in an enforcement action commenced under this Subsection (14)(g).
  - (viii) After issuance of a final order under rules made pursuant to Subsection (14)(g)(vi), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:
    - (A) personal service under Utah Rules of Civil Procedure, Rule 5; or

- (B) certified mail.
- (ix) The state engineer's final order may be reviewed by trial de novo by a court with jurisdiction in Salt Lake County or the county where the violation occurred.
- (x) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this Subsection (14)(g) within 20 days from the day on which the final order was served on the secondary water supplier.
- (xi) The state engineer may bring suit in a court to enforce a final order issued under this Subsection (14)(g).
- (xii) If the state engineer prevails in an action brought under Subsection (14)(g)(x) or (xi), the state may recover court costs and reasonable attorney fees.
- (xiii) The administrative fine imposed under this section shall be an amount not to exceed the sum of any money received by the secondary water supplier under this section or Section 73-10-34.5 to fund costs related to metering.
- (xiv) Money collected under this Subsection (14) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

Amended by Chapter 102, 2025 General Session

**73-10-34.5 Grant money for existing secondary water metering to facilitate full metering -- Other grants.**

- (1) As used in this section:
  - (a) "Applicant" means a secondary water supplier or group of secondary water suppliers that applies for a grant under this section.
  - (b) "Board" means the Board of Water Resources.
  - (c) "Division" means the Division of Water Resources.
  - (d) "Project" means the purchase or installation of a meter for a secondary water system that as of May 4, 2022, provides secondary water service that is not metered.
  - (e) "Secondary water" means the same as that term is defined in Section 73-10-34.
  - (f) "Secondary water connection" means the same as that term is defined in Section 73-10-34.
  - (g) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.
- (2)
  - (a) The board may issue grants in an amount appropriated by the Legislature in accordance with this section to an applicant to fund projects for meters on secondary water systems that before May 4, 2022, provide secondary water service that is not metered.
  - (b) The board may not issue a grant under this section to fund:
    - (i) metering of secondary water for service that begins on or after May 4, 2022; or
    - (ii) the replacement or repair of an existing secondary water meter.
  - (c) Notwithstanding the other provisions of this section, the board may issue a grant under this section to a secondary water supplier to reimburse the secondary water supplier for the costs incurred by the secondary water supplier that are associated with installing meters on a secondary water system on or after March 3, 2021, but before May 4, 2022, except that the grant issued under this Subsection (2)(c):
    - (i) shall be included in calculating the total grant amount under Subsections (3)(a) through (c);
    - (ii) may not exceed 70% of the costs associated with a project described in this Subsection (2)(c), including installation and purchase of meters; and
    - (iii) shall comply with Subsection (6).
- (3)

- (a) A secondary water supplier with 7,000 secondary water connections or less is eligible for a total grant amount under this section of up to \$10,000,000.
  - (b) A secondary water supplier with more than 7,000 secondary water connections is eligible for a total grant amount under this section of up to \$20,000,000.
  - (c) If a secondary water supplier applies for a grant as part of a group of secondary water suppliers, the total grant amount described in Subsection (3)(a) or (b) applies to each member of the group and is not based on the number of secondary water connections of the entire group.
  - (d)
    - (i) Subject to the other provisions of this section, a grant may not exceed the following amounts for the costs associated with a project, including installation and purchase of meters:
      - (A) for calendar year 2022, 70% of the costs of a project;
      - (B) for calendar year 2023, 70% of the costs of a project;
      - (C) for calendar year 2024, 65% of the costs of a project;
      - (D) for calendar year 2025, 60% of the costs of a project; and
      - (E) for calendar year 2026, 50% of the costs of a project.
    - (ii) Beginning with calendar year 2027, a grant under this section shall consist of providing a meter or funding to obtain a meter, which may not exceed the following for costs associated with the project:
      - (A) for calendar year 2027, 40% of the costs of a project;
      - (B) for calendar year 2028, 30% of the costs of a project;
      - (C) for calendar year 2029, 20% of the costs of a project; and
      - (D) for calendar year 2030, 10% of the costs of a project.
  - (e) A secondary water supplier may pay the secondary water supplier's portion of the costs of a project through a loan from the board under Section 73-10-34 by filing a separate application with the board.
  - (f) A meter purchased with grant money received under this section shall allow for data communication between the meter and other devices designed to manage use of secondary water that is:
    - (i) open and available to an end user; and
    - (ii) open so that it can integrate with third-party providers.
- (4)
- (a)
    - (i) To obtain a grant under this section, an applicant shall submit an application with the division during a period of time designated by the board.
    - (ii) If there remains money described in Subsection (2) after the grants for applications submitted during the time period described in this Subsection (4)(a) are awarded, the board may designate one or more additional time periods so that the entire amount described in Subsection (2) is awarded by December 31, 2024.
  - (b) An application submitted to the division shall include:
    - (i) a detailed project cost estimate including meter costs and installation costs;
    - (ii) a total number of pressurized secondary water connections in the applicable secondary water supplier's system;
    - (iii) the number of meters to be installed under the grant;
    - (iv) a detailed estimated secondary water use reduction including:
      - (A) average lot size calculations;
      - (B) average irrigated acreage; and
      - (C) estimated water applied before the project versus after completion of the project;

- (v) the timeline for purchase and installation of meters under the project;
  - (vi) an agreement to:
    - (A) provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by a customer specific Internet portal that provides information on the customer's usage more frequently than monthly; or
    - (B) bill according to usage using a tiered conservation rate and provide an educational component described in Subsection (4)(b)(vi)(A); and
  - (vii) additional information the board considers helpful.
- (5)
- (a) The division shall:
    - (i) review and prioritize an application submitted under Subsection (4); and
    - (ii) recommend to the board which applicants should be awarded a grant under this section.
  - (b) In prioritizing applications under this Subsection (5), the division shall rank the applicants on the basis of the following weighted factors:
    - (i) 60% weight based on the ratio of estimated water use reduction divided by total state investment;
    - (ii) 20% weight based on an applicant facing current or potential water shortages when installation of meters and subsequent water use reductions will result in delaying or eliminating the need for new water development; and
    - (iii) 20% weight based on a project's accelerated construction schedule, prompt start, and prompt finish.
- (6) As a condition of receiving a grant under this section, the recipient shall enter into an agreement with the board to use the grant money. The agreement shall:
- (a) be executed by no later than December 31, 2024; and
  - (b) require that the grant money be spent by December 31, 2026, and the project completed under the terms of the grant.
- (7) Notwithstanding the other provisions of this section, the board may issue a grant to a secondary water supplier:
- (a) that installed meters on secondary water connections before May 4, 2022;
  - (b) that has not otherwise received a grant under this section;
  - (c) for the purpose of water conservation; and
  - (d) in an amount not to exceed \$2,000,000.
- (8) Notwithstanding the other provisions of this section, the board may issue a grant to or convert a grant previously issued to a secondary water supplier described in Subsection 73-10-34(13)
- (a) who seeks to meter at strategic points under Subsection 73-10-34(13), from money appropriated under this section to fund a project that is an alternative to metering, such as lining ditches or improving head gates, if the secondary water supplier establishes to the satisfaction of the board that the alternative project will conserve more water than is expected to be conserved through metering.
- (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the board may make rules establishing the procedure for applying for a grant under this section.

Amended by Chapter 56, 2024 General Session  
Amended by Chapter 171, 2024 General Session

**73-10-35 Division of Water Resources to conduct certain study.**

- (1) As used in this section:
  - (a) "2002 Study" means the Green River Pipeline Cost Analysis prepared by the Division of Water Resources in 2002, including the addendum.
  - (b) "Division" means the Division of Water Resources.
- (2) The division shall update the 2002 Study to provide current cost estimates.
- (3) The division shall present the update required by Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2020 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Enacted by Chapter 204, 2020 General Session

**73-10-36 Division to provide technical assistance in local government planning.**

- (1) As used in this section:
  - (a) "Division" means the Division of Water Resources.
  - (b) "General plan":
    - (i) for a municipality, means the same as that term is defined in Section 10-9a-103; and
    - (ii) for a county, means the same as that term is defined in Section 17-27a-103.
  - (c) "Local government" means a county or a municipality, as defined in Section 10-1-104.
  - (d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.
- (2) The division shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element in a general plan.
- (3) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection 10-9a-403(2)(f)(vi) or 17-27a-403(2)(e)(ii), the division may seek input from the appropriate watershed council or councils.

Amended by Chapter 29, 2025 General Session

**73-10-37 Incentives to use water efficient landscaping.**

- (1) As used in this section:
  - (a) "District" means a water conservancy district, as that term is defined in Section 73-10-32.
  - (b) "Division" means the Division of Water Resources.
  - (c) "Landscaping conversion incentive program" means a program administered by a district that pays an owner a financial incentive to remove lawn or turf from a project area on land owned by the owner.
  - (d)
    - (i) Except as provided in Subsection (1)(d)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
    - (ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.
  - (e) "Owner" means an owner of private or public land where a water end user is located.
  - (f) "Program guidelines" means guidelines adopted by a district for the district's landscaping conversion incentive program.
  - (g) "Project area" means the area from which lawn or turf is removed and replaced with water efficient landscaping.
  - (h) "Water end user" means a person who enters into a water contract to obtain water from a retail water provider for residential, commercial, industrial, or institutional use.
- (2) The division may:

- (a) award a grant under Subsection (3) to a district to fund financial incentives provided through a landscaping conversion incentive program administered by the district; and
  - (b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from a project area on land owned by the owner in an area without a landscaping conversion incentive program.
- (3)
- (a)
    - (i) A district may obtain a grant from the division to help fund a financial incentive provided to an owner through a landscaping conversion incentive program administered by the district.
    - (ii) Both the award and use of a grant under this Subsection (3) are subject to Subsections (3)(b), (c), and (d).
  - (b) To obtain a grant, a district shall:
    - (i) initiate and operate a landscaping conversion incentive program;
    - (ii) limit the disbursement of grant money in the district's landscaping conversion incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:
      - (A) rules made by the division under Subsection (5)(b); or
      - (B) program guidelines approved by the division under Subsection (3)(f);
    - (iii) use the grant exclusively to fund financial incentives provided to owners that remove lawn or turf from a project area in the district's landscaping conversion incentive program;
    - (iv) provide an equal amount or more of matching funds for the district's landscaping conversion incentive program from sources other than the grant money the district receives under this section;
  - (v) file an application with the division that:
    - (A) describes the district's landscaping conversion incentive program, including verification that the program can and shall implement the minimum requirements of Subsection (4)(c) and either rules made by the division under Subsection (5)(b) or program guidelines approved by the division under Subsection (3)(f);
    - (B) includes a copy of the program guidelines governing the district's landscaping conversion incentive program;
    - (C) if the district wants to be subject to program guidelines in lieu of division rules made under Subsection (5)(b), requests that the division approve the district's program guidelines under Subsection (3)(f); and
    - (D) provides additional information requested by the division; and
  - (vi) enter into a contract with the division that requires the district to:
    - (A) verify that participants comply and landscaping conversion projects proposed, undertaken, and completed by participants under the district's landscaping conversion incentive program satisfy the requirements in this Subsection (3) and any contract before using grant money for a financial incentive;
    - (B) agree not to use grant money for a financial incentive in any landscaping conversion project that fails to satisfy the requirements of this Subsection (3) and either rules made by the division or program guidelines approved by the division under Subsection (3)(f);
    - (C) submit to the division quarterly reports on funding status; and
    - (D) prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's landscaping conversion incentive program.
- (c)
- (i) Upon expenditure of 70% of the grant money awarded to a district and an accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsection (3)(b).

- (ii) The division may award a district an additional grant based on:
  - (A) the availability of grant money;
  - (B) the priority or importance of the grant proposal in relation to availability of grant money, the division's landscaping conversion incentive program under this Subsection (3), other landscaping conversion incentive program grant requests, and regional needs and goals;
  - (C) the effectiveness of the district's landscaping conversion incentive program in incentivizing owners to convert lawn or turf to water efficient landscaping;
  - (D) the district's previous compliance with this Subsection (3) and contract terms and conditions; and
  - (E) any matter bearing on the district's ability to responsibly handle and disperse grant money consistent with this Subsection (3) and contract terms and conditions.
- (d) A district awarded grant money under this Subsection (3) may not use grant money to pay an incentive that exceeds the maximum amounts established by the division by rule under Subsection (5)(c).
- (e) Nothing in this section prohibits a district from expending non-grant money, including matching money, under the district's landscaping conversion incentive program to:
  - (i) assist an owner that does not satisfy Subsection (4)(c); or
  - (ii) provide an incentive that exceeds a maximum amount established by the division for grant money under Subsection (3)(d).
- (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the division determines that the district's program guidelines will:
  - (i) result in at least as much water use savings as rules made under Subsection (5)(b); and
  - (ii) accomplish the same objectives as rules made under Subsection (5)(b).
- (4)
  - (a) In an area without an existing landscaping conversion incentive program, the division may provide an incentive to an owner to remove lawn or turf from land owned by the owner and replace the lawn or turf with water efficient landscaping.
  - (b) If the division provides an incentive under this Subsection (4), the division shall provide the incentive in the order that an application for the incentive is filed. The division may terminate an application if the division determines that the owner has not completed the project within 12 months of the date on which the owner files the application for the incentive.
  - (c) To be eligible for an incentive under this Subsection (4):
    - (i) the owner shall at the time the owner applies for the incentive:
      - (A) have living lawn or turf, as determined by the entity providing the incentive, on the land owned by the owner that the owner intends to replace with water efficient landscaping; and
      - (B) participate voluntarily in the removal of the lawn or turf in that the removal is not required by governmental code or policy;
    - (ii) the property where the project area is located, is located within:
      - (A) a municipality that implements regional-based water use efficiency standards established by the division under Subsection (5)(d); or
      - (B) an unincorporated area of a county that implements regional-based water use efficiency standards established by the division under Subsection (5)(d); and
    - (iii) the owner shall agree to:
      - (A) maintain water efficient landscaping and a drip irrigation system installed in the project area and not reinstall lawn or turf or overhead spray irrigation in the project area after

receipt of a payment under this section to incentivize conversion of lawn or turf to water efficient landscaping; or

- (B) return to the division or to a district the payments received for removal of lawn or turf from the project area.
- (d) An owner may not receive an incentive under this section if the owner has previously received an incentive under this section for the same project area.
- (e) An owner may not receive an incentive under this Subsection (4) in an amount that exceeds:
  - (i) the maximum amount established by the division in rule, as provided in Subsection (5) for each square foot of lawn or turf converted to water efficient landscaping; or
  - (ii) the maximum aggregate amount established by the division in rule as provided in Subsection (5).
- (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) establishing the process by which:
    - (i) a district obtains a grant under Subsection (3); or
    - (ii) an owner obtains an incentive under Subsection (4);
  - (b) defining what constitutes water efficient landscaping, including what irrigation is used after conversion to water efficient landscaping;
  - (c) establishing for funding under this section, the maximum incentive from grant money allowable for each square foot of lawn or turf converted to water efficient landscaping or a maximum aggregate amount; and
  - (d) establishing for purposes of this section regional-based water use efficiency standards designed to reduce water consumption and conserve culinary and secondary water supplies.
- (6) This section does not prohibit a municipality or county from adopting landscaping standards that would result in greater water efficiency than provided by division rule made under Subsection (5) if the standards do not conflict with this section or division rules.
- (7) The division shall maintain a public website that, at a minimum, provides the status of a municipal or county ordinance, resolution, or policy that implements regional-based water use efficiency standards as described in Subsection (4)(c)(ii).

Amended by Chapter 247, 2023 General Session

**73-10-38 Per capita consumptive use.**

The Division of Water Resources shall comply with Section 73-5-8.5.

Enacted by Chapter 248, 2023 General Session

**73-10-39 Study and recommendations related to the financing of water infrastructure.**

- (1) As used in this section:
  - (a) "Division" means the Division of Water Resources.
  - (b) "Water infrastructure projects" means the same as that term is defined in Section 73-10g-102.
- (2)
  - (a) The division shall study and make recommendations, to be completed by October 31, 2024, concerning:
    - (i) which funds or accounts used to finance water infrastructure projects should be tied to the planning and prioritization process in Chapter 10g, Part 6, Planning and Prioritization;
    - (ii) whether any funds or accounts should be consolidated; and

- (iii) whether changes to the membership of the Water Development Coordinating Council, created by Sections 79-2-201 and 73-10c-3, are needed to fulfill the purposes of Chapter 10g, Part 6, Planning and Prioritization.
- (b) The division shall study and make recommendations, to be completed by October 31, 2025, concerning whether to impose a new fee to fund water infrastructure projects identified in the unified water infrastructure plan adopted under Section 73-10g-602 and consistent with the planning and prioritization process in Chapter 10g, Part 6, Planning and Prioritization. The study shall consider:
  - (i) who is assessed the fee;
  - (ii) how to calculate the fee amount, including any adjustments to the fee amount over time;
  - (iii) the process for collecting the fee;
  - (iv) where the money collected should be deposited;
  - (v) whether the revenue stream should be configured as a tax rather than a fee;
  - (vi) how the money collected should be spent;
  - (vii) the affordability of the fee for end users; and
  - (viii) how to assure that the revenue is distributed equitably statewide.
- (3) In conducting a study described in Subsection (2), the division shall:
  - (a) work cooperatively with the Water Development Coordinating Council; and
  - (b) consult with a wide range of stakeholders with diverse interests, including those with expertise in water development and delivery, tax policy, and water funding.
- (4) The division shall report the division's findings and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by no later than:
  - (a) for the study described in Subsection (2)(a), the November 2024 interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee; and
  - (b) for the study described in Subsection (2)(b), the November 2025 interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Enacted by Chapter 335, 2024 General Session