

1 **WATER EASEMENT AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John G. Mathis**

5 Senate Sponsor: Kevin T. Van Tassell

7 **LONG TITLE**

8 **General Description:**

9 This bill establishes a procedure for the holder of a prescriptive easement for a water
10 conveyance to abandon all or part of the prescriptive easement.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ establishes a procedure for the holder of a prescriptive easement for a water
14 conveyance to abandon all or part of the prescriptive easement.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 ENACTS:

21 **57-13a-104**, Utah Code Annotated 1953

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

24 Section 1. Section **57-13a-104** is enacted to read:

25 **57-13a-104. Abandonment of prescriptive easement for water conveyance.**

26 (1) A holder of a prescriptive easement for a water conveyance established under
27 Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

28 (2) A holder of a prescriptive easement for a water conveyance established under
29 Section 57-13a-102 who seeks to abandon the easement or part of the easement shall:

30 (a) in each county where the easement or part of the easement is located:
31 (i) file in the office of the county recorder a notice of intent to abandon the prescriptive
32 easement that describes the easement or part of the easement to be abandoned; and
33 (ii) publish the notice of intent to abandon the prescriptive easement once a week for
34 two consecutive weeks in:
35 (A) a local newspaper of general circulation that is published in the area generally
36 served by the water conveyance that utilizes the easement; or
37 (B) if a newspaper described in Subsection (2)(a)(ii)(A) does not exist, in a newspaper
38 of general circulation in the county;
39 (b) post copies of the notice of intent to abandon the prescriptive easement in three
40 public places located within the area generally served by the water conveyance that utilizes the
41 easement;
42 (c) mail a copy of the notice of intent to abandon the prescriptive easement to each
43 municipal and county government where the easement or part of the easement is located;
44 (d) in accordance with Section 45-1-101, publish a copy of the notice of intent to
45 abandon the prescriptive easement on the public legal notice website described in Subsection
46 45-1-101(2)(b); and
47 (e) after meeting the requirements of Subsections (2)(a), (b), (c), and (d) and at least 45
48 days after the last day on which the holder of the easement publishes the notice of intent to
49 abandon the prescriptive easement in accordance with Subsection (2)(a)(ii), file in the office of
50 the county recorder for each county where the easement or part of the easement is located a
51 notice of abandonment that contains the same description required by Subsection (2)(a)(i).
52 (3) (a) Upon completion of the requirements described in Subsection (2) by the holder
53 of a prescriptive easement for a water conveyance established under Section 57-13a-102:
54 (i) all interest to the easement or part of the easement abandoned by the holder of the
55 easement is extinguished; and
56 (ii) subject to each legal right that exists as described in Subsection (3)(b), the owner of
57 a servient estate whose land was encumbered by the easement or part of the easement

58 abandoned may reclaim the land area occupied by the former easement or part of the easement
59 and resume full utilization of the land without liability to the former holder of the easement.

60 (b) Abandonment of a prescriptive easement under this section does not affect a legal
61 right to have water delivered or discharged through the water conveyance and easement
62 established by a person other than the holder of the easement who abandons an easement as
63 provided in this section.