

1 **WATER INFRASTRUCTURE FUNDING AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: J. Stuart Adams**

5 House Sponsor: Timothy D. Hawkes

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the duties of the Board of Water Resources, the Division of Water
10 Resources, and the State Water Development Commission.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires the Board of Water Resources and the Division of Water Resources, in
14 conjunction with the State Water Development Commission, when making rules
15 regarding the funding of a water infrastructure project, to:
- 16 • establish criteria for better water data and data reporting;
 - 17 • establish new conservation targets;
 - 18 • institute a process for the independent verification of water data and a proposed
19 project;
 - 20 • invite public involvement; and
 - 21 • set appropriate financing and repayment terms;
- 22 ▶ requires a report, no later than October 30, 2016, to the Natural Resources,
23 Agriculture, and Environment Interim Committee and the Legislative Management
24 Committee;
- 25 ▶ modifies the membership of the State Water Development Commission; and
 - 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 This bill appropriates in fiscal year 2016-2017:

- 29 ▶ to the Division of Water Resources, as a one-time appropriation:

30 • from the Water Infrastructure Restricted Account, \$1,000,000, to fulfill the
31 duties described in Section 73-10g-105.

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **73-10g-104**, as enacted by Laws of Utah 2015, Chapter 458

37 **73-10g-105**, as enacted by Laws of Utah 2015, Chapter 458

38 **73-27-102**, as last amended by Laws of Utah 2014, Chapter 387

39 **73-27-103**, as enacted by Laws of Utah 2000, Chapter 124



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

42 Section 1. Section **73-10g-104** is amended to read:

43 **73-10g-104. Authorized use of the Water Infrastructure Restricted Account.**

44 Money in the restricted account is to be used for:

45 (1) the development of the state's undeveloped share of the Bear and Colorado [~~Rivers~~]
46 rivers, pursuant to existing interstate compacts governing both rivers as described in [~~Title 73,~~]
47 Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development
48 Act; [~~and~~]

49 (2) repair, replacement, or improvement of federal water projects for local sponsors in
50 the state of Utah when federal funds are not available[-]; and

51 (3) study and development of rules, criteria, targets, processes, and plans, as described
52 in Subsection 73-10g-105(3).

53 Section 2. Section **73-10g-105** is amended to read:

54 **73-10g-105. Loans -- Rulemaking.**

55 (1) (a) The division and the board shall make rules, in accordance with Title 63G,
56 Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available
57 funds to repair, replace, or improve underfunded federal water infrastructure projects.

58 (b) Subject to Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell
59 Pipeline Development Act, the division and the board shall make rules, in accordance with
60 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from
61 available funds to develop the state's undeveloped share of the Bear and Colorado rivers.

62 (2) The rules described in Subsection (1) shall:

63 (a) specify the amount of money that may be loaned;

64 (b) specify the criteria the division and the board shall consider in prioritizing and
65 awarding loans;

66 (c) specify the minimum qualifications for an individual who, or entity that, receives a
67 loan, including the amount of cost-sharing to be the responsibility of the individual or entity
68 applying for a loan;

69 (d) specify the terms of the loan, including the terms of repayment; and

70 (e) require all applicants for a loan to apply on forms provided by the division and in a
71 manner required by the division.

72 (3) The division and the board shall, in making the rules described in Subsection (1)
73 and in consultation with the State Water Development Commission created in Section
74 [73-27-102](#):

75 (a) establish criteria for better water data and data reporting;

76 (b) establish new conservation targets based on the data described in Subsection (3)(a);

77 (c) institute a process for the independent verification of the data described in
78 Subsection (3)(a);

79 (d) establish a plan for an independent review of:

80 (i) the proposed construction plan for an applicant's qualifying water infrastructure
81 project; and

82 (ii) the applicant's plan to repay the loan for the construction of the proposed water
83 infrastructure project;

84 (e) invite and recommend public involvement; and

85 (f) set appropriate financing and repayment terms.

86 (4) (a) The division, board, and State Water Development Commission shall, no later
87 than October 30, 2016, report to the Natural Resources, Agriculture, and Environment Interim
88 Committee and Legislative Management Committee on the rules established pursuant to
89 Subsections (1) and (3).

90 (b) After October 30, 2016, the division and the board shall provide regular updates to
91 the Legislative Management Committee on the progress made under this section, including
92 whether the division and board intend to issue a request for proposals.

93 Section 3. Section **73-27-102** is amended to read:

94 **73-27-102. State Water Development Commission created.**

95 (1) The State Water Development Commission is created to determine the state's role
96 in the protection, conservation, and development of the state's water resources.

97 (2) The commission membership shall include:

98 (a) five members of the Senate, appointed by the president of the Senate, no more than
99 four of whom may be from the same political party;

100 (b) eight members of the House of Representatives, appointed by the speaker of the
101 House of Representatives, no more than six of whom may be from the same political party;

102 [~~and~~]

103 (c) the state treasurer, who shall be a nonvoting member; and

104 [~~(c)~~] (d) the following nonvoting members, appointed by the governor:

105 (i) [~~a representative~~] two representatives of the Office of the Governor, including one
106 representative from the Governor's Office of Management and Budget;

107 (ii) a representative of the Green River District;

108 (iii) a representative of the Upper Colorado River District;

109 (iv) a representative of the Lower Colorado River District;

110 (v) a representative of the Lower Sevier River District;

111 (vi) a representative of the Upper Sevier River District;

112 (vii) a representative of the Provo River District;

113 (viii) a representative of the Salt Lake District;

- 114 (ix) a representative of the Weber River District;
 - 115 (x) a representative of the Bear River District;
 - 116 (xi) the executive director of the Department of Natural Resources;
 - 117 (xii) the executive director of the Department of Environmental Quality;
 - 118 (xiii) the commissioner of agriculture and food;
 - 119 (xiv) a member of the Board of Water Resources;
 - 120 (xv) a representative of an organized environmental group; [~~and~~]
 - 121 (xvi) a representative of agricultural production[-]; and
 - 122 (xvii) a representative with experience in finance and economics.
- 123 (3) (a) Except as required by Subsection (3)(b), the members appointed by the governor
124 under Subsection (2)[~~(c)~~](d) shall be appointed or reappointed to a four-year term.
- 125 (b) The governor shall, at the time of appointment or reappointment, adjust the length
126 of terms to ensure that the terms of board members are staggered so that approximately half of
127 the nonvoting members of the commission are appointed every two years.
- 128 (c) When a vacancy occurs in the membership for any reason, the governor shall
129 appoint a replacement for the unexpired term.
- 130 (4) The president of the Senate and the speaker of the House of Representatives shall,
131 to the extent possible, appoint members under Subsections (2)(a) and (b) that represent both
132 rural and urban areas of the state.
- 133 (5) (a) The president of the Senate shall designate a member of the Senate appointed
134 under Subsection (2)(a) as a cochair of the commission.
- 135 (b) The speaker of the House of Representatives shall designate a member of the House
136 of Representatives appointed under Subsection (2)(b) as a cochair of the commission.
- 137 (6) Attendance by at least 50% of one legislative house and more than 50% of the other
138 legislative house constitutes a quorum.
- 139 (7) (a) Compensation and expenses of a member of the commission who is a legislator
140 are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation
141 and Expenses.

142 (b) Commission members who are employees of the state shall receive no additional
143 compensation.

144 (c) Other commission members shall receive no compensation or expenses for their
145 service on the commission.

146 (8) The Office of Legislative Research and General Counsel shall provide staff support
147 to the commission.

148 Section 4. Section **73-27-103** is amended to read:

149 **73-27-103. Duties of commission.**

150 (1) The commission shall consider and make recommendations to the Legislature and
151 governor on the following issues:

152 ~~[(1)]~~ (a) how the water needs of the state's growing municipal and industrial sectors
153 will be met;

154 ~~[(2)]~~ (b) what the impact of federal regulations and legislation will be on the ability of
155 the state to manage and develop its compacted water rights;

156 ~~[(3)]~~ (c) how the state will fund water projects;

157 ~~[(4)]~~ (d) whether the state should become an owner and operator of water projects;

158 ~~[(5)]~~ (e) how the state will encourage the implementation of water conservation
159 programs; and

160 ~~[(6)]~~ (f) other water issues of statewide importance.

161 (2) The commission shall:

162 (a) consult with the Division of Water Resources and the Board of Water Resources
163 regarding:

164 (i) recommendations for rules, criteria, targets, processes, and plans described in
165 Subsection 73-10g-105(3); and

166 (ii) the scope of any request for proposals that may be issued by the Division of Water
167 Resources and Board of Water Resources to assist in creating the rules, criteria, targets,
168 processes, and plans described in Subsection 73-10g-105(3); and

169 (b) report the recommendations described in Subsection (2)(a) to the Natural

170 Resources, Agriculture, and Environment Interim Committee and the Legislative Management
171 Committee by October 30, 2016.

172 (3) The commission may form one or more working groups from the membership of
173 the commission to consider and study the issues described in this section.

174 **Section 5. Appropriation.**

175 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
176 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
177 are appropriated from resources not otherwise appropriated, or reduced from amounts
178 previously appropriated, out of the funds or amounts indicated. These sums of money are in
179 addition to amounts previously appropriated for fiscal year 2017.

180 To Department of Natural Resources - Division of Water Resources

181 From Water Infrastructure Restricted Account, one-time \$1,000,000

182 Schedule of Programs:

183 Administration \$1,000,000

184 The Legislature intends that the appropriation of \$1,000,000 to the Division of Water
185 Resources be used by the division, in cooperation and consultation with the Board of Water
186 Resources and the State Water Development Commission, in fulfilling the division's
187 responsibilities under Section [73-10g-105](#), including the possibility of issuing a request for
188 proposals, in accordance with Title 63G, Chapter 6a, Utah Procurement Code. The Legislature
189 intends that, before the division issues a request for proposals, the division shall consult with
190 and seek the input of the Legislative Management Committee. Under the terms of Subsection
191 [63J-1-603\(3\)\(a\)](#), the Legislature intends that the appropriation provided in this bill not lapse at
192 the close of fiscal year 2017. The use of any nonlapsing funds is limited to fulfilling the duties
193 described in Section [73-10g-105](#), with the Division of Water Resources and the Board of Water
194 Resources providing the Legislative Management Committee with regular updates on how the
195 money is being spent.