

## HB0301S01 compared with HB0301

~~text~~ shows text that was in HB0301 but was deleted in HB0301S01.

Inserted text shows text that was not in HB0301 but was inserted into HB0301S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Scott D. Sandall proposes the following substitute bill:

### CANAL SAFETY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

Senate Sponsor: \_\_\_\_\_

---

#### LONG TITLE

##### General Description:

This bill modifies provisions regarding notice to canal owners about land use applications.

##### Highlighted Provisions:

This bill:

- ▶ removes the requirement that a canal owner receive notice as a condition to rights vesting in a land use application;
- ▶ requires a land use authority to send notice to certain canal owners and operators about a land use application;
- ▶ requires a land use authority to wait for a period of days before acting on a land use application in order to allow input from the canal owners and operators;
- ▶ identifies a canal owner or operator who is entitled to notice from a land use

## HB0301S01 compared with HB0301

authority regarding certain land use applications;<sup>f</sup>

→ ~~requires a surveyor making a plat to consult with the owner or operator of a certain water conveyance facility;~~<sup>f</sup> and

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**10-9a-211**, as enacted by Laws of Utah 2010, Chapter 332

**10-9a-509**, as last amended by Laws of Utah 2014, Chapter 136

**10-9a-603**, as last amended by Laws of Utah 2015, Chapter 327

**17-27a-211**, as enacted by Laws of Utah 2010, Chapter 332

**17-27a-508**, as last amended by Laws of Utah 2014, Chapter 136

**17-27a-603**, as last amended by Laws of Utah 2015, Chapter 327

**73-5-7**, as last amended by Laws of Utah 2014, Chapter 355

---

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

Section 1. Section **10-9a-211** is amended to read:

**10-9a-211. Canal owner or operator -- Notice to municipality.**

(1) ~~[For purposes of Subsection 10-9a-509(1)(b)(iv), a]~~ A canal company or a canal operator shall ~~[provide on or before July 1, 2010, any]~~ ensure that each municipality in which the canal company or canal operator owns or operates a canal has on file, regarding the canal company or canal operator:

- (a) a current mailing address and phone number;
- (b) a contact name; and
- (c) a general description of the location of each canal owned or operated by the canal owner or canal operator.

(2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the municipality, the canal company or canal

## HB0301S01 compared with HB0301

operator shall provide the correct information within 30 days of the day on which the information [~~was changed~~] changes.

Section 2. Section **10-9a-509** is amended to read:

**10-9a-509. Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.**

(1) (a) (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.

(ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:

(A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A municipality shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a municipality may not approve a land

## HB0301S01 compared with HB0301

use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

~~[(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:]~~

~~[(I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal operator has provided information under Section 10-9a-211; and]~~

~~[(H) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).]~~

~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 10-9a-211.]~~

~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

~~[(f) provided by a canal company or canal operator to the land use authority; and]~~

~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

~~[(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.]~~

(c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A municipality may approve a land use application without making the required

## HB0301S01 compared with HB0301

notifications under Subsection (1)(b)(ii)(A) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a municipality has complied with the requirements of Subsection (1)(b) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

## HB0301S01 compared with HB0301

(v) in this chapter; or

(vi) in a municipal ordinance.

(j) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Section 3. Section **10-9a-603** is amended to read:

**10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.**

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is

## HB0301S01 compared with HB0301

reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; ~~and~~ or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; ~~or~~.

~~[(iii) is not entitled to notice of the subdivision pursuant to Subsection 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.]~~

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(e), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed,

## HB0301S01 compared with HB0301

provide written notice of the application to the canal owner or associated canal operator contact described in:

- (A) Section 10-9a-211;
- (B) Subsection 73-5-7(2); or
- (C) Subsection (4)(~~f~~~~d~~~~c~~); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

- (A) access to the canal;
- (B) maintenance of the canal;
- (C) canal protection; and
- (D) canal safety.

(e) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

- (i) the canal's centerline is located within 100 feet of a proposed subdivision; and
- (ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

- (B) using the state engineer's inventory of canals under Section 73-5-7; or
- (C) from information provided by a surveyor under Subsection (4)(~~f~~~~d~~~~c~~).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless:

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and

## HB0301S01 compared with HB0301

Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

~~{ (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i) includes consultation with the owner or operator of a water conveyance facility, as that term is defined in Section 73-10-33, located within 100 feet of the subdivision boundary.~~

~~— (ii) The surveyor shall provide to the land use authority the contact information of the facility owner or operator with whom the surveyor consulted if the proposed subdivision includes:~~

~~— (A) land across which a water conveyance facility runs; or~~

~~— (B) land within 100 feet of a water conveyance facility.~~

‡ (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county

## HB0301S01 compared with HB0301

recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 4. Section **17-27a-211** is amended to read:

### **17-27a-211. Canal owner or operator -- Notice to county.**

(1) [~~For purposes of Subsection 17-27a-508(1)(b)(iv), a~~] A canal company or a canal operator shall [provide on or before July 1, 2010, any] ensure that each county in which the canal company or canal operator owns or operates a canal has on file, regarding the canal company or canal operator:

(a) a current mailing address and phone number;

(b) a contact name; and

(c) a general description of the location of each canal owned or operated by the canal owner or canal operator.

(2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the county, the canal company or canal operator shall provide the correct information within 30 days of the day on which the information [~~was changed~~] changes.

Section 5. Section **17-27a-508** is amended to read:

### **17-27a-508. Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.**

(1) (a) (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.

(ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:

(A) the land use authority, on the record, finds that a compelling, countervailing public

## HB0301S01 compared with HB0301

interest would be jeopardized by approving the application; or

(B) in the manner provided by local ordinance and before the application is submitted, the county has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection (1)(b)(ii) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A county shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a county may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

~~[(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:]~~

~~[(i) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Section 17-27a-211; and]~~

~~[(ii) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(i) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).]~~

~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by~~

## HB0301S01 compared with HB0301

~~certified or registered mail to the canal company or canal operator contact described in Section 17-27a-211.]~~

~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

~~[(F) provided by a canal company or canal operator to the land use authority; and]~~

~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

~~[(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.]~~

(c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A county may approve a land use application without making the required notifications under Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a county has complied with the requirements of Subsection (1)(b) for a land use application, the county may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The county shall process an application without regard to proceedings initiated to amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon

## HB0301S01 compared with HB0301

the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(j) A county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(2) A county is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup

## HB0301S01 compared with HB0301

fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Section 6. Section **17-27a-603** is amended to read:

**17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.**

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; ~~and~~or

(ii) does not:

## HB0301S01 compared with HB0301

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision[; or].

~~[(iii) is not entitled to notice of the subdivision pursuant to Subsection 17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.]~~

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(e), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (4)(~~d~~c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using

## HB0301S01 compared with HB0301

mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (4)(~~f~~~~d~~~~e~~).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless, subject to Subsection 17-27a-604(2):

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

## HB0301S01 compared with HB0301

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

~~{ (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i) includes consultation with the owner or operator of a water conveyance facility, as that term is defined in Section 73-10-33, located within 100 feet of the subdivision boundary.~~

~~— (ii) The surveyor shall provide to the land use authority the contact information of the facility owner or operator with whom the surveyor consulted if the proposed subdivision includes:~~

~~— (A) land across which a water conveyance facility runs; or~~

~~— (B) land within 100 feet of a water conveyance facility.~~

‡ (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 7. Section **73-5-7** is amended to read:

### **73-5-7. Inspection of ditches and diverting works by engineer.**

(1) (a) The state engineer shall have authority to examine and inspect any ditch or other diverting works, and at the time of such inspection, the state engineer may order the owners thereof to make any addition or alteration that the state engineer considers necessary for the security of such works, the safety of persons, or the protection of property.

(b) If any person, firm, copartnership, association, or corporation refuses or neglects to comply with the requirements of the state engineer as described in Subsection (1)(a), the state engineer may bring action in the name of the state in the district court to enforce the order.

(2) (a) The state engineer shall, to the extent reasonably practicable, by July 1, [2017] 2019, inventory and maintain a list of all open, human-made water conveyance systems that carry 5 cubic feet per second or more in the state, including the following information on each conveyance system:

## HB0301S01 compared with HB0301

~~[(a)]~~ (i) alignment;

~~[(b)]~~ (ii) contact information of the owner;

~~[(c)]~~ (iii) maximum flow capacity in cubic feet per second;

~~[(d)]~~ (iv) whether the conveyance system is used for flood or storm water management;

and

~~[(e)]~~ (v) notice of the adoption of a management plan for the conveyance system as reported to the Division of Water Resources under Section 73-10-33.

(b) In counties of the first or second class, the state engineer shall include in the inventory described in Subsection (2)(a) any enclosed segments of each open, human-made water conveyance system.

(3) The owner of an open, human-made water conveyance system that carries 5 cubic feet per second or more shall inform the state engineer if the information described in Subsection (2) changes.

(4) The state engineer:

(a) may contract with a local conservation district created in Title 17D, Chapter 3, Conservation District Act, to fulfill the duties described in Subsection (2); and

(b) may contract a local conservation district created in Title 17D, Chapter 3, Conservation District Act, to provide technical support for a canal owner who is adopting a management plan, as described in Section 73-10-33.

†

**Legislative Review Note**

**~~Office of Legislative Research and General Counsel~~**