

Senator Michael K. McKell proposes the following substitute bill:

WATER AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill addresses issues related to water.

Highlighted Provisions:

This bill:

- ▶ addresses secondary water metering;
- ▶ directs the Legislative Water Development Commission to support the development of a unified, statewide water strategy to promote water conservation and efficiency;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- ▶ to the Department of Natural Resources - Division of Water Resources, as an ongoing appropriation:
 - from the General Fund, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **73-10-34**, as last amended by Laws of Utah 2020, Chapter 350

27 **73-27-103**, as last amended by Laws of Utah 2020, Chapter 28

28

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

30 Section 1. Section **73-10-34** is amended to read:

31 **73-10-34. Secondary water metering.**

32 (1) As used in this section:

33 (a) (i) "Commercial user" means a secondary water user that is a place of business.

34 (ii) "Commercial user" does not include a multi-family residence, an agricultural user,
35 or a customer that falls within the industrial or institutional classification.

36 (b) (i) "Industrial user" means a secondary water user that manufactures or produces
37 materials.

38 (ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a
39 mining company.

40 (c) (i) "Institutional user" means a secondary water user that is dedicated to public
41 service, regardless of ownership.

42 (ii) "Institutional user" includes a school, church, hospital, park, golf course, and
43 government facility.

44 (d) (i) "Residential user" means a secondary water user in a residence.

45 (ii) "Residential user" includes a single-family or multi-family home, apartment,
46 duplex, twin home, condominium, or planned community.

47 (e) "Secondary water" means water that is:

48 (i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5,
49 Farmland Assessment Act; and

50 (ii) delivered to and used by an end [~~consumer~~] user for the irrigation of landscaping or
51 a garden.

52 (f) "Secondary water supplier" means an entity that supplies pressurized secondary
53 water.

54 (g) "Small secondary water retail supplier" means an entity that:

55 (i) supplies pressurized secondary water only to the end user of the secondary water;

56 and

57 (ii) (A) is a city, town, or metro township; or

58 (B) supplies 8,000 or fewer connections.

59 (2) (a) A secondary water supplier that begins design work for new service on or after
60 April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use
61 of pressurized secondary water by the users receiving that new service.

62 (b) Beginning January 1, 2022, a secondary water supplier shall establish a meter
63 installation reserve for metering installation and replacement projects.

64 (c) A secondary water supplier, including a small secondary water retail supplier, may
65 not raise the rates charged for secondary water:

66 (i) by more than 10% in a calendar year for costs associated with metering secondary
67 water unless the rise in rates is necessary because the secondary water supplier experiences a
68 catastrophic failure or other similar event; and

69 (ii) unless, before raising the rates on the end user, the entity charging the end user
70 provides a statement explaining the basis for why the needs of the secondary water supplier
71 required an increase in rates.

72 (d) (i) A secondary water supplier that provides pressurized secondary water to a
73 commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary
74 water supplier previously filed a similar plan, update the plan for metering the use of the
75 pressurized water.

76 (ii) The plan required by this Subsection (2)(d) shall be filed or updated with the
77 Division of Water Resources by no later than December 31, 2025, and address the process the
78 secondary water supplier will follow to implement metering, including:

79 (A) the costs of full metering by the secondary water supplier;

80 (B) how long it would take the secondary water supplier to complete full metering by
81 no later than December 31, 2040, including an anticipated beginning date and completion date;
82 and

83 (C) how the secondary water supplier will finance metering.

84 (3) A secondary water supplier shall on or before March 31 of each year, report to the
85 Division of Water Rights:

86 (a) for commercial, industrial, institutional, and residential users whose pressurized
87 secondary water use is metered, the number of acre feet of pressurized secondary water the

88 secondary water supplier supplied to the commercial, industrial, institutional, and residential
89 users during the preceding 12-month period;

90 (b) the number of secondary water meters within the secondary water supplier's service
91 boundary;

92 (c) a description of the secondary water supplier's service boundary;

93 (d) the number of connections in each of the following categories through which the
94 secondary water supplier supplies pressurized secondary water:

95 (i) commercial;

96 (ii) industrial;

97 (iii) institutional; and

98 (iv) residential;

99 (e) the total volume of water that the secondary water supplier receives from [its] the
100 secondary water supplier's sources; and

101 (f) the dates of service during the preceding 12-month period in which the secondary
102 water supplier supplied pressurized secondary water.

103 (4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to
104 \$10,000,000 in low-interest loans available each year:

105 (i) from the Water Resources Conservation and Development Fund, created in Section
106 [73-10-24](#); and

107 (ii) for financing the cost of secondary water metering.

108 (b) The Division of Water Resources and the Board of Water Resources shall make
109 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
110 establishing the criteria and process for receiving a loan described in this Subsection (4), except
111 the rules may not include prepayment penalties.

112 (5) (a) Beginning July 1, 2021, subject to appropriation, the Division of Water
113 Resources may make matching grants each year for financing the cost of secondary water
114 metering for a commercial, industrial, institutional, or residential user by a small secondary
115 water retail supplier that:

116 (i) is not for new service described in Subsection (2)(a); and

117 (ii) matches the amount of the grant.

118 (b) For purposes of issuing grants under this section, the division shall prioritize the

119 small secondary water retail suppliers that can demonstrate the greatest need or greatest
120 inability to pay the entire cost of installing secondary water meters.

121 (c) The amount of a grant under this Subsection (5) may not:

122 (i) exceed 50% of the small secondary water retail supplier's cost of installing
123 secondary water meters; or

124 (ii) supplant federal, state, or local money previously allocated to pay the small
125 secondary water retail supplier's cost of installing secondary water meters.

126 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
127 Board of Water Resources shall make rules establishing:

128 (i) the procedure for applying for a grant under this Subsection (5); and

129 (ii) how a small secondary water retail supplier can establish that the small secondary
130 water retail supplier meets the eligibility requirements of this Subsection (5).

131 ~~[(5)]~~ (6) This section does not apply to a secondary water supplier to the extent that:

132 (a) the secondary water supplier supplies secondary water within a county of the third,
133 fourth, fifth, or sixth class; or

134 (b) there is no meter that a meter manufacturer will warranty because of the water
135 quality within a specific location.

136 ~~[(6)]~~ (7) Nothing in this section affects a water right holder's obligation to measure and
137 report water usage as described in Sections 73-5-4 and 73-5-8.

138 Section 2. Section 73-27-103 is amended to read:

139 **73-27-103. Duties and powers of commission.**

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

142 (a) how the water needs of the state's growing agricultural, municipal, and industrial
143 sectors will be met;

144 (b) what the impact of federal regulations and legislation will be on the ability of the
145 state to manage and develop its compacted water rights;

146 (c) how the state will fund water projects;

147 (d) whether the state should become an owner and operator of water projects;

148 (e) how the state will encourage the implementation of water conservation programs;

149 and

150 (f) other water issues of statewide importance.

151 (2) The commission shall consult with the Division of Water Resources and the Board
152 of Water Resources regarding:

153 (a) recommendations for rules, criteria, targets, processes, and plans described in
154 Subsection 73-10g-105(3); and

155 (b) the scope of any request for proposals that may be issued by the Division of Water
156 Resources and Board of Water Resources to assist in creating the rules, criteria, targets,
157 processes, and plans described in Subsection 73-10g-105(3).

158 (3) The commission shall support community efforts to develop a unified, state water
159 strategy to promote water conservation and efficiency that:

160 (a) is consistent with Section 73-1-21;

161 (b) is created with the aid of stakeholders including water conservancy districts created
162 under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act;

163 (c) includes model ordinances or policies consistent with the unified, statewide water
164 strategy that may be adopted by political subdivisions; and

165 (d) respects different needs of different political subdivisions or geographic regions of
166 the state.

167 [~~3~~] (4) The commission may:

168 (a) form one or more working groups from the membership of the commission to
169 consider and study the issues described in this section; and

170 (b) meet up to six times per calendar year without approval from the Legislative
171 Management Committee.

172 Section 3. **Appropriation.**

173 The following sums of money are appropriated for the fiscal year beginning July 1,
174 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
175 fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
176 Act, the Legislature appropriates the following sums of money from the funds or accounts
177 indicated for the use and support of the government of the state of Utah.

178 ITEM 1

179 To the Department of Natural Resources - Division of Water Resources

180 From General Fund

\$2,000,000

181 Schedule of Programs:

182 Planning \$2,000,000

183 The Legislature intends that the appropriation under this item be used to fund grants as

184 described in Subsection [73-10-34\(5\)](#) enacted in this bill.