

**Representative Keven J. Stratton** proposes the following substitute bill:

**CAPITAL ASSETS RELATED TO WATER**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

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

**LONG TITLE**

**General Description:**

This bill addresses policies related to capital assets for water.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the adoption and implementation of policies and plans related to capital assets;
- ▶ requires reporting; and
- ▶ addresses the scope of the part.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**ENACTS:**

**19-5-201**, Utah Code Annotated 1953

**19-5-202**, Utah Code Annotated 1953

**73-10g-401**, Utah Code Annotated 1953



26 [73-10g-402](#), Utah Code Annotated 1953



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

29 Section 1. Section **19-5-201** is enacted to read:

30 **Part 2. Capital Assets for Wastewater**

31 **19-5-201. Definitions.**

32 As used in this part:

33 (1) "Capital asset" means an asset that:

34 (a) is a significant investment or an essential component necessary to provide a service,

35 including:

36 (i) a facility;

37 (ii) infrastructure, whether above or below ground level;

38 (iii) equipment; or

39 (iv) a communications network; and

40 (b) is owned by a wastewater service provider.

41 (2) "Governing body" means a political subdivision governing body defined in Section

42 [63A-15-102](#).

43 (3) "Large underground wastewater disposal system" is as defined by rule made by the

44 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

45 (4) "Policy" means the capital asset assessment, maintenance, and replacement policy

46 required under Subsection [19-5-202\(1\)](#).

47 (5) "Qualified capital asset" means a capital asset that is:

48 (a) identified in a policy as a qualified capital asset in accordance with Subsection

49 [19-5-202\(1\)\(b\)](#); and

50 (b) inventoried, assessed, funded, or otherwise subject to a wastewater service

51 provider's policy in accordance with Section [19-5-202](#).

52 (6) "Wastewater service provider" means a political subdivision of the state that owns,

53 operates or otherwise sponsors through agreement any sewerage system, a treatment works, or

54 large underground wastewater disposal system for the collection, storage, treatment, or disposal

55 of domestic waste.

56 Section 2. Section **19-5-202** is enacted to read:

57 19-5-202. Capital asset policies.

58 (1) (a) A wastewater service provider shall adopt a policy for the assessment,  
59 maintenance, and replacement of a capital asset that is a qualified capital asset.

60 (b) A policy shall define in general or specific terms which capital assets are qualified  
61 capital assets.

62 (c) A wastewater service provider shall adapt the terms of a policy to the size of the  
63 wastewater service provider measured either by annual operating budget or the number of  
64 connections served by the wastewater service provider.

65 (2) The policy shall require the wastewater service provider to:

66 (a) complete an inventory of each qualified capital asset; and

67 (b) assess the physical condition of the qualified capital asset at least every five years  
68 in accordance with a method established under Subsection (3)(a)(i).

69 (3) (a) The policy shall establish:

70 (i) a method to assess the physical condition of a qualified capital asset;

71 (ii) performance and condition standards for a qualified capital asset;

72 (iii) a program for monitoring and reporting the wastewater service provider's  
73 application of and compliance with the policy, including a comparison of each qualified capital  
74 asset's current status and targeted standards for that qualified capital asset as set forth in the  
75 policy;

76 (iv) a process for the wastewater service provider to evaluate an existing qualified  
77 capital asset for efficiency and expected service delivery; and

78 (v) objective criteria for the wastewater service provider to prioritize maintenance or  
79 replacement of a qualified capital asset.

80 (b) A performance and condition standard described in Subsection (3)(a)(ii) may be:

81 (i) a mandated safety standard;

82 (ii) a standard condition of receiving federal, state, or local funding; or

83 (iii) an applicable engineering or other professional standard.

84 (4) (a) As part of a policy, a wastewater service provider shall adopt financial  
85 guidelines to dedicate revenue to a priority qualified capital asset identified under Subsection  
86 (3)(a)(v) in accordance with a multiyear qualified capital plan that:

87 (i) includes criteria and guidelines in the policy for allocating sufficient funds in a

88 multiyear qualified capital asset plan and in the wastewater service provider's annual operating  
 89 budget for assessing, maintaining, repairing, and replacing qualified capital assets;

90 (ii) establishes an ongoing source of funds in the multiyear qualified capital asset plan  
 91 and each annual operating budget for repair and replacement costs of qualified capital assets in  
 92 accordance with the policy; and

93 (iii) establishes a repair and replacement reserve for capital projects in the wastewater  
 94 service provider's capital projects fund and allocates from the repair and replacement reserve.

95 (b) The governing body of a wastewater service provider shall adopt an annual  
 96 operating budget that includes ongoing funding described in Subsection (4)(a)(ii).

97 (5) (a) A wastewater service provider shall submit a report of the wastewater service  
 98 provider's qualified capital asset facilities to the division as follows:

99 (i) if the wastewater service provider is treatment works with a capacity of 1,000,000  
 100 gallons per day or more, by no later than December 31, ~~H→ [2022]~~ 2023 ~~←H~~ , and then every five  
 100a years

101 thereafter;

102 (ii) if the wastewater service provider is treatment works with a capacity of less than  
 103 1,000,000 gallons per day, by no later than December 31, ~~H→ [2023]~~ 2024 ~~←H~~ , and then every  
 103a five years

104 thereafter;

105 (iii) if the wastewater service provider is a sewerage system, by no later than December  
 106 31, ~~H→ [2024]~~ 2025 ~~←H~~ , and then every five years thereafter; and

107 (iv) if the wastewater service provider is a large underground wastewater disposal  
 108 system or non-discharging treatment works, by no later than December 31, ~~H→ [2025]~~ 2026 ~~←H~~ ,  
 108a and then

109 every five years thereafter.

110 (b) The qualified capital asset facilities report required under this Subsection (5) shall:

111 (i) describe the proposed replacement time frame for each qualified capital asset;

112 (ii) account for each funding source for a qualified capital asset and include any  
 113 restrictions a funding source may impose on the use or disposal of the qualified capital asset;

114 (iii) account for any change in a qualified capital asset's value since the last qualified  
 115 capital asset facilities report submitted by the wastewater service provider; and

116 (iv) provide a statement of actual expenditures and performance data for each qualified  
 117 capital asset compared to budgeted expenditures.

118 Section 3. Section **73-10g-401** is enacted to read:

119 **Part 4. Capital Assets for Water**

120 **73-10g-401. Definitions.**

121 As used in this part:

122 (1) "Capital asset" means an asset that:

123 (a) is a significant investment or an essential component necessary to provide a service,  
124 including:

125 (i) a facility;

126 (ii) infrastructure, whether above or below ground level;

127 (iii) equipment; or

128 (iv) a communications network; and

129 (b) is owned by a water provider.

130 (2) "Governing body" means:

131 (a) for a political subdivision, the political subdivision governing body defined in  
132 Section [63A-15-102](#); or

133 (b) for a private entity, the private entity's board of directors, managing members,  
134 partners, or equivalent body.

135 (3) "Policy" means the capital asset assessment, maintenance, and replacement policy  
136 required under Subsection [73-10g-402](#)(1).

137 (4) "Qualified capital asset" means a capital asset that is:

138 (a) identified in a policy as a qualified capital asset in accordance with Subsection  
139 [73-10g-402](#)(1)(b); and

140 (b) inventoried, assessed, funded, or otherwise subject to a water provider's policy in  
141 accordance with Section [73-10g-402](#).

142 (5) "Retail water supplier" means the same as that term is defined in Section [19-4-102](#).

143 (6) "Water conservancy district" means the same as that term is defined in Section  
144 [73-10-32](#).

145 (7) "Water provider" means:

146 (a) a retail water supplier; or

147 (b) a water conservancy district.

148 Section 4. Section **73-10g-402** is enacted to read:

149 **73-10g-402. Capital asset policies.**

150 (1) (a) A water provider shall adopt a policy for the assessment, maintenance, and  
151 replacement of a capital asset that is a qualified capital asset.

152 (b) A policy shall define in general or specific terms which capital assets are qualified  
153 capital assets.

154 (c) A water provider shall adapt the terms of a policy to the size of the water provider  
155 measured either by annual operating budget or the number of connections served by the water  
156 provider.

157 (2) The policy shall require the water provider to:

158 (a) complete an inventory of each qualified capital asset; and

159 (b) assess the physical condition of the qualified capital asset at least every five years  
160 in accordance with a method established under Subsection (3)(a)(i).

161 (3) (a) The policy shall establish:

162 (i) a method to assess the physical condition of a qualified capital asset;

163 (ii) performance and condition standards for a qualified capital asset;

164 (iii) a program for monitoring and reporting the water provider's application of and  
165 compliance with the policy, including a comparison of each qualified capital asset's current  
166 status and targeted standards for that qualified capital asset as set forth in the policy;

167 (iv) a process for the water provider to evaluate an existing qualified capital asset for  
168 efficiency and expected service delivery; and

169 (v) objective criteria for the water provider to prioritize maintenance or replacement of  
170 a qualified capital asset.

171 (b) A performance and condition standard described in Subsection (3)(a)(ii) may be:

172 (i) a mandated safety standard;

173 (ii) a standard condition of receiving federal, state, or local funding; or

174 (iii) an applicable engineering or other professional standard.

175 (4) (a) As part of a policy, a water provider shall adopt financial guidelines to dedicate  
176 revenue to a priority qualified capital asset identified under Subsection (3)(a)(v) in accordance  
177 with a multiyear qualified capital plan that:

178 (i) includes criteria and guidelines in the policy for allocating sufficient funds in a  
179 multiyear qualified capital asset plan and in the water provider's annual operating budget for  
180 assessing, maintaining, repairing, and replacing qualified capital assets;

181 (ii) establishes an ongoing source of funds in the multiyear qualified capital asset plan  
182 and each annual operating budget for repair and replacement costs of qualified capital assets in  
183 accordance with the policy; and

184 (iii) for a water conservancy district, establishes a repair and replacement reserve for  
185 capital projects in the water conservancy district's capital projects fund and allocate from the  
186 repair and replacement reserve, subject to Subsection 17B-1-612(5).

187 (b) The governing body of a water provider shall adopt an annual operating budget that  
188 includes ongoing funding described in Subsection (4)(a)(ii).

189 (5) (a) A water provider shall submit a report of the water provider's qualified capital  
190 asset facilities as follows:

191 (i) if the water provider is a retail water supplier, the water provider shall submit the  
192 report to the Division of Drinking Water:

193 (A) if the water provider serves 10,000 service connections or more, by no later than  
194 December 31, 2022, and then every five years thereafter;

195 (B) if the water provider serves at least 3,000 service connections but less than 10,000  
196 service connections, by no later than December 31, 2023, and then every five years thereafter;

197 (C) if the water provider serves at least 1,000 service connections but less than 3,000  
198 service connections by no later than December 31, 2024, and then every five years thereafter;

199 and

200 (D) if the water provider serves at least 500 service connections but less than 1,000  
201 service connections, by no later than December 31, 2025, and then every five years thereafter;

202 (ii) if the water provider is a water conservancy district, the water provider shall submit  
203 the report to the Division of Water Resources by no later than December 31, 2022, and then  
204 every five years thereafter.

205 (b) The qualified capital asset facilities report required under this Subsection (5) shall:

206 (i) describe the proposed replacement time frame for each qualified capital asset;

207 (ii) account for each funding source for a qualified capital asset and include any  
208 restrictions a funding source may impose on the use or disposal of the qualified capital asset;

209 (iii) account for any change in a qualified capital asset's value since the last qualified  
210 capital asset facilities report submitted by the water provider; and

211 (iv) provide a statement of actual expenditures and performance data for each qualified

212 capital asset compared to budgeted expenditures.

213 (6) A qualified water conservancy district, as defined in Section [17B-2a-1010](#), is not

214 subject to this part but shall comply with Section [17B-2a-1010](#).