

GREAT SALT LAKE WATERSHED ENHANCEMENT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill enacts the Great Salt Lake Watershed Enhancement Program.

Highlighted Provisions:

This bill:

- ▶ addresses the duties of the Division of Forestry, Fire, and State Lands related to the Great Salt Lake;
- ▶ defines terms;
- ▶ authorizes rulemaking;
- ▶ establishes the program;
- ▶ provides for oversight by the Division of Forestry, Fire, and State Lands;
- ▶ imposes requirements on the grantee;
- ▶ provides for the creation, powers, and duties of the water trust; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- ▶ to the Department of Natural Resources -- Forestry, Fire, and State Lands, as a one-time appropriation:
 - from General Fund, \$40,000,000.

Other Special Clauses:

This bill provides a special effective date.



28 This bill provides revisor instructions.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **65A-10-8**, as enacted by Laws of Utah 1988, Chapter 121

32 ENACTS:

33 **65A-16-101**, Utah Code Annotated 1953

34 **65A-16-102**, Utah Code Annotated 1953

35 **65A-16-201**, Utah Code Annotated 1953

36 **65A-16-202**, Utah Code Annotated 1953

37 **65A-16-203**, Utah Code Annotated 1953

38 **65A-16-301**, Utah Code Annotated 1953

39 **Utah Code Sections Affected by Revisor Instructions:**

40 **65A-16-201**, Utah Code Annotated 1953



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

43 Section 1. Section **65A-10-8** is amended to read:

44 **65A-10-8. Great Salt Lake -- Management responsibilities of the division.**

45 The division has the following powers and duties:

46 (1) ~~[Prepare]~~ The division shall prepare and maintain a comprehensive plan for the
47 ~~[lake which]~~ Great Salt Lake that recognizes the following policies:

48 (a) develop strategies to deal with a fluctuating lake level;

49 (b) encourage development of the ~~[lake]~~ Great Salt Lake in a manner ~~[which]~~ that will
50 preserve the ~~[lake]~~ Great Salt Lake, encourage availability of brines to lake extraction
51 industries, protect wildlife, and protect recreational facilities;

52 (c) maintain the ~~[lake's]~~ Great Salt Lake's flood plain as a hazard zone;

53 (d) promote water quality management for the ~~[lake]~~ Great Salt Lake and ~~[its]~~ the
54 Great Salt Lake's tributary streams;

55 (e) promote the development of lake brines, minerals, chemicals, and petro-chemicals
56 to aid the state's economy;

57 (f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals,
58 and petro-chemicals;

- 59 (g) maintain the [~~lake~~] Great Salt Lake and the marshes as important to [~~the~~]
60 shorebirds, waterfowl, and other waterbird flyway system;
- 61 (h) encourage the development of an integrated industrial complex;
- 62 (i) promote and maintain recreation areas on and surrounding the [~~lake~~] Great Salt
63 Lake;
- 64 (j) encourage safe boating use of the [~~lake~~] Great Salt Lake;
- 65 (k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife
66 refuges; and
- 67 (l) provide public access to the [~~lake~~] Great Salt Lake for recreation, hunting, and
68 fishing.
- 69 (2) [~~Employ~~] The division may employ personnel and purchase equipment and supplies
70 [~~which~~] that the Legislature authorizes through appropriations for the purposes of this chapter.
- 71 (3) [~~Initiate~~] The division may initiate studies of the [~~lake~~] Great Salt Lake and [~~its~~] the
72 Great Salt Lake's related resources.
- 73 (4) [~~Publish~~] The division may publish scientific and technical information concerning
74 the [~~lake~~] Great Salt Lake.
- 75 (5) [~~Define~~] The division shall define the [~~lake's~~] Great Salt Lake's flood plain.
- 76 (6) [~~Qualify~~] The division may qualify for, accept, and administer grants, gifts, or other
77 funds from the federal government and other sources, for carrying out any functions under this
78 chapter.
- 79 (7) [~~Determine~~] The division shall determine the need for public works and utilities for
80 the lake area.
- 81 (8) [~~Implement~~] The division may implement the comprehensive plan described in
82 Subsection (1) through state and local entities or agencies.
- 83 (9) [~~Coordinate~~] The division shall coordinate the activities of the various divisions
84 within the Department of Natural Resources with respect to the [~~lake~~] Great Salt Lake.
- 85 (10) [~~Perform~~] The division may perform all other acts reasonably necessary to carry
86 out the purposes and provisions of this chapter.
- 87 (11) [~~Retain~~] The division shall retain and encourage the continued activity of the
88 Great Salt Lake technical team.
- 89 (12) The division shall administer Chapter 16, Great Salt Lake Watershed

90 Enhancement Program.

91 Section 2. Section **65A-16-101** is enacted to read:

92 **CHAPTER 16. GREAT SALT LAKE WATERSHED ENHANCEMENT PROGRAM**

93 **Part 1. General Provisions**

94 **65A-16-101. Definitions.**

95 As used in this chapter:

96 (1) "Conservation organization" means an institution, corporation, foundation, or
97 association that is:

98 (a) private;

99 (b) nonprofit; and

100 (c) founded for the purpose of promoting conservation of natural resources.

101 (2) "Council" means the Great Salt Lake Advisory Council created in Section
102 73-30-201.

103 (3) "Division" means the Division of Forestry, Fire, and State Lands.

104 (4) "Eligible applicant" means two or more conservation organizations that submit a
105 joint grant application to the division under Section 65A-16-201 and meet the criteria listed in
106 Subsection 65A-16-201(3)(a).

107 (5) "Grant money" means money the division awards to an eligible applicant pursuant
108 to this chapter.

109 (6) "Grantee" means an eligible applicant that receives a grant authorized under this
110 chapter.

111 (7) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the
112 Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River
113 watershed, and the West Desert watershed.

114 (8) "Program" means the Great Salt Lake Watershed Enhancement Program created
115 under Section 65A-16-201.

116 Section 3. Section **65A-16-102** is enacted to read:

117 **65A-16-102. Rulemaking.**

118 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
119 Subsection 65A-16-201(5)(c), the division may make rules to administer the program in
120 accordance with this chapter.

121 Section 4. Section **65A-16-201** is enacted to read:

122 **Part 2. Program Established**

123 **65A-16-201. Great Salt Lake Watershed Enhancement Program established.**

124 (1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue
125 grant money to establish a water trust to implement projects, programs, or voluntary
126 arrangements that:

127 (a) retain or enhance water flows to:

128 (i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and

129 (ii) improve water quality and quantity for the Great Salt Lake within the Great Salt
130 Lake watershed;

131 (b) conserve and restore upstream habitats that are key to protecting the hydrology and
132 health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;

133 (c) attract or leverage other public or private funding to enhance and preserve the Great
134 Salt Lake watershed;

135 (d) engage agricultural producers, local landowners, local planning authorities, and
136 others to support the Great Salt Lake;

137 (e) support or benefit the Great Salt Lake's natural infrastructure;

138 (f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed
139 that benefit hydrologic or ecosystem functions of the Great Salt Lake;

140 (g) support efforts to integrate water planning and management efforts that benefit the
141 Great Salt Lake watershed;

142 (h) undertake assessments or studies as necessary, consistent with the goals of this
143 Subsection (1);

144 (i) support projects or programs to respond to low water levels and rising salinity in the
145 Great Salt Lake;

146 (j) require the creation and operation of one or more endowments to sustain the water
147 trust and fulfill the purposes of this chapter; or

148 (k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect
149 the Great Salt Lake.

150 (2) (a) Subject to legislative appropriations, the division shall award a one-time grant
151 to one eligible applicant to establish a water trust authorized under this section.

152 (b) The amount of the one-time grant under this Subsection (2) shall be equal to the
153 entire appropriation made to the division to implement this chapter.

154 (c) Notwithstanding the requirements for the division issuing a one-time grant under
155 this section, after the grant is issued, the division may receive additional appropriations to be
156 used for the purposes of this chapter, including providing money to the water trust created
157 under this chapter.

158 (3) To be considered for the one-time grant under Subsection (2), an eligible applicant
159 shall submit a written application to the division within 60 days of the effective date of this bill
160 that:

161 (a) demonstrates that the eligible applicant meets the following criteria that are
162 necessary to submit a written application, that the eligible applicant:

163 (i) has offices and staff located in Utah; and

164 (ii) individually or collectively possesses:

165 (A) a history and ability to attract private funding to implement water and land
166 conservation projects;

167 (B) knowledge and experience with the Great Salt Lake and the Great Salt Lake
168 watershed;

169 (C) knowledge and experience managing wetlands in the vicinity of the Great Salt
170 Lake;

171 (D) knowledge and experience in the creation of three or more water trusts or water
172 funds;

173 (E) knowledge and experience in securing approval from the Division of Water Rights
174 for water right applications that support the beneficial use of water in the Great Salt Lake;

175 (F) knowledge and experience with Utah water laws; and

176 (G) participation in the development of studies and reports on the Great Salt Lake and
177 Utah water policy;

178 (b) how the applicant will accomplish the objectives of Subsection (1);

179 (c) how the applicant will satisfy Part 3, Water Trust; and

180 (d) a description of the types of money, in-kind contributions, and other resources the
181 applicant could contribute or attract to support the creation, operation, and administration of a
182 water trust.

183 (4) The division, in consultation with the council and the director of the Division of
184 Water Quality, shall evaluate and rank the applications received under Subsection (3)
185 according to each eligible applicant's experience and demonstrated ability to:

186 (a) attract and secure public and private funding to implement water and land
187 conservation projects;

188 (b) address water quality and hydrology issues of the Great Salt Lake and within the
189 Great Salt Lake watershed;

190 (c) create and operate water trusts;

191 (d) secure approval from the Division of Water Rights for water right applications that
192 support beneficial use of water in the Great Salt Lake;

193 (e) understand, use, and work to improve Utah water laws in a manner that benefits the
194 Great Salt Lake watershed while protecting other beneficial uses of water; and

195 (f) participate in collaborative efforts to develop strategies and recommendations to
196 ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.

197 (5) (a) Within 90 days of the effective date of this bill, the division shall select the
198 highest ranking eligible applicant as the grantee.

199 (b) The division shall distribute the appropriated money to the grantee as soon as
200 reasonably practicable following the execution of an agreement or agreements that satisfy the
201 requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2).

202 (c) The division shall issue the grant within the time period required under this
203 Subsection (5) notwithstanding whether the division has adopted rules to administer the
204 program under Section 65A-16-102.

205 (6) If the division does not receive an application from an eligible applicant that
206 satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for
207 proposals under a competitive award process and shall select the most qualified applicant to
208 receive the grant.

209 Section 5. Section **65A-16-202** is enacted to read:

210 **65A-16-202. Oversight.**

211 (1) The division shall oversee whether a grantee and the water trust that the grantee
212 establishes comply with this chapter.

213 (2) (a) The division, in consultation with the council and the Division of Water

214 Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for
215 a grantee or water trust that fails to comply with this chapter.

216 (b) The rules establishing interventions under Subsection (2)(a) shall include, among
217 other actions, requiring the grantee or water trust to return unexpended grant money to the
218 division for failure to comply with this chapter.

219 (3) This section may not be construed as limiting the state auditor's enforcement
220 authority under Section 51-2a-201.5.

221 Section 6. Section 65A-16-203 is enacted to read:

222 **65A-16-203. Grantee requirements.**

223 A grantee that receives grant money under this chapter shall:

224 (1) comply with Section 51-2a-201.5, Subsection 63J-1-220(2), and other applicable
225 laws, regulations, ordinances, or rules; and

226 (2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to
227 operate the water trust in a manner required by Section 65A-16-301, provided that this chapter
228 may not be construed as limiting the grantee's ability to obtain funding from other public and
229 private sources to assist in the establishment, operation, and administration of the water trust.

230 Section 7. Section 65A-16-301 is enacted to read:

231 **Part 3. Water Trust**

232 **65A-16-301. Water trust -- Powers and duties -- Advisory councils.**

233 (1) The grantee under this chapter shall establish a water trust that:

234 (a) is organized:

235 (i) as a private non-profit organization; or

236 (ii) as an agreement between two or more conservation organizations; and

237 (b) complies with this section.

238 (2) A water trust created under this section shall:

239 (a) use a fiduciary to hold and administer grant money appropriated under this chapter;

240 (b) subject to Subsection (6):

241 (i) register with the lieutenant governor as a limited purpose entity pursuant to Section
242 51-2a-201.5;

243 (ii) file with the state auditor on or before June 30 of each year the accounting report

244 that:

- 245 (A) satisfies Subsection 51-2a-201.5(2);
- 246 (B) includes an itemized accounting of the in-kind contributions and other monetary
247 contributions described in Subsection (4); and
- 248 (C) includes an itemized accounting of the costs incurred under Subsection (3)(a);
249 (iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:
- 250 (A) the division;
- 251 (B) the Division of Water Quality;
- 252 (C) the council; and
- 253 (D) the Natural Resources, Agriculture, and Environment Quality Appropriations
254 Subcommittee;
- 255 (iv) file with the division on or before January 31 of each year a report that satisfies the
256 requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and
- 257 (v) provide a copy of the report described in Subsection (2)(b)(iv) to:
- 258 (A) the Division of Water Quality;
- 259 (B) the council; and
- 260 (C) the Natural Resources, Agriculture, and Environment Quality Appropriations
261 Subcommittee; and
- 262 (c) comply with applicable laws, regulations, ordinances, and rules.
- 263 (3) A water trust established by a grantee under this section:
- 264 (a) may use grant money for costs to establish, operate, or administer the water trust,
265 including the hiring of staff or contractors;
- 266 (b) shall use no less than 25% of the grant money to protect and restore wetlands and
267 habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great
268 Salt Lake; and
- 269 (c) may invest grant money the water trust receives under this chapter or any private
270 money the water trust may receive, except that the water trust shall:
- 271 (i) invest and account for grant money and private money separately; and
- 272 (ii) use the earnings received from the investment of grant money to carry out the
273 purposes described in Subsection 65A-16-201(1).
- 274 (4) The water trust shall provide a significant match of in-kind contributions or other
275 monetary contributions to support the water trust's operations and for the purposes described in

276 Subsection 65A-16-201(1).

277 (5) (a) A water trust established under this section shall create and consult with one or
 278 more advisory councils on matters related to the mission and objectives of the water trust.

279 (b) At least one of the advisory councils shall consist of ~~eight~~ **nine** ~~members~~
 279a with a
 280 representative from the following:

281 (i) agriculture;

282 (ii) a private land owner adjacent to the Great Salt Lake;

283 (iii) a conservation organization dedicated to the preservation of migratory waterfowl;

284 (iv) a conservation organization dedicated to the protection of non-game avian species;

285 (v) another conservation organization working on Great Salt Lake issues;

286 (vi) aquaculture;

287 (vii) mineral extraction; ~~and~~ **and**

288 (viii) a water conservancy district ~~;~~ **;** ~~and~~

288a **(ix) wastewater treatment facilities.** ~~and~~

289 (6) The duties of the water trust under Subsection (2)(b) apply to the water trust
 290 notwithstanding whether the holdings, revenues, or expenditures of the water trust include
 291 grant money or other money from the state.

292 **Section 8. Appropriation.**

293 The following sums of money are appropriated for the fiscal year beginning July 1,
 294 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
 295 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 296 Act, the Legislature appropriates the following sums of money from the funds or accounts
 297 indicated for the use and support of the government of the state of Utah.

298 ITEM 1

299 To Department of Natural Resources -- Forestry, Fire, and State Lands

300 From General Fund, One-time \$40,000,000

301 Schedule of Programs:

302 ~~Forestry, Fire, and State Lands~~ **Forestry, Fire, and State Lands** ~~Project Management~~ **Project Management**

302a \$40,000,000

303 The Legislature intends that:

304 (1) the Division of Forestry, Fire, and State Lands uses this one-time appropriation to
 305 issue a grant under Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program,
 306 enacted by this bill;

307 (2) the appropriation be nonlapsing; and
308 (3) the appropriation only be used for the purposes of Title 65A, Chapter 16, Great Salt
309 Lake Watershed Enhancement Program.

310 Section 9. **Effective date.**

311 If approved by two-thirds of all the members elected to each house, this bill takes effect
312 upon approval by the governor, or the day following the constitutional time limit of Utah
313 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
314 the date of veto override.

315 Section 10. **Revisor instructions.**

316 The Legislature intends that the Office of Legislative Research and General Counsel, in
317 preparing the Utah Code database for publication, replace the reference in Subsections
318 [65A-16-201](#)(3) and (5) from "the effective date of this bill" to the bill's actual effective date.