

GREAT SALT LAKE WATERSHED ENHANCEMENT

2022 GENERAL SESSION

STATE OF UTAH

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32

33 **LONG TITLE**

34 **General Description:**

35 This bill enacts the Great Salt Lake Watershed Enhancement Program.

36 **Highlighted Provisions:**

37 This bill:

38 ▶ addresses the duties of the Division of Forestry, Fire, and State Lands related to the

39 Great Salt Lake;

40 ▶ defines terms;

41 ▶ authorizes rulemaking;

42 ▶ establishes the program;

43 ▶ provides for oversight by the Division of Forestry, Fire, and State Lands;

44 ▶ imposes requirements on the grantee;

45 ▶ provides for the creation, powers, and duties of the water trust; and

46 ▶ makes technical changes.

47 **Money Appropriated in this Bill:**

48 This bill appropriates in fiscal year 2022:

49 ▶ to the Department of Natural Resources -- Forestry, Fire, and State Lands, as a

50 one-time appropriation:

51 • from General Fund, \$40,000,000.

52 **Other Special Clauses:**

53 This bill provides a special effective date.

54 This bill provides revisor instructions.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **65A-10-8**, as enacted by Laws of Utah 1988, Chapter 121

58 ENACTS:

59 **65A-16-101**, Utah Code Annotated 1953

60 **65A-16-102**, Utah Code Annotated 1953

61 **65A-16-201**, Utah Code Annotated 1953

62 **65A-16-202**, Utah Code Annotated 1953

63 **65A-16-203**, Utah Code Annotated 1953

64 **65A-16-301**, Utah Code Annotated 1953

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

66 **65A-16-201**, Utah Code Annotated 1953



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

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

70 **65A-10-8. Great Salt Lake -- Management responsibilities of the division.**

71 The division has the following powers and duties:

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

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

75 (b) encourage development of the [~~lake~~] Great Salt Lake in a manner [~~which~~] that will
76 preserve the [~~lake~~] Great Salt Lake, encourage availability of brines to lake extraction

77 industries, protect wildlife, and protect recreational facilities;

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

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

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

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

- 85 (g) maintain the [~~lake~~] Great Salt Lake and the marshes as important to [~~the~~]
86 shorebirds, waterfowl, and other waterbird flyway system;
- 87 (h) encourage the development of an integrated industrial complex;
- 88 (i) promote and maintain recreation areas on and surrounding the [~~lake~~] Great Salt
89 Lake;
- 90 (j) encourage safe boating use of the [~~lake~~] Great Salt Lake;
- 91 (k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife
92 refuges; and
- 93 (l) provide public access to the [~~lake~~] Great Salt Lake for recreation, hunting, and
94 fishing.
- 95 (2) [~~Employ~~] The division may employ personnel and purchase equipment and supplies
96 [~~which~~] that the Legislature authorizes through appropriations for the purposes of this chapter.
- 97 (3) [~~Initiate~~] The division may initiate studies of the [~~lake~~] Great Salt Lake and [~~its~~] the
98 Great Salt Lake's related resources.
- 99 (4) [~~Publish~~] The division may publish scientific and technical information concerning
100 the [~~lake~~] Great Salt Lake.
- 101 (5) [~~Define~~] The division shall define the [~~lake's~~] Great Salt Lake's flood plain.
- 102 (6) [~~Qualify~~] The division may qualify for, accept, and administer grants, gifts, or other
103 funds from the federal government and other sources, for carrying out any functions under this
104 chapter.
- 105 (7) [~~Determine~~] The division shall determine the need for public works and utilities for
106 the lake area.
- 107 (8) [~~Implement~~] The division may implement the comprehensive plan described in
108 Subsection (1) through state and local entities or agencies.
- 109 (9) [~~Coordinate~~] The division shall coordinate the activities of the various divisions
110 within the Department of Natural Resources with respect to the [~~lake~~] Great Salt Lake.
- 111 (10) [~~Perform~~] The division may perform all other acts reasonably necessary to carry
112 out the purposes and provisions of this chapter.

113 (11) [~~Retain~~] The division shall retain and encourage the continued activity of the
114 Great Salt Lake technical team.

115 (12) The division shall administer Chapter 16, Great Salt Lake Watershed
116 Enhancement Program.

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

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

119 **Part 1. General Provisions**

120 **65A-16-101. Definitions.**

121 As used in this chapter:

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

124 (a) private;

125 (b) nonprofit; and

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

127 (2) "Council" means the Great Salt Lake Advisory Council created in Section
128 73-30-201.

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

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

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

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

137 (7) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the
138 Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River
139 watershed, and the West Desert watershed.

140 (8) "Program" means the Great Salt Lake Watershed Enhancement Program created

141 under Section 65A-16-201.

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

143 **65A-16-102. Rulemaking.**

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

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

148 **Part 2. Program Established**

149 **65A-16-201. Great Salt Lake Watershed Enhancement Program established.**

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

153 (a) retain or enhance water flows to:

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

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

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

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

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

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

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

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

168 (h) undertake assessments or studies as necessary, consistent with the goals of this

169 Subsection (1);

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

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

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

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

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

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

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

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

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

190 (ii) individually or collectively possesses:

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

193 (B) knowledge and experience with the Great Salt Lake and the Great Salt Lake
194 watershed;

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

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

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

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

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

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

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

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

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

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

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

216 (c) create and operate water trusts;

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

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

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

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

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

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

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

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

236 **65A-16-202. Oversight.**

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

239 **(2) (a) The division, in consultation with the council and the Division of Water**
240 **Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for**
241 **a grantee or water trust that fails to comply with this chapter.**

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

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

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

248 **65A-16-203. Grantee requirements.**

249 **A grantee that receives grant money under this chapter shall:**

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

252 **(2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to**

253 operate the water trust in a manner required by Section [65A-16-301](#), provided that this chapter
254 may not be construed as limiting the grantee's ability to obtain funding from other public and
255 private sources to assist in the establishment, operation, and administration of the water trust.

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

257 **Part 3. Water Trust**

258 **65A-16-301. Water trust -- Powers and duties -- Advisory councils.**

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

260 (a) is organized:

261 (i) as a private nonprofit organization; or

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

263 (b) complies with this section.

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

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

266 (b) subject to Subsection (6):

267 (i) register with the lieutenant governor as a limited purpose entity pursuant to Section
268 [51-2a-201.5](#);

269 (ii) file with the state auditor on or before June 30 of each year the accounting report
270 that:

271 (A) satisfies Subsection [51-2a-201.5\(2\)](#);

272 (B) includes an itemized accounting of the in-kind contributions and other monetary
273 contributions described in Subsection (4); and

274 (C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

275 (iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

276 (A) the division;

277 (B) the Division of Water Quality;

278 (C) the council; and

279 (D) the Natural Resources, Agriculture, and Environment Quality Appropriations
280 Subcommittee;

- 281 (iv) file with the division on or before January 31 of each year a report that satisfies the
282 requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and
- 283 (v) provide a copy of the report described in Subsection (2)(b)(iv) to:
- 284 (A) the Division of Water Quality;
- 285 (B) the council; and
- 286 (C) the Natural Resources, Agriculture, and Environment Quality Appropriations
287 Subcommittee; and
- 288 (c) comply with applicable laws, regulations, ordinances, and rules.
- 289 (3) A water trust established by a grantee under this section:
- 290 (a) may use grant money for costs to establish, operate, or administer the water trust,
291 including the hiring of staff or contractors;
- 292 (b) shall use no less than 25% of the grant money to protect and restore wetlands and
293 habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great
294 Salt Lake; and
- 295 (c) may invest grant money the water trust receives under this chapter or any private
296 money the water trust may receive, except that the water trust shall:
- 297 (i) invest and account for grant money and private money separately; and
- 298 (ii) use the earnings received from the investment of grant money to carry out the
299 purposes described in Subsection 65A-16-201(1).
- 300 (4) The water trust shall provide a significant match of in-kind contributions or other
301 monetary contributions to support the water trust's operations and for the purposes described in
302 Subsection 65A-16-201(1).
- 303 (5) (a) A water trust established under this section shall create and consult with one or
304 more advisory councils on matters related to the mission and objectives of the water trust.
- 305 (b) At least one of the advisory councils shall consist of nine members with a
306 representative from the following:
- 307 (i) agriculture;
- 308 (ii) a private land owner adjacent to the Great Salt Lake;

- 309 (iii) a conservation organization dedicated to the preservation of migratory waterfowl;
- 310 (iv) a conservation organization dedicated to the protection of non-game avian species;
- 311 (v) another conservation organization working on Great Salt Lake issues;
- 312 (vi) aquaculture;
- 313 (vii) mineral extraction;
- 314 (viii) a water conservancy district; and
- 315 (ix) wastewater treatment facilities.

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

319 Section 8. **Appropriation.**

320 The following sums of money are appropriated for the fiscal year beginning July 1,
 321 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
 322 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 323 Act, the Legislature appropriates the following sums of money from the funds or accounts
 324 indicated for the use and support of the government of the state of Utah.

325 ITEM 1

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

<u>From General Fund, One-time</u>	<u>\$40,000,000</u>
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328 Schedule of Programs:

<u>Project Management</u>	<u>\$40,000,000</u>
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330 The Legislature intends that:

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

334 (2) the appropriation be nonlapsing; and

335 (3) the appropriation only be used for the purposes of Title 65A, Chapter 16, Great Salt
 336 Lake Watershed Enhancement Program.

337 Section 9. **Effective date.**

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

342 Section 10. **Revisor instructions.**

343 The Legislature intends that the Office of Legislative Research and General Counsel, in
344 preparing the Utah Code database for publication, replace the reference in Subsections
345 [65A-16-201](#)(3) and (5) from "the effective date of this bill" to the bill's actual effective date.