

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: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses policies and plans 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;
- ▶ provides for grants and waivers; and
- ▶ addresses the scope of certain provisions.

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



26 [73-10g-401](#), Utah Code Annotated 1953

27 [73-10g-402](#), Utah Code Annotated 1953



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

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

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

32 **19-5-201. Definitions.**

33 As used in this part:

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

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

37 (i) a facility;

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

39 (iii) equipment; or

40 (iv) a communications network; and

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

42 (2) "Governing body" means a political subdivision governing body defined in Section
43 [63A-15-102](#).

44 (3) "Large underground wastewater disposal system" is as defined by rule made by the
45 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

46 (4) "Policy" means the capital asset assessment, maintenance, and replacement policy
47 required under Subsection [19-5-202\(1\)](#).

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

49 (a) identified in a policy as a qualified capital asset in accordance with Subsection
50 [19-5-202\(1\)\(b\)](#); and

51 (b) inventoried, assessed, funded, or otherwise subject to a wastewater service
52 provider's policy in accordance with Section [19-5-202](#).

53 (6) "Wastewater service provider" means a political subdivision of the state that owns,
54 operates, or otherwise sponsors through agreement any sewerage system, a treatment works, or
55 large underground wastewater disposal system for the collection, storage, treatment, or disposal
56 of domestic waste.

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

58 **19-5-202. Capital asset policies.**

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (i) a mandated safety standard;

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

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

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

88 (i) includes criteria and guidelines in the policy for allocating sufficient funds in a
89 multiyear qualified capital asset plan and in the wastewater service provider's annual operating
90 budget for assessing, maintaining, repairing, and replacing qualified capital assets;

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

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

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

98 (5) (a) A wastewater service provider shall prepare a report of the wastewater service
99 provider's qualified capital asset facilities as follows:

100 (i) if the wastewater service provider is treatment works with a capacity of 1,000,000
101 gallons per day or more, by no later than December 31, 2023, and then every five years
102 thereafter;

103 (ii) if the wastewater service provider is treatment works with a capacity of less than
104 1,000,000 gallons per day, by no later than December 31, 2024, and then every five years
105 thereafter;

106 (iii) if the wastewater service provider is a sewerage system, by no later than December
107 31, 2025, and then every five years thereafter; and

108 (iv) if the wastewater service provider is a large underground wastewater disposal
109 system or non-discharging treatment works, by no later than December 31, 2026, and then
110 every five years thereafter.

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

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

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

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

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

119 (c) (i) A wastewater service provider may seek a grant from the division to pay some or
120 all of the costs of preparing a qualified capital asset facilities report required by this Subsection
121 (5) if the wastewater service provider establishes, to the satisfaction of the division, that
122 preparing the qualified capital asset facilities report poses a serious financial hardship to the
123 wastewater service provider. The division may award a grant under this Subsection (5)(c) if
124 grant money is available.

125 (ii) If a wastewater service provider does not receive a grant under Subsection (5)(c)(i),
126 the wastewater service provider may seek a waiver from the division of the requirement to
127 prepare the qualified capital asset facilities report if the wastewater service provider
128 establishes, to the satisfaction of the division, that preparing the qualified capital asset facilities
129 report poses a serious financial hardship to the wastewater service provider.

130 (iii) If a wastewater service provider obtains a waiver under Subsection (5)(c)(ii), the
131 wastewater service provider is not required to prepare a qualified capital asset facilities report
132 until the next time the wastewater service provider is required to prepare a qualified capital
133 asset facilities report under the five-year cycles described in Subsection (5)(a).

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

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

136 **73-10g-401. Definitions.**

137 As used in this part:

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

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

141 (i) a facility;

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

143 (iii) equipment; or

144 (iv) a communications network; and

145 (b) is owned by a water provider.

146 (2) "Governing body" means:

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

149 (b) for a private entity, the private entity's board of directors, managing members,

150 partners, or equivalent body.

151 (3) "Policy" means the capital asset assessment, maintenance, and replacement policy
152 required under Subsection 73-10g-402(1).

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

154 (a) identified in a policy as a qualified capital asset in accordance with Subsection
155 73-10g-402(1)(b); and

156 (b) inventoried, assessed, funded, or otherwise subject to a water provider's policy in
157 accordance with Section 73-10g-402.

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

159 (6) "Water conservancy district" means the same as that term is defined in Section
160 73-10-32.

161 (7) "Water provider" means:

162 (a) a retail water supplier; or

163 (b) a water conservancy district.

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

165 **73-10g-402. Capital asset policies.**

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

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

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

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

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

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

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

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

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

180 (iii) a program for monitoring and reporting the water provider's application of and

181 compliance with the policy, including a comparison of each qualified capital asset's current
182 status and targeted standards for that qualified capital asset as set forth in the policy;

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

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

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

188 (i) a mandated safety standard;

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

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

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

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

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

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

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

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

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

209 (A) if the water provider serves 10,000 service connections or more, by no later than
210 December 31, 2023, and then every five years thereafter;

211 (B) if the water provider serves at least 3,000 service connections but less than 10,000

212 service connections, by no later than December 31, 2024, and then every five years thereafter;

213 (C) if the water provider serves at least 1,000 service connections but less than 3,000

214 service connections by no later than December 31, 2025, and then every five years thereafter;

215 and

216 (D) if the water provider serves at least 500 service connections but less than 1,000

217 service connections, by no later than December 31, 2026, and then every five years thereafter;

218 and

219 (ii) if the water provider is a water conservancy district, the water provider shall submit

220 the report to the Division of Water Resources by no later than December 31, 2023, and then

221 every five years thereafter.

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

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

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

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

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

230 (c) (i) If a water provider is a retail water supplier:

231 (A) the water provider may seek a grant from the Division of Drinking Water to pay
232 some or all of the costs of submitting a qualified capital asset facilities report required by this
233 Subsection (5) if the water provider establishes, to the satisfaction of the Division of Drinking
234 Water, that submitting the qualified capital asset facilities report poses a serious financial
235 hardship to the water provider;

236 (B) the Division of Drinking Water may award a grant under this Subsection (5)(c)(i) if
237 grant money is available;

238 (C) if a water provider does not receive a grant under Subsection (5)(c)(i)(A), the water
239 provider may seek a waiver from the Division of Drinking Water of the requirement to submit
240 the qualified capital asset facilities report if the water provider establishes, to the satisfaction of
241 the Division of Drinking Water, that submitting the qualified capital asset facilities report
242 poses a serious financial hardship to the water provider; and

243 (D) if the water provider obtains a waiver under Subsection (5)(c)(i)(C), the water
244 provider is not required to submit a qualified capital asset facilities report until the next time
245 the water provider is required to submit a qualified capital asset facilities report under the
246 five-year cycles described in Subsection (5)(a).

247 (ii) If a water provider is a water conservancy district:

248 (A) the water provider may seek a grant from the Division of Water Resources to pay
249 some or all of the costs of submitting a qualified capital asset facilities report required by this
250 Subsection (5) if the water provider establishes, to the satisfaction of the Division of Water
251 Resources, that submitting the qualified capital asset facilities report poses a serious financial
252 hardship to the water provider;

253 (B) the Division of Water Resources may award a grant under this Subsection (5)(c)(ii)
254 if grant money is available;

255 (C) if a water provider does not receive a grant under Subsection (5)(c)(ii)(A), the
256 water provider may seek a waiver from the Division of Water Resources of the requirement to
257 submit the qualified capital asset facilities report if the water provider establishes, to the
258 satisfaction of the Division of Water Resources, that submitting the qualified capital asset
259 facilities report poses a serious financial hardship to the water provider; and

260 (D) if the water provider obtains a waiver under Subsection (5)(c)(ii)(C), the water
261 provider is not required to submit a qualified capital asset facilities report until the next time
262 the water provider is required to prepare a qualified capital asset facilities report under the
263 five-year cycles described in Subsection (5)(a).

264 (6) A qualified water conservancy district, as defined in Section [17B-2a-1010](#), is not
265 subject to this part but shall comply with Section [17B-2a-1010](#).