

WATER EFFICIENT LANDSCAPING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses incentives to use water efficient landscaping.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies an incentive program to use water efficient landscaping including modifying eligibility requirements, requiring implementation of regional-based water use efficiency standards, and imposing requirements related to the Great Salt Lake basin;
- ▶ provides for grants to water conservancy districts;
- ▶ provides for rulemaking;
- ▶ addresses scope of section; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:



28 [73-10-37](#), as enacted by Laws of Utah 2022, Chapter 50

29 **Utah Code Sections Affected by Coordination Clause:**

30 [73-10-37](#), as enacted by Laws of Utah 2022, Chapter 50



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **73-10-37** is amended to read:

34 **73-10-37. Incentives to use water efficient landscaping.**

35 (1) As used in this section:

36 (a) "Active recreation area" means an area of a lot or parcel that is:

37 (i) not in low density residential development;

38 (ii) comprised of lawn or turf dedicated to active use; and

39 (iii) installed or maintained on areas with a slope of not more than 25%.

40 (b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor

41 activities that are ordinarily associated with lawn or turf, such as:

42 (i) a sports field;

43 (ii) a social gathering area;

44 (iii) an amphitheater;

45 (iv) a public or private park; or

46 (v) the playing area, including rough, driving ranges, and chipping and putting greens,

47 of a golf course.

48 (c) "District" means a water conservancy district, as that term is defined in Section

49 [73-10-32](#).

50 (d) "Division" means the Division of Water Resources.

51 (e) "Great Salt Lake basin" means the area within:

52 (i) the surveyed meander line of the Great Salt Lake;

53 (ii) the drainage areas of the Bear River or the Bear River's tributaries;

54 (iii) the drainage areas of Bear Lake or Bear Lake's tributaries;

55 (iv) the drainage areas of the Weber River or the Weber River's tributaries;

56 (v) the drainage areas of the Jordan River or the Jordan River's tributaries;

57 (vi) the drainage areas of Utah Lake or Utah Lake's tributaries;

58 (vii) other water drainages lying between the Bear River and the Jordan River that are

59 tributary to the Great Salt Lake and not included in the drainage areas described in Subsections
60 (1)(e)(ii) through (vi); and

61 (viii) the drainage area of Tooele Valley.

62 (f) "Landscaped area" means those portions of a lot or parcel that are not occupied by:

63 (i) a permanent structure; or

64 (ii) an impervious surface associated with vehicular or pedestrian access or use, such as
65 a driveway, sidewalk, or parking lot.

66 (g) "Landscaping conversion incentive program" means a program administered by a
67 district that pays an owner a financial incentive to remove lawn or turf from a project area on
68 land owned by the owner.

69 ~~[(b)]~~ (h) (i) Except as provided in Subsection ~~[(1)(b)(ii)]~~ (1)(h)(ii), "lawn or turf"
70 means nonagricultural land planted in closely mowed, managed grasses.

71 (ii) "Lawn or turf" does not include a ~~[golf course, park, athletic field, or]~~ sod farm.

72 (i) "Low density residential development" means a lot or parcel of land whose primary
73 use is for fewer than five dwelling units, including:

74 (i) a single family dwelling;

75 (ii) a duplex, triplex, or fourplex;

76 (iii) an area for the exclusive use of a mobile home; and

77 (iv) the common areas and limited common areas of a residential condominium
78 development or planned unit development with fewer than five dwelling units.

79 (j) (i) "New construction" means construction of a new building or structure.

80 (ii) "New construction" does not include:

81 (A) reconstruction of an existing building or structure that does not constitute complete
82 replacement of an existing building or structure; or

83 (B) construction of an addition to an existing building or structure unless the addition
84 requires substantially new landscaping as determined by the applicable municipality or county.

85 (k) "Overhead spray irrigation" means the same as that term is defined in Section
86 [57-8a-231](#).

87 ~~[(c)]~~ (l) "Owner" means an owner of private or public land where a water end user is
88 located.

89 (m) "Parkstrip" means the area between the back of a curb or, if there is no curb, the

90 edge of pavement and the sidewalk.

91 (n) "Program guidelines" means guidelines adopted by a district for the district's
92 landscaping conversion incentive program.

93 (o) "Project area" means the area from which lawn or turf is removed and replaced with
94 water efficient landscaping.

95 (p) "Special uses area" means an area of a lot or parcel that:

96 (i) is not located in low density residential development; and

97 (ii) requires the use of lawn or turf due to unique circumstances associated with the
98 land, including cemeteries or detention or retention basins that serve a dual purpose of active
99 recreation areas and storm water management.

100 ~~[(d)]~~ (q) "Water end user" means a person who enters into a water contract to obtain
101 water from a retail water provider for residential, commercial, industrial, or institutional use.

102 (2) ~~[(a)]~~ Subject to a ~~[\$5,000,000]~~ \$12,500,000 aggregate annual cap, the division may:

103 (a) award a grant under Subsection (3) to a district to fund financial incentives
104 provided through a landscaping conversion incentive program administered by the district; and

105 (b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from
106 a project area on land owned by the owner in an area without a landscaping conversion
107 incentive program.

108 (3) (a) (i) A district may obtain a grant from the division to help fund a financial
109 incentive provided to an owner through a landscaping conversion incentive program
110 administered by the district.

111 (ii) Both the award and use of a grant under this Subsection (3) are subject to
112 Subsections (3)(b), (c), and (d).

113 (b) To obtain a grant, a district shall:

114 (i) initiate and operate a landscaping conversion incentive program;

115 (ii) limit the disbursement of grant money in the district's landscaping conversion
116 incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:

117 (A) rules made by the division under Subsection (6)(b); or

118 (B) program guidelines approved by the division under Subsection (3)(f);

119 (iii) use the grant exclusively to fund financial incentives provided to owners that
120 remove lawn or turf from a project area in the district's landscaping conversion incentive

121 program;

122 (iv) provide an equal amount or more of matching funds for the district's landscaping
123 conversion incentive program from sources other than the grant money the district receives
124 under this section;

125 (v) file an application with the division that:

126 (A) describes the district's landscaping conversion incentive program, including
127 verification that the program can and shall implement the minimum requirements of
128 Subsection (4)(c), and either rules made by the division under Subsection (6)(b) or program
129 guidelines approved by the division under Subsection (3)(f);

130 (B) includes a copy of the program guidelines governing the district's landscaping
131 conversion incentive program;

132 (C) if the district wants to be subject to program guidelines in lieu of division rules
133 made under Subsection (6)(b), requests that the division approve the district's program
134 guidelines under Subsection (3)(f); and

135 (D) provides additional information requested by the division; and

136 (vi) enter into a contract with the division that requires the district to:

137 (A) verify that participants comply and landscaping conversion projects proposed,
138 undertaken, and completed by participants under the district's landscaping conversion incentive
139 program satisfy the requirements in this Subsection (3) and any contract before using grant
140 money for a financial incentive;

141 (B) agree not to use grant money for a financial incentive in any landscaping
142 conversion project that fails to satisfy the requirements of this Subsection (3) and either rules
143 made by the division or program guidelines approved by the division under Subsection (3)(f);

144 (C) submit to the division quarterly reports on funding status; and

145 (D) prepare and submit an annual accounting to the division on the use of grant money
146 for financial incentives in the district's landscaping conversion incentive program.

147 (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an
148 accounting on the use of that grant money, a district may apply for additional grant money in
149 accordance with Subsection (3)(b).

150 (ii) The division may award a district an additional grant based on:

151 (A) the availability of grant money;

152 (B) the priority or importance of the grant proposal in relation to availability of grant
153 money, the division's landscaping conversion incentive program under this Subsection (3),
154 other landscaping conversion incentive program grant requests, and regional needs and goals;

155 (C) the effectiveness of the district's landscaping conversion incentive program in
156 incentivizing owners to convert lawn or turf to water efficient landscaping;

157 (D) the district's previous compliance with this Subsection (3) and contract terms and
158 conditions; and

159 (E) any matter bearing on the district's ability to responsibly handle and disperse grant
160 money consistent with this Subsection (3) and contract terms and conditions.

161 (d) A district awarded grant money under this Subsection (3) may not use grant money
162 to pay an incentive that exceeds the maximum amount established by the division by rule under
163 Subsection (6)(c).

164 (e) Nothing in this section prohibits a district from expending non-grant money,
165 including matching money, under the district's landscaping conversion incentive program to:

166 (i) assist an owner that does not satisfy Subsection (4)(c); or

167 (ii) provide an incentive that exceeds a maximum amount established by the division
168 for grant money under Subsection (3)(d).

169 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to
170 use program guidelines in lieu of rules made by the division under Subsection (6)(b) if the
171 division determines that the district's program guidelines will:

172 (i) result in at least as much water use savings as rules made under Subsection (6)(b);
173 and

174 (ii) accomplish the same objectives as rules made under Subsection (6)(b).

175 (4) (a) In an area without an existing landscaping conversion incentive program, the
176 division may provide an incentive to an owner to remove lawn or turf from land owned by the
177 owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

178 (b) If the division provides an incentive under this [~~section~~] Subsection (4), the
179 division shall provide the incentive in the order that an application for the incentive is filed.
180 The division may terminate an application if the division determines that the owner has not
181 completed the project within 12 months after the day on which the owner files an application
182 for the incentive.

183 (c) To be eligible for an incentive under this ~~[section,]~~ Subsection (4):
184 (i) the owner shall at the time the owner applies for the incentive:
185 ~~[(i)]~~ (A) have living lawn or turf, as determined by the entity providing the incentive,
186 on the land owned by the owner that the owner intends to replace with ~~[drought resistant]~~ water
187 efficient landscaping; and
188 ~~[(ii) be in good standing with a retail water provider so that the owner has no unpaid~~
189 ~~water bills; and]~~
190 ~~[(iii)]~~ (B) participate voluntarily in the removal of the lawn or turf in that the removal
191 is not required by governmental code or policy[-];
192 (ii) the property where the project area is located, is located within:
193 (A) a municipality that implements regional-based water use efficiency standards
194 established in accordance with Subsection (5) or rules made by the division under Subsection
195 (6)(d); or
196 (B) an unincorporated area of a county that implements regional-based water use
197 efficiency standards established in accordance with Subsection (5) or rules made by the
198 division under Subsection (6)(d); and
199 (iii) the owner shall agree to:
200 (A) maintain water efficient landscaping and a drip irrigation system installed in the
201 project area and not reinstall lawn or turf, or overhead spray irrigation in the project area after
202 receipt of a payment under this section to incentivize conversion of lawn or turf to water
203 efficient landscaping; or
204 (B) return to the division or to a district the payments received for removal of lawn or
205 turf from the project area.
206 (d) An owner may not receive an incentive under this section if the owner has
207 previously received an incentive under this section for the same ~~[property]~~ project area.
208 (e) ~~[The division may not provide an owner]~~ An owner may not receive an incentive
209 under this ~~[section]~~ Subsection (4) in an amount ~~[greater than 50% of the cost of replacing the]~~
210 that exceeds:
211 (i) the maximum amount established by the division in rule, as provided in Subsection
212 (6), for each square foot of lawn or turf with ~~[drought resistant]~~ water efficient landscaping[-];
213 or

214 (ii) the maximum aggregate amount established by the division in rule, as provided in
215 Subsection (6).

216 (5) To implement regional-based water efficiency standards as required by Subsection
217 (4)(c)(ii), a municipality or county located within the Great Salt Lake basin shall adopt by
218 ordinance the following water efficiency standards applicable to new construction in addition
219 to the standards adopted by the division under Subsection (6)(d):

220 (a) a person may not:

221 (i) install or maintain lawn or turf within:

222 (A) a parkstrip;

223 (B) an area that is less than eight feet in width; or

224 (C) the interior of a parking lot;

225 (ii) install or maintain lawn or turf within a public or private road or highway,
226 including in medians or roundabouts;

227 (iii) use a sprinkler zone to provide overhead spray irrigation for lawn or turf to be
228 shared with an area that does not have lawn or turf; or

229 (iv) install or maintain lawn or turf on more than:

230 (A) 35% of the front and side yard landscaped area of low density residential
231 development; or

232 (B) 20% of the total landscaped area for all non-agricultural uses other than low
233 density residential development, after deducting active recreation areas or special use areas;

234 (b) a person may use overhead spray irrigation only on the portions of the landscaped
235 area that has lawn or turf;

236 (c) a person shall:

237 (i) limit an active recreation area to a size not larger than the reasonably anticipated
238 need for the type of use the area is intended to accommodate; and

239 (ii) when replacing lawn or turf, install landscaping that is not:

240 (A) composed of a different type of lawn or turf; or

241 (B) watered through the use of overhead spray irrigation; and

242 (d) the municipality or county shall adopt a method for the municipality or county to
243 determine if an active recreation area meets the requirements of Subsection (5)(c)(i).

244 ~~[(3)]~~ (6) The division [may] shall make rules, in accordance with Title 63G, Chapter 3,

245 Utah Administrative Rulemaking Act:

246 (a) establishing the process by which:

247 (i) a district obtains a grant under Subsection (3); or

248 (ii) an owner obtains an incentive under ~~[this section; and]~~ Subsection (4);

249 (b) defining what constitutes ~~[drought-resistant]~~ water efficient landscaping[-];

250 including what irrigation is used after conversion to water efficient landscaping;

251 (c) establishing for funding under this section the maximum incentive from grant

252 money allowable for each square foot of lawn or turf converted to water efficient landscaping

253 or maximum aggregate amount; and

254 (d) establishing for purposes of this section regional-based water use efficiency

255 standards designed to reduce water consumption and conserve culinary and secondary water

256 supplies.

257 (7) This section does not prohibit a municipality or county from adopting landscaping

258 standards that would result in greater water efficiency than provided in this section or by

259 division rule made under Subsection (6) if the standards do not conflict with this section or

260 division rules.

261 (8) An incentive under this section may not be provided for the removal of lawn or turf

262 from:

263 (a) an agricultural operation; or

264 (b) a golf course.

265 Section 2. **Effective date.**

266 If approved by two-thirds of all the members elected to each house, this bill takes effect

267 upon approval by the governor, or the day following the constitutional time limit of Utah

268 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

269 the date of veto override.

270 Section 3. **Coordinating H.B. 272 with S.B. 118 -- Substantive amendments.**

271 If this H.B. 272 and S.B. 118, Water Efficient Landscaping Incentives, both pass and

272 become law, it is the intent of the Legislature that the amendments to Section [73-10-37](#) in this

273 bill supersede the amendments to Section [73-10-37](#) in S.B. 118 when the Office of Legislative

274 Research and General Counsel prepares the Utah Code database for publication.