

**Representative Doug Owens** proposes the following substitute bill:

**WATER EFFICIENT LANDSCAPING AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Doug Owens**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill addresses use of lawn or turf.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses lawn and turf related to development activities;
- ▶ restricts the use of lawn or turf by certain governmental entities; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-536**, as enacted by Laws of Utah 2022, Chapter 230

**17-27a-532**, as enacted by Laws of Utah 2022, Chapter 230

**63A-5b-1108**, as enacted by Laws of Utah 2022, Chapter 50

ENACTS:



26 [11-39-108](#), Utah Code Annotated 1953  
27 [53G-7-224](#), Utah Code Annotated 1953  
28 [72-7-111](#), Utah Code Annotated 1953

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

31 Section 1. Section **10-9a-536** is amended to read:

32 **10-9a-536. Water wise landscaping.**

33 (1) As used in this section:

34 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed  
35 grasses.

36 (b) "Low density residential development" means development activity on a lot or  
37 parcel of land whose primary use is for fewer than five dwelling units, including:

38 (i) a single family detached dwelling;

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

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

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

43 ~~[(b)]~~ (c) "Mulch" means material such as rock, bark, wood chips, or other materials left  
44 loose and applied to the soil.

45 ~~[(c)]~~ (d) "Overhead spray irrigation" means above ground irrigation heads that spray  
46 water through a nozzle.

47 (e) "Parkstrip" means the area between the back of a curb or, if there is no curb, the  
48 edge of pavement and the sidewalk.

49 ~~[(d)]~~ (f) (i) "Vegetative coverage" means the ground level surface area covered by the  
50 exposed leaf area of a plant or group of plants at full maturity.

51 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the  
52 exposed leaf area of a tree or trees.

53 ~~[(e)]~~ (g) "Water wise landscaping" means any or all of the following:

54 (i) installation of plant materials suited to the microclimate and soil conditions that  
55 can:

56 (A) remain healthy with minimal irrigation once established; or

- 57 (B) be maintained without the use of overhead spray irrigation;
- 58 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
- 59 and water application; or
- 60 (iii) use of other landscape design features that:
- 61 (A) minimize the need of the landscape for supplemental water from irrigation; or
- 62 (B) reduce the landscape area dedicated to lawn or turf.
- 63 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that
- 64 prohibits, or has the effect of prohibiting, a property owner from incorporating water wise
- 65 landscaping on the property owner's property.
- 66 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality
- 67 from requiring a property owner to:
- 68 (i) comply with a site plan review or other review process before installing water wise
- 69 landscaping;
- 70 (ii) maintain plant material in a healthy condition; and
- 71 (iii) follow specific water wise landscaping design requirements adopted by the
- 72 municipality, including a requirement that:
- 73 (A) restricts or clarifies the use of mulches considered detrimental to municipal
- 74 operations;
- 75 (B) imposes minimum or maximum vegetative coverage standards; or
- 76 (C) restricts or prohibits the use of specific plant materials.
- 77 (b) A municipality may not require a property owner to install or keep in place lawn or
- 78 turf in an area with a width less than eight feet.
- 79 (4) Subject to Subsection (5), a municipality shall:
- 80 (a) require development activity to use water wise landscaping, where landscaping is
- 81 proposed to be installed:
- 82 (i) in a parkstrip; and
- 83 (ii) within the interior of a parking lot; and
- 84 (b) not approve the installation of lawn or turf as part of development activity:
- 85 (i) in a parkstrip;
- 86 (ii) within the interior of a parking lot; or
- 87 (iii) in an area where the lawn or turf would have a width of less than eight feet.

88 (5) Subsection (4) does not apply to low density residential development.

89 Section 2. Section **11-39-108** is enacted to read:

90 **11-39-108. Use of lawn or turf.**

91 (1) As used in this section:

92 (a) "Active recreation area" means an area of local entity property that is:

93 (i) comprised of lawn or turf dedicated to active use; and

94 (ii) installed or maintained on an area with a slope of not more than 25%.

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

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

97 (i) a sports field;

98 (ii) a social gathering area;

99 (iii) an amphitheater;

100 (iv) a public or private park; or

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

102 of a golf course.

103 (c) "Landscaped area" means those portions of local entity property that are, or will not

104 be, occupied by:

105 (i) a permanent structure; or

106 (ii) an impervious surface associated with vehicular or pedestrian access or use, such as

107 a driveway, sidewalk, or parking lot.

108 (d) "Lawn or turf" means nonagricultural land planted in closely mowed, managed

109 grasses.

110 (e) "Local entity property" means real property owned or occupied by a local entity.

111 (f) "New construction" means a project for the construction of a public facility on local

112 entity property that includes a new or modified landscaped area of more than 7,500 square feet.

113 (g) "Overhead spray irrigation" means above ground irrigation heads that spray water

114 through a nozzle.

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

116 edge of pavement and the sidewalk.

117 (i) "Public facility" means a building, structure, infrastructure, improvement, park,

118 playground, or other facility of a local entity.

119 (j) "Reconstruction" means a project for renovation, alteration, improvement, or repair  
120 of a public facility on local entity property that affects more than 25% of the landscaped area  
121 existing before the reconstruction.

122 (k) "Special use area" means an area of local entity property that requires the use of  
123 lawn or turf due to unique circumstances associated with the land, including cemeteries or  
124 detention or retention basins that serve a dual purpose of active recreation areas and storm  
125 water management.

126 (2) Local entity property on which a local entity undertakes new construction or  
127 reconstruction on or after May 3, 2023:

128 (a) may not have lawn or turf installed or maintained:

129 (i) on more than 20% of the landscaped area, after deducting active recreation areas or  
130 special use areas;

131 (ii) in a parkstrip;

132 (iii) within the interior of a parking lot; or

133 (iv) in an area where the lawn or turf would have a width of less than eight feet;

134 (b) may not have a sprinkler zone that provides overhead spray irrigation for lawn or  
135 turf shared with an area that does not have lawn or turf;

136 (c) shall have the use of overhead spray irrigation restricted to the portions of the  
137 landscaped area that has lawn or turf; and

138 (d) may not have an active recreation area with a size that is larger than the reasonably  
139 anticipated need for the type of use the area is intended to accommodate.

140 Section 3. Section **17-27a-532** is amended to read:

141 **17-27a-532. Water wise landscaping.**

142 (1) As used in this section:

143 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed  
144 grasses.

145 (b) "Low density residential development" means development activity on a lot or  
146 parcel of land whose primary use is for fewer than five dwelling units, including:

147 (i) a single family detached dwelling;

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

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

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

152 [~~(b)~~] (c) "Mulch" means material such as rock, bark, wood chips, or other materials left  
153 loose and applied to the soil.

154 [~~(e)~~] (d) "Overhead spray irrigation" means above ground irrigation heads that spray  
155 water through a nozzle.

156 (e) "Parkstrip" means the area between the back of a curb or, if there is no curb, the  
157 edge of pavement and the sidewalk.

158 [~~(f)~~] (f) (i) "Vegetative coverage" means the ground level surface area covered by the  
159 exposed leaf area of a plant or group of plants at full maturity.

160 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the  
161 exposed leaf area of a tree or trees.

162 [~~(g)~~] (g) "Water wise landscaping" means any or all of the following:

163 (i) installation of plant materials suited to the microclimate and soil conditions that  
164 can:

165 (A) remain healthy with minimal irrigation once established; or

166 (B) be maintained without the use of overhead spray irrigation;

167 (ii) use of water for outdoor irrigation through proper and efficient irrigation design  
168 and water application; or

169 (iii) the use of other landscape design features that:

170 (A) minimize the need of the landscape for supplemental water from irrigation; or

171 (B) reduce the landscape area dedicated to lawn or turf.

172 (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits,  
173 or has the effect of prohibiting, a property owner from incorporating water wise landscaping on  
174 the property owner's property.

175 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from  
176 requiring a property owner to:

177 (i) comply with a site plan review or other review process before installing water wise  
178 landscaping;

179 (ii) maintain plant material in a healthy condition; and

180 (iii) follow specific water wise landscaping design requirements adopted by the county,

181 including a requirement that:

182 (A) restricts or clarifies the use of mulches considered detrimental to county  
183 operations;

184 (B) imposes minimum or maximum vegetative coverage standards; or

185 (C) restricts or prohibits the use of specific plant materials.

186 (b) A county may not require a property owner to install or keep in place lawn or turf in  
187 an area with a width less than eight feet.

188 (4) Subject to Subsection (5), a county shall:

189 (a) require development activity to use water wise landscaping, where landscaping is  
190 proposed to be installed:

191 (i) in a parkstrip; and

192 (ii) within the interior of a parking lot; and

193 (b) not approve the installation of lawn or turf as part of development activity:

194 (i) in a parkstrip;

195 (ii) within the interior of a parking lot; or

196 (iii) in an area where the lawn or turf would have a width of less than eight feet.

197 (5) Subsection (4) does not apply to low density residential development.

198 Section 4. Section **53G-7-224** is enacted to read:

199 **53G-7-224. Use of lawn or turf.**

200 (1) As used in this section:

201 (a) "Active recreation area" means an area of school property that is:

202 (i) comprised of lawn or turf dedicated to active use; and

203 (ii) installed or maintained on an area with a slope of not more than 25%.

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

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

206 (i) a sports field;

207 (ii) a social gathering area;

208 (iii) an amphitheater; or

209 (iv) a public or private park.

210 (c) "Landscaped area" means those portions of school property that will not be

211 occupied by:

- 212           (i) a permanent structure; or  
213           (ii) an impervious surface associated with vehicular or pedestrian access or use, such as  
214 a driveway, sidewalk, or parking lot.
- 215           (d) "Lawn or turf" means nonagricultural land planted in closely mowed, managed  
216 grasses.
- 217           (e) "LEA" means:  
218           (i) a school district;  
219           (ii) a charter school, other than an online-only charter school; or  
220           (iii) the Utah Schools for the Deaf and the Blind.
- 221           (f) "New construction" means a project for the construction of a public facility on  
222 school property that includes a new or modified landscaped area of more than 7,500 square  
223 feet.
- 224           (g) "Overhead spray irrigation" means above ground irrigation heads that spray water  
225 through a nozzle.
- 226           (h) "Parkstrip" means the area between the back of a curb or, if there is no curb, the  
227 edge of pavement and the sidewalk.
- 228           (i) "Public facility" means a building, structure, infrastructure, improvement, sports  
229 field, playground, or other facility of an LEA.
- 230           (j) "Reconstruction" means a project for the renovation, alteration, improvement, or  
231 repair of a public facility on school property that affects more than 25% of the landscaped area  
232 existing before the reconstruction.
- 233           (k) "School property" means real property owned or occupied by an LEA.
- 234           (l) "Special use area" means an area of school property that requires the use of lawn or  
235 turf due to unique circumstances associated with the land, including detention or retention  
236 basins that serve a dual purpose of active recreation areas and storm water management.
- 237           (2) School property on which an LEA undertakes new construction or reconstruction  
238 on or after May 3, 2023:
- 239           (a) may not have lawn or turf installed or maintained:  
240           (i) on more than 20% of the landscaped area, after deducting active recreation areas or  
241 special use areas;  
242           (ii) in a parkstrip;



- 243 (iii) within the interior of a parking lot;
- 244 (iv) in an area where the lawn or turf would have a width of less than eight feet; and
- 245 (v) within a road or area of vehicular access, including in a median or roundabout;
- 246 (b) may not have a sprinkler zone that provides overhead spray irrigation for lawn or
- 247 turf shared with an area that does not have lawn or turf;
- 248 (c) shall have the use of overhead spray irrigation restricted to the portions of the
- 249 landscaped area that has lawn or turf; and
- 250 (d) may not have an active recreation area with a size that is larger than the reasonably
- 251 anticipated need for the type of use the area is intended to accommodate.

252 Section 5. Section **63A-5b-1108** is amended to read:

253 **63A-5b-1108. Water conservation and state government facilities.**

254 (1) As used in this section:

255 (a) "Division" means the Division of Water Resources.

256 (b) "Grounds" means the real property, whether fenced or unfenced, of the parcel of  
257 land on which is located a state government facility, ~~[including a]~~ but not including areas  
258 occupied by a building, public or private driveway, street, sidewalk or walkway, parking lot, or  
259 parking garage on the property.

260 (c) (i) Except as provided in Subsection (1)(c)(ii), "lawn or turf" means nonagricultural  
261 land planted in closely mowed, managed grasses.

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

263 (d) "Parkstrip" means the area between the back of a curb or, if there is no curb, the  
264 edge of pavement and the sidewalk.

265 ~~[(d)]~~ (e) "Reconstructed" means that a building is subject to construction that affects  
266 the exterior of the building or the building's grounds.

267 ~~[(e)]~~ (f) (i) "State agency" means a department, division, office, entity, agency, or other  
268 unit of state government.

269 (ii) "State agency" includes an institution of higher education.

270 ~~[(f)]~~ (g) (i) "State government facility" means a building, structure, or other  
271 improvement that is constructed on property owned by the state, the state's departments,  
272 commissions, institutions, or other state agency.

273 (ii) "State government facility" does not include:

274 (A) an unoccupied structure that is a component of the state highway system;  
275 (B) a privately owned structure that is located on property owned by the state, the  
276 state's department, commission, institution, or other state agency; or  
277 (C) a structure that is located on land administered by the trust lands administration  
278 under a lease, permit, or contract with the trust lands administration.

279 (2) (a) Unless exempted under Subsection (2)(b), a state agency that owns or occupies  
280 a state government facility that is built or reconstructed on or after ~~May 4, 2022~~ May 3, 2023,  
281 may not ~~have~~ install or maintain lawn or turf:

282 (i) on more than 20% of the grounds of the state government facility ~~[be lawn or turf];~~  
283 (ii) in a parkstrip;  
284 (iii) within the interior of a parking lot on the grounds of the state government facility;  
285 or  
286 (iv) in an area of the grounds of the state government facility where the lawn or turf  
287 would have a width of less than eight feet.

288 (b) The division may exempt a state government facility from the restrictions of  
289 Subsection (2)(a) if the division determines that the purposes of a state agency that occupies the  
290 state government facility requires additional lawn or turf.

291 (3) (a) A state agency shall reduce the state agency's outdoor water use as compared to  
292 the state agency's outdoor water use for fiscal year 2020:

293 (i) in an amount equal to or greater than 5% by the end of fiscal year 2023; and  
294 (ii) in an amount equal to or greater than 25% by the end of fiscal year 2026.

295 (b) A state agency shall submit the following information to the division:  
296 (i) by no later than October 1, 2022:  
297 (A) the state agency's water use for fiscal year 2020; and  
298 (B) the state agency's water use for fiscal year 2022;  
299 (ii) by no later than October 1, 2023, the state agency's water use for fiscal year 2023;  
300 and  
301 (iii) by no later than October 1, 2026, the state agency's water use for fiscal year 2026.

302 (c) The division shall:  
303 (i) post the information provided to the division under this Subsection (3) on a public  
304 website; and

305 (ii) by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative  
306 Rulemaking Act, establish a uniform measure for purposes of this section of a state agency's  
307 water use.

308 (4) Except when allowed by the division, a state agency may not water landscapes at a  
309 state government facility between the hours of 10 a.m. and 6 p.m.

310 (5) A state agency shall do the following at a state government facility:

311 (a) follow weekly lawn watering guides if issued by the division;

312 (b) manually shut off systems during rain and wind events if the landscape irrigation  
313 system does not have rain and wind shutoff functions;

314 (c) implement a leak-detection and repair program for outdoor use;

315 (d) coordinate with the division to implement water efficient methods, technologies,  
316 and practices; and

317 (e) at least annually:

318 (i) evaluate opportunities to update irrigation technology with devices that:

319 (A) meet national recognized standards for efficiency;

320 (B) include rain and wind shutoff functions; and

321 (C) include soil moisture sensors;

322 (ii) evaluate opportunities to:

323 (A) subject to Subsection (2), limit lawn or turf on the grounds of a state government  
324 facility and replace lawn or turf with water-wise plants; and

325 (B) update facility-management technology to include metering for water-consuming  
326 processes related to irrigation and mechanical systems; and

327 (iii) audit and repair a landscape irrigation system so that the landscape irrigation  
328 system is operating at maximum acceptable efficiency.

329 Section 6. Section **72-7-111** is enacted to read:

330 **72-7-111. Use of lawn or turf.**

331 (1) As used in this section, "lawn or turf" means nonagricultural land planted in closely  
332 mowed, managed grasses.

333 (2) A highway authority may not install, maintain, or allow for the installation or  
334 maintenance by others of lawn or turf requiring the use of artificial irrigation in a highway  
335 construction project commenced on or after May 3, 2023, within the portion of the highway:

336            (a) located between the back of the curb on either side of the highway, including in a  
337 median or roundabout; or

338            (b) if there is no curb, between the shoulders contiguous to the traveled way, including  
339 in a median or roundabout.