

WATER USAGE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses the conveyance of water and establishes penalties for watering lawn or turf during a restricted period.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses civil citations for watering lawn or turf during a restricted period; and
- ▶ provides for use of water for the Great Salt Lake.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

73-10-38, Utah Code Annotated 1953

78B-6-2401, Utah Code Annotated 1953

78B-6-2402, Utah Code Annotated 1953

78B-6-2403, Utah Code Annotated 1953

78B-6-2404, Utah Code Annotated 1953

78B-6-2405, Utah Code Annotated 1953



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

Section 1. Section **73-10-38** is enacted to read:

73-10-38. Conveyance of water.

(1) As used in this section:

(a) "Great Salt Lake basin" means the same as that term is defined in Section [78B-6-2401](#).

(b) "Large retail water supplier" means a retail water system that serves at least 10,000 people.

(c) "Large secondary water retail supplier" means a secondary water supplier that supplies more than 5,000 secondary water connections.

(d) "Lawn or turf" means the same as that term is defined in Section [78B-6-2401](#).

(e) "Public benefit property" means the same as that term is defined in Section [78B-6-2401](#).

(f) "Retail water supplier" means a person that:

(i) supplies water for human consumption and other domestic uses to an end user; and

(ii) has more than 500 service connections.

(g) "Secondary water" means the same as that term is defined in Section [78B-6-2401](#).

(h) "Secondary water connection" means the location at which water leaves a secondary water supplier's pipeline and enters into the pipes owned by another person to supply water to an end user.

(i) "Secondary water supplier" means an entity that supplies pressurized secondary water to the end user of the secondary water.

(j) "Shoulder season" means the time period that begins on October 1 of a calendar year and ends on May 1 of the following calendar year.

(k) "Wholesale water supplier" means a person that provides most of the person's water to:

(i) a retail water supplier;

(ii) a secondary water supplier; or

(iii) a combination of a retail water supplier and a secondary water supplier.

(2) Except as provided in Subsection (3)(b), a retail water supplier or a secondary water

59 supplier within the Great Salt Lake basin shall adopt an ordinance, resolution, rule, or
60 regulation that prohibits the use of culinary water or pressurized secondary water for the
61 irrigation of lawn or turf within the Great Salt Lake basin during a shoulder season.

62 (3) An ordinance, resolution, rule, or regulation described in Subsection (2):

63 (a) shall be adopted on or before October 1, 2023;

64 (b) may include an exemption for water used during a shoulder season on lawn or turf

65 that is:

66 (i) located on public benefit property;

67 (ii) for a reasonable period after new sod has been laid or new grass seed germinates;

68 or

69 (iii) grown as part of a commercial agricultural operation, including a sod farm; and

70 (c) may adjust the definition of a shoulder season to begin earlier than October 1 or end

71 later than May 1 based on local growing conditions.

72 (4) A large retail water supplier or a large secondary water retail supplier shall:

73 (a) on or before June 15 of each year, calculate:

74 (i) the amount of water that, but for the immediately preceding shoulder season, would
75 otherwise have reasonably been depleted during the immediately preceding shoulder season for
76 the irrigation of non-exempt lawn or turf within the water supplier's service area; and

77 (ii) of the amount calculated under Subsection (4)(a)(i), the amount that is attributable
78 to surface water that would have passed through a reservoir, including surface water that would
79 have been delivered to the water supplier through a reservoir by a wholesale water supplier;

80 (b) file an instream flow change application in accordance with Section [73-3-30](#) to
81 convey an equivalent amount of water calculated under Subsection (4)(a) to the Great Salt
82 Lake;

83 (c) prepare a written explanation of how the calculation described in Subsection (4)(a)
84 was made, including the share of water attributable to a wholesale water supplier under
85 Subsection (4)(a)(ii); and

86 (d) include the written explanation described in Subsection (4)(c) with the change
87 application described in Subsection (4)(b).

88 (5) A wholesale water supplier shall:

89 (a) assist a larger retail water supplier, or a large secondary retail water supplier, that

90 receives water from the wholesale water supplier in making the calculation described in
91 Subsection (4)(a);

92 (b) sign the change application described in Subsection (4)(b); and

93 (c) allow to be conveyed to the Great Salt Lake the share of the amount calculated
94 under Subsection (4)(a)(i) that would be attributable to the wholesale water supplier's deliveries
95 to the large retail water supplier or large secondary water retail supplier as identified in the
96 written explanation described under Subsection (4)(c).

97 (6) In making the calculation described in Subsection (4)(a):

98 (a) water that is imported from outside the Great Salt Lake basin shall be excluded; and

99 (b) the amount of water that would have been depleted may be determined using any
100 reasonable basis, including accounting for variability due to temperatures and precipitation
101 during the period water would have reasonably been used.

102 (7) A large retail water supplier, large secondary water retail supplier, or wholesale
103 water supplier:

104 (a) need not use the same source of water for the change application described in
105 Subsection (4)(b) that would have been used to deliver water to an end user; and

106 (b) shall use an alternate source of water to meet the deliveries of water to the Great
107 Salt Lake if water stored in a reservoir is unavailable.

108 (8) A retail water supplier, secondary water supplier, or wholesale water supplier may
109 only receive state funds for water development or secondary water meters if the retail water
110 supplier, secondary water supplier, or wholesale water supplier complies with the requirements
111 of this section.

112 (9) Nothing in this section prohibits a retail water supplier or a secondary water
113 supplier from adopting or enforcing limitations or prohibitions on the use of water for lawn or
114 turf during times outside of the shoulder season.

115 Section 2. Section **78B-6-2401** is enacted to read:

116 **78B-6-2401. Definitions.**

117 As used in this part:

118 (1) "Authorized officer" means:

119 (a) a law enforcement officer as defined in Section [53-13-103](#); or

120 (b) a local entity inspector.

- 121 (2) "Great Salt Lake basin" means the area within:
- 122 (a) the drainage areas of the Bear River or the Bear River's tributaries;
- 123 (b) the drainage areas of Bear Lake or Bear Lake's tributaries;
- 124 (c) the drainage areas of the Weber River or the Weber River's tributaries;
- 125 (d) the drainage areas of the Jordan River or the Jordan River's tributaries;
- 126 (e) the drainage areas of Utah Lake or Utah Lake's tributaries;
- 127 (f) other water drainages lying between the Bear River and the Jordan River that are
- 128 tributary to the Great Salt Lake and not included in the drainage areas described in Subsections
- 129 (2)(a) through (e); and
- 130 (g) the drainage area of Tooele Valley.
- 131 (3) "Lawn or turf" means nonagricultural land planted with mowed or managed
- 132 grasses.
- 133 (4) "Local entity" means the municipality or county where the real property is located.
- 134 (5) "Local entity inspector" is a person appointed by a local entity for the purpose of
- 135 enforcing the provisions of this chapter.
- 136 (6) "Non-owner occupant" means a person:
- 137 (a) who is not an owner of record of the real property and who occupies the property
- 138 under a lease, contract, or other agreement with the owner;
- 139 (b) who manages the property; or
- 140 (c) who is responsible for the property, including a manager or agent of the owner.
- 141 (7) "Public benefit property" means real property that is dedicated primarily to public
- 142 use, regardless of ownership, and is limited to:
- 143 (a) a school;
- 144 (b) an amphitheater;
- 145 (c) a park or play field;
- 146 (d) a cemetery;
- 147 (e) a golf course; or
- 148 (f) a stadium or other venue that uses lawn or turf for professional, semi-professional,
- 149 or collegiate sports.
- 150 (8) "Restricted period" means:
- 151 (a) within the Great Salt Lake basin, the period of time before May 1 and after October

152 1;

153 (b) within a particular county, a day on which the Division of Water Resources posts a
154 notice on a website administered by the division indicating that no irrigation of lawn or turf
155 should be conducted on that day; or

156 (c) a day that irrigation of lawn or turf is prohibited by an ordinance, resolution,
157 regulation, or rule of the municipality, county, retail public water supplier, or secondary water
158 supplier where the real property is located.

159 (9) "Secondary water" means water that:

160 (a) is delivered to and used by an end user for the irrigation of landscaping or a garden;
161 and

162 (b) is not culinary water or water used on land assessed under Title 59, Chapter 2, Part
163 5, Farmland Assessment Act.

164 Section 3. Section **78B-6-2402** is enacted to read:

165 **78B-6-2402. Citation - Civil penalty.**

166 (1) Except as provided in Subsection (4), an owner or non-owner occupant of real
167 property may not knowingly conduct, aid, or allow the use of culinary water or pressurized
168 secondary water for the irrigation of lawn or turf during a restricted period.

169 (2) An authorized officer may issue a written citation to an owner or non-owner
170 occupant who violates Subsection (1).

171 (3) An individual who receives a citation under this section is subject to a civil penalty

172 of:

173 (a) a fine of \$45 for the first citation; or

174 (b) double the fine imposed for an immediately preceding citation in the same calendar
175 year.

176 (4) This section does not apply to:

177 (a) public benefit property;

178 (b) an owner or non-owner occupant of real property for a reasonable period after new
179 sod has been laid or new grass seed germinates; or

180 (c) a commercial agricultural operation, including a sod farm.

181 (5) An owner or non-owner occupant of real property is subject to the provisions of
182 this part regardless of whether the individual is directly responsible for the operation of the

183 irrigation system serving the lawn or turf.

184 (6) (a) Except as provided in Subsection (7), an authorized officer shall serve written
185 notice, as a warning, in accordance with Subsection (6)(b) at least three days before the day on
186 which the authorized officer issues a citation under this part, to:

187 (i) a property owner of record according to the records of the county recorder; or

188 (ii) a non-owner occupant of the property if the property owner is not an occupant of
189 the property.

190 (b) The written notice described in Subsection (6)(a) shall be served:

191 (i) on the owner of record by posting on the property, or by mailing the notice to the
192 last-known address of the owner, according to the county recorder's records; or

193 (ii) subject to Subsection (6)(a)(ii), on a non-owner occupant of the property, by
194 posting on the property or by mail to the property address.

195 (c) In the written notice described in Subsection (6)(a), the authorized officer shall:

196 (i) identify the property owner of record according to the county recorder's records;

197 (ii) identify the relevant ordinance, resolution, regulation, rule, or notice establishing
198 the restricted period;

199 (iii) describe the violation of the relevant ordinance, resolution, regulation, rule, or
200 notice; and

201 (iv) describe the fine that may be imposed.

202 (d) If an owner or non-owner occupant that is served a notice described in Subsection
203 (6)(b) ceases violation of the provision described in the notice within three days after the day
204 on which the notice is served, the authorized officer may not issue a citation, unless, after the
205 three-day period described in this Subsection (6)(d), the owner or non-owner occupant violates
206 a provision described in Subsection (6)(c)(iii).

207 (7) An authorized officer is not required to make more than one written notice under
208 Subsection (6) for each calendar year.

209 Section 4. Section **78B-6-2403** is enacted to read:

210 **78B-6-2403. Collection of civil penalty.**

211 (1) A local entity shall mail a notice of the civil penalty amount, for a citation issued
212 under Section [78B-6-2402](#), by first-class or certified mail within 14 days after the day on which
213 a citation is issued under Section [78B-6-2402](#).

214 (2) (a) An individual liable under Section 78B-6-2402 shall remit payment of a civil
215 penalty to the local entity that provides the notice required by Subsection (1) within 90 days
216 after the day on which the notice is sent.

217 (b) Notwithstanding Subsection (2)(a), a local entity may:

218 (i) reduce the amount of a civil penalty; or

219 (ii) negotiate a payment schedule for a civil penalty.

220 (3) (a) A civil penalty imposed under this section may be appealed as provided in
221 Section 78B-6-2405.

222 (b) Notwithstanding Subsection (2), the payment of a civil payment is stayed pending
223 an appeal made under Section 78B-6-2405.

224 (4) The amount of a civil penalty owed under this part is considered a debt owed to the
225 local entity by the person cited under this part.

226 (5) Upon receiving the notice required by Subsection (1), a person owing a civil
227 penalty under this section is liable in a civil action brought in the name of the local entity for
228 recovery of:

229 (a) the civil penalty; and

230 (b) reasonable attorney fees.

231 Section 5. Section **78B-6-2404** is enacted to read:

232 **78B-6-2404. Reservation of legal options - Ordinances.**

233 (1) The provisions of this part are provided for in addition to any other civil or criminal
234 statute.

235 (2) A local entity may adopt by ordinance stricter provisions controlling the use of
236 water on lawn or turf, including a different or higher fine schedule, than those provided in this
237 part.

238 Section 6. Section **78B-6-2405** is enacted to read:

239 **78B-6-2405. Appeals.**

240 A person that receives a civil penalty under this part may appeal the penalty under the
241 procedures used by the local entity for appealing a violation of an ordinance.