

1 **PER CAPITA CONSUMPTIVE USE**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael K. McKell**

5 House Sponsor: Jefferson S. Burton

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses reporting of per capita consumptive use of water.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ provides that per capita consumptive use is the standard in certain geographic areas;
- 14 ▶ requires reporting districts to calculate per capita consumptive use;
- 15 ▶ describes how per capita consumptive use is to be calculated;
- 16 ▶ requires reporting to the Division of Water Rights;
- 17 ▶ addresses scope of section regarding the calculation, publication, or dissemination

18 of consumptive water use numbers; and

- 19 ▶ clarifies that specific agencies shall comply with the per capita consumptive use

20 provision.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 ENACTS:

27 73-2-30, Utah Code Annotated 1953

28 73-5-8.5, Utah Code Annotated 1953

29 73-10-38, Utah Code Annotated 1953

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

Section 1. Section **73-2-30** is enacted to read:

73-2-30. Per capita consumptive use.

The Division of Water Rights shall comply with Section [73-5-8.5](#).

Section 2. Section **73-5-8.5** is enacted to read:

73-5-8.5. Per capita consumptive use.

(1) As used in this section:

(a) "Community water system" means a public water system that serves residents year-round.

(b) (i) "Metered secondary water" means secondary water metered by a secondary water supplier either at the supply side when introduced into the secondary water supplier's distribution system or metered at the meter of the end user.

(ii) "Metered secondary water" does not include:

(A) water lost in the secondary water supplier's system before being delivered to an end user; or

(B) water delivered to an end user who is not a commercial, industrial, institutional, or residential user.

(c) "Per capita consumptive use" means a valid representation of total water consumed divided by the total population for a given area.

(d) "Publicly owned treatment works" means a facility for the treatment of pollutants owned by the state, the state's political subdivisions, or other public entity.

(e) "Reporting district" means a water conservancy district that serves wholesale water to a retail water supplier located in whole or in part in a county of the first or second class.

(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 [73-10-34](#).

58 (h) "Secondary water supplier" means the same as that term is defined in Section
59 73-10-34.

60 (i) "Total population" means the permanent population of a given area subject to a
61 population adjustment described in Subsection (5).

62 (j) "Total water consumed" means total water supplied to commercial, industrial,
63 institutional, and residential users in a given area minus return flow.

64 (k) "Total water supplied" means the total amount of water delivered to commercial,
65 industrial, institutional, and residential users in a given area as metered secondary water or
66 metered drinking water.

67 (l) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a,
68 Part 10, Water Conservancy District Act.

69 (2) State agencies and political subdivisions shall use per capita consumptive use for
70 reporting municipal and industrial water use in counties of the first and second class to provide
71 another method to:

72 (a) track progress in water conservation; and

73 (b) ensure efficient public water supply management.

74 (3) (a) The Division of Water Resources shall designate the reporting district that shall
75 calculate the per capita consumptive use for each county of the first or second class, except that
76 the Division of Water Resources may only require a reporting district calculate the per capita
77 consumptive use for a county in which the reporting district provides wholesale water to a
78 retail water supplier.

79 (b) Beginning with a calculation of per capita consumptive use for calendar year 2023,
80 a reporting district shall annually provide the Division of Water Rights a calculation of per
81 capita consumptive use for the one or more counties designated under Subsection (3)(a).

82 (4) In determining per capita consumptive use, a reporting district:

83 (a) shall use reliable and timely information about water used for municipal and
84 industrial purposes, including water used in commercial, industrial, institutional, and
85 residential settings; and

86 (b) may not be required:

87 (i) to use the same methodology as another reporting district; or

88 (ii) to adopt or follow the definition of "water being conserved" that is adopted under

89 Section [73-10-32](#).

90 (5) In determining total population, a reporting district shall rely on the most recent
91 census, a census estimate of the United States Bureau of the Census, or an estimate of the Utah
92 Population Committee, together with an adjustment to population based on locally significant
93 effects of a non-permanent population, including:

94 (a) transient but consistently recurring non-resident population associated with
95 secondary residences or visitors; and

96 (b) daytime population changes.

97 (6) In determining return flow, a reporting district:

98 (a) shall obtain relevant data associated with discharges from publicly owned treatment
99 works; and

100 (b) may include water flow returning to the natural environment from the use of
101 drinking water, secondary water, or other water used for outdoor irrigation if the flow is
102 capable of being measured or otherwise determined with a reasonable degree of certainty.

103 (7) In determining total water supplied, a reporting district shall:

104 (a) select the community water systems serving a population of 3,300 or more whose
105 data the reporting district will use in preparing the report of per capita consumptive use;

106 (b) only rely on data that:

107 (i) is reliable; and

108 (ii) the reporting district is able to obtain for both metered drinking water and metered
109 secondary water; and

110 (c) make reasonable efforts to ensure that the water use data relied upon in the
111 reporting district's report is the same as the water use data reported by the community water
112 systems to the Division of Water Rights under Section [73-5-8](#).

113 (8) A reporting district shall include in the reporting district's report of per capita

114 consumptive use an explanation of how the reporting district determines:

115 (a) total water supplied;

116 (b) return flow; and

117 (c) total population.

118 (9) A reporting district shall annually file the reporting district's per capita consumptive
119 use report with the Division of Water Rights on or before July 1.

120 (10) (a) Except as provided in Subsection (10)(b), this section may not be construed to
121 prohibit the Division of Water Resources from:

122 (i) adopting regional water conservation goals as described in Section [73-10-32](#); or

123 (ii) calculating, publishing, or disseminating diverted water use information or per
124 capita consumptive use from community water systems in counties of the third, fourth, fifth, or
125 sixth class.

126 (b) A state agency or a political subdivision of the state may not calculate, publish, or
127 disseminate a:

128 (i) statewide per capita consumptive use number; or

129 (ii) per capita consumptive use number for a first class or second class county that is
130 different from a number reported by a reporting district pursuant to this section.

131 (c) This section may not be construed to prohibit a retail water supplier from using or
132 publishing the retail water supplier's own water consumptive use numbers for the efficient
133 management of the retail water supplier's system.

134 Section 3. Section **73-10-38** is enacted to read:

135 **73-10-38. Per capita consumptive use.**

136 The Division of Water Resources shall comply with Section [73-5-8.5](#).