

WATER EFFICIENT LANDSCAPING INCENTIVES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses incentives to install and maintain water efficient landscaping.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes water conservancy districts to receive grants to provide incentives;
- ▶ provides conditions on when an owner may receive an incentive;
- ▶ addresses rulemaking authority;
- ▶ provides for certain liens upon removal of water efficient landscaping or conditions on incentives; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-60-102, as enacted by Laws of Utah 2018, Chapter 197

59-2-1317, as last amended by Laws of Utah 2022, Chapter 463

73-10-37, as enacted by Laws of Utah 2022, Chapter 50



28 ENACTS:

29 **73-10-38**, Utah Code Annotated 1953



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

32 Section 1. Section **11-60-102** is amended to read:

33 **11-60-102. Definitions.**

34 As used in this chapter:

35 (1) "Direct charge" means a charge, fee, assessment, or amount, other than a property
36 tax, that a political subdivision charges to a property owner.

37 (2) "Nonrecurring tax notice charge" means a tax notice charge that a political
38 subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than
39 regularly over multiple calendar years.

40 (3) "Notice of lien" means a notice that:

41 (a) a political subdivision records in the office of the recorder of the county in which a
42 property that is the subject of a nonrecurring tax notice charge is located; and

43 (b) describes the nature and amount of the nonrecurring tax notice charge and whether
44 the political subdivision intends to certify the charge to the county treasurer under statutory
45 authority that allows the treasurer to place the charge on the property tax notice described in
46 Section **59-2-1317**.

47 (4) "Political subdivision" means:

48 (a) a county, as that term is defined in Section **17-50-101**;

49 (b) a municipality, as that term is defined in Section **10-1-104**;

50 (c) a local district, as that term is defined in Section **17B-1-102**;

51 (d) a special service district, as that term is defined in Section **17D-1-102**;

52 (e) an interlocal entity, as that term is defined in Section **11-13-103**;

53 (f) a community reinvestment agency created under Title 17C, Limited Purpose Local
54 Government Entities - Community Reinvestment Agency Act;

55 (g) a local building authority, as that term is defined in Section **17D-2-102**;

56 (h) a conservation district, as that term is defined in Section **17D-3-102**; or

57 (i) a local entity, as that term is defined in Sections **11-42-102** and **11-42a-102**.

58 (5) "Political subdivision lien" means a lien that:

59 (a) a statute expressly authorizes a political subdivision to hold and record, including a
60 direct charge that constitutes, according to an express statutory provision, a lien[-]; or

61 (b) Section 73-10-38 authorizes the Division of Water Resources to hold and record in
62 accordance with Section 73-10-38.

63 (6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2,
64 Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4,
65 Privilege Tax.

66 (7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

67 (8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection
68 of Taxes.

69 Section 2. Section 59-2-1317 is amended to read:

70 **59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for**
71 **providing notice.**

72 (1) As used in this section, "political subdivision lien" means the same as that term is
73 defined in Section 11-60-102.

74 (2) Subject to the other provisions of this section, the county treasurer shall:

75 (a) collect the taxes and tax notice charges; and

76 (b) provide a notice to each taxpayer that contains the following:

77 (i) the kind and value of property assessed to the taxpayer;

78 (ii) the street address of the property, if available to the county;

79 (iii) that the property may be subject to a detailed review in the next year under Section
80 59-2-303.1;

81 (iv) the amount of taxes levied;

82 (v) a separate statement of the taxes levied only on a certain kind or class of property
83 for a special purpose;

84 (vi) property tax information pertaining to taxpayer relief, options for payment of
85 taxes, and collection procedures;

86 (vii) any tax notice charges applicable to the property, including:

87 (A) if applicable, a political subdivision lien for road damage that a railroad company
88 causes, as described in Section 10-7-30;

89 (B) if applicable, a political subdivision lien for municipal water distribution, as

90 described in Section 10-8-17, or a political subdivision lien for an increase in supply from a
91 municipal water distribution, as described in Section 10-8-19;

92 (C) if applicable, a political subdivision lien for unpaid abatement fees as described in
93 Section 10-11-4;

94 (D) if applicable, a political subdivision lien for the unpaid portion of an assessment
95 assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter
96 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and
97 interest as of the date the local entity certifies the unpaid amount to the county treasurer;

98 (E) if applicable, for a local district in accordance with Section 17B-1-902, a political
99 subdivision lien for an unpaid fee, administrative cost, or interest;

100 (F) if applicable, a political subdivision lien for an unpaid irrigation district use charge
101 as described in Section 17B-2a-506;

102 (G) if applicable, a political subdivision lien for a contract assessment under a water
103 contract, as described in Section 17B-2a-1007;

104 (H) if applicable, a property tax penalty that a public infrastructure district imposes, as
105 described in Section 17D-4-304; [~~and~~]

106 (I) if applicable, an annual payment to the Military Installation Development Authority
107 or an entity designated by the authority in accordance with Section 63H-1-501; and

108 (J) if applicable, for a water conservancy district or the Division of Water Resources in
109 accordance with Section 73-10-38, a political subdivision lien for reimbursement of a lawn or
110 turf removal incentive, administrative costs, and interest;

111 (viii) if a county's tax notice includes an assessment area charge, a statement that, due
112 to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax
113 notice charge may not:

114 (A) pay off the full amount the property owner owes to the tax notice entity; or

115 (B) cause a release of the lien underlying the tax notice charge;

116 (ix) the date the taxes and tax notice charges are due;

117 (x) the street address at which the taxes and tax notice charges may be paid;

118 (xi) the date on which the taxes and tax notice charges are delinquent;

119 (xii) the penalty imposed on delinquent taxes and tax notice charges;

120 (xiii) a statement that explains the taxpayer's right to direct allocation of a partial

121 payment in accordance with Subsection (9);

122 (xiv) other information specifically authorized to be included on the notice under this
123 chapter; and

124 (xv) other property tax information approved by the commission.

125 (3) (a) Unless expressly allowed under this section or another statutory provision, the
126 treasurer may not add an amount to be collected to the property tax notice.

127 (b) If the county treasurer adds an amount to be collected to the property tax notice
128 under this section or another statutory provision that expressly authorizes the item's inclusion
129 on the property tax notice:

130 (i) the amount constitutes a tax notice charge; and

131 (ii) (A) the tax notice charge has the same priority as property tax; and

132 (B) a delinquency of the tax notice charge triggers a tax sale, in accordance with
133 Section [59-2-1343](#).

134 (4) For any property for which property taxes or tax notice charges are delinquent, the
135 notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent
136 on this parcel."

137 (5) Except as provided in Subsection (6), the county treasurer shall:

138 (a) mail the notice required by this section, postage prepaid; or

139 (b) leave the notice required by this section at the taxpayer's residence or usual place of
140 business, if known.

141 (6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at
142 the county treasurer's discretion, provide the notice required by this section by electronic mail if
143 a taxpayer makes an election, according to procedures determined by the county treasurer, to
144 receive the notice by electronic mail.

145 (b) A taxpayer may revoke an election to receive the notice required by this section by
146 electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

147 (c) A revocation of an election under this section does not relieve a taxpayer of the
148 duty to pay a tax or tax notice charge due under this chapter on or before the due date for
149 paying the tax or tax notice charge.

150 (d) A county treasurer shall provide the notice required by this section using a method
151 described in Subsection (5), until a taxpayer makes a new election in accordance with this

152 Subsection (6), if:

153 (i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the
154 notice required by this section by electronic mail; or

155 (ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

156 (e) A person is considered to be a taxpayer for purposes of this Subsection (6)
157 regardless of whether the property that is the subject of the notice required by this section is
158 exempt from taxation.

159 (7) (a) The county treasurer shall provide the notice required by this section to a
160 taxpayer on or before November 1.

161 (b) The county treasurer shall keep on file in the county treasurer's office the
162 information set forth in the notice.

163 (c) The county treasurer is not required to mail a tax receipt acknowledging payment.

164 (8) This section does not apply to property taxed under Section [59-2-1302](#) or
165 [59-2-1307](#).

166 (9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax
167 notice may, on a form provided by the county treasurer, direct how the county treasurer
168 allocates the partial payment between:

169 (i) the total amount due for property tax;

170 (ii) the amount due for assessments, past due local district fees, and other tax notice
171 charges; and

172 (iii) any other amounts due on the property tax notice.

173 (b) The county treasurer shall comply with a direction submitted to the county treasurer
174 in accordance with Subsection (9)(a).

175 (c) The provisions of this Subsection (9) do not:

176 (i) affect the right or ability of a local entity to pursue any available remedy for
177 non-payment of any item listed on a taxpayer's property tax notice; or

178 (ii) toll or otherwise change any time period related to a remedy described in
179 Subsection (9)(c)(i).

180 Section 3. Section **73-10-37** is amended to read:

181 **73-10-37. Incentives to use water efficient landscaping.**

182 (1) As used in this section:

183 (a) "District" means a water conservancy district, as that term is defined in Section
 184 73-10-32.

185 (b) "Division" means the Division of Water Resources.

186 (c) "Landscaping conversion incentive program" means a program administered by a
 187 district that pays an owner a financial incentive to remove lawn or turf from a project area on
 188 land owned by the owner.

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

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

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

194 (f) "Program guidelines" means guidelines adopted by a district for the district's
 195 landscaping conversion incentive program.

196 (g) "Project area" means the area from which lawn or turf is removed and replaced with
 197 water efficient landscaping.

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

200 (2) ~~[(a)]~~ Subject to ~~[a \$5,000,000 aggregate annual cap]~~ amounts appropriated by the
 201 Legislature, the division may:

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

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

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

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

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

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

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

216 (A) rules made by the division under Subsection (5)(b); or

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

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

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

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

225 (A) describes the district's landscaping conversion incentive program, including
226 verification that the program can and shall implement the minimum requirements of
227 Subsection (4)(c) and either rules made by the division under Subsection (5)(b) or program
228 guidelines approved by the division under Subsection (3)(f);

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

231 (C) if the district wants to be subject to program guidelines in lieu of division rules
232 made under Subsection (5)(b), requests that the division approve the district's program
233 guidelines under Subsection (3)(f); and

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

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

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

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

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

244 (D) prepare and submit an annual accounting to the division on the use of grant money

245 for financial incentives in the district's landscaping conversion incentive program.

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

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

250 (A) the availability of grant money;

251 (B) the priority or importance of the grant proposal in relation to availability of grant
252 money, the division's landscaping conversion incentive program under Subsection (4), other
253 landscaping conversion incentive program grant requests, and regional needs and goals;

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

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

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

260 (d) A district awarded grant money under this Subsection (3) may not use grant money
261 to pay an incentive that exceeds the maximum amount established by the division by rule under
262 Subsection (5)(c) for each square foot of lawn or turf converted to water efficient landscaping.

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

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

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

268 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to
269 use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the
270 division determines that the district's program guidelines will:

271 (i) result in at least as much water use savings as rules made under Subsection (5)(b);
272 and

273 (ii) accomplish the same objectives as rules made under Subsection (5)(b).

274 (4) (a) In an area without an existing landscaping conversion incentive program, the
275 division may provide an incentive to an owner to remove lawn or turf from land owned by the

276 owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

277 (b) If the division provides an incentive under this [~~section~~] Subsection (4), the
278 division shall provide the incentive in the order that an application for the incentive is filed.

279 (c) To be eligible for an incentive under this [~~section~~], Subsection (4):

280 (i) the owner shall at the time the owner applies for the incentive:

281 [(~~ii~~)] (A) have living lawn or turf on the land owned by the owner that the owner
282 intends to replace with [~~drought resistant~~] water efficient landscaping; and

283 [~~(ii) be in good standing with a retail water provider so that the owner has no unpaid~~
284 ~~water bills; and]~~

285 [(~~iii~~)] (B) participate voluntarily in the removal of the lawn or turf in that the removal
286 is not required by governmental code or policy[-];

287 (ii) the property where the project area is located, is located within:

288 (A) a municipality that implements regional-based water use efficiency standards
289 established by the division under Subsection (5)(d); or

290 (B) an unincorporated area of a county that implements regional-based water use
291 efficiency standards established by the division under Subsection (5)(d); and

292 (iii) the owner shall agree to:

293 (A) maintain water efficient landscaping and a drip irrigation system installed in the
294 project area and not reinstall lawn or turf or overhead spray irrigation in the project area after
295 receipt of a payment under this section to incentivize conversion of lawn or turf to water
296 efficient landscaping; or

297 (B) return to the division or to a district the payments received for removal of lawn or
298 turf from the project area.

299 (d) An owner may not receive an incentive under this section if the owner has
300 previously received an incentive under this section for the same [~~property~~] project area.

301 (e) [~~The division may not provide an owner~~] An owner may not receive an incentive
302 under this [~~section~~] Subsection (4) in an amount [~~greater than 50% of the cost of replacing the~~]
303 that exceeds the maximum amount established by the division in rule, as provided in
304 Subsection (5) for each square foot of lawn or turf with [~~drought resistant~~] water efficient
305 landscaping.

306 [(~~3~~)] (5) The division [~~may~~] shall make rules, in accordance with Title 63G, Chapter 3,

307 Utah Administrative Rulemaking Act:

308 (a) establishing the process by which:

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

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

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

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

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

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

315 and

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

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

318 supplies.

319 Section 4. Section **73-10-38** is enacted to read:

320 **73-10-38. Lien for removal of water efficient landscaping.**

321 (1) As used in this section:

322 (a) "District" means the same as that term is defined in Section [73-10-37](#).

323 (b) "Division" means the Division of Water Resources.

324 (c) "Incentive payment" means a payment to an owner from:

325 (i) a landscaping conversion incentive program; or

326 (ii) an incentive described in Subsection [73-10-37](#)(4).

327 (d) "Landscaping conversion incentive program" means a program administered by a

328 district that pays an owner a financial incentive to remove lawn or turf from land owned by the

329 owner and replace the lawn or turf with water efficient landscaping, including an incentive paid

330 in whole or in part from a grant described in Section [73-10-37](#).

331 (e) "Lawn or turf" means the same as that term is defined in Section [73-10-37](#).

332 (2) (a) A district or the division may hold a lien on property in the amount of an

333 incentive payment together with interest in the amount of 8% per annum from the date the

334 incentive payment is made and administrative costs, if a person reinstalls lawn or turf or

335 overhead spray irrigation on the property in an area where the lawn or turf or overhead spray

336 irrigation was removed under Section [73-10-37](#).

337 (b) To hold the lien under this Subsection (2), the district or division shall certify,

338 subject to Subsection (3), to the treasurer of the county in which the property is located the
339 amount of the incentive payment and applicable interest and administrative costs.

340 (c) (i) Upon certification under Subsection (2)(b), the incentive payment amount, and if
341 applicable, interest and administrative costs, become a political subdivision lien that is a
342 nonrecurring tax notice charge, as those terms are defined in Section 11-60-102, on the
343 property in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority.

344 (ii) A lien described in this Subsection (2) has the same priority as, but is separate and
345 distinct from, a property tax lien.

346 (3) (a) A district or the division may not certify an amount under Subsection (2) unless
347 the district or the division has recorded a notice of participation with the county recorder in
348 which the property is located that describes:

349 (i) the dollar amount of the incentive payment that was given to convert lawn or turf to
350 water efficient landscaping;

351 (ii) a description of the area of the property from which the lawn or turf, together with
352 overhead spray irrigation, was removed;

353 (iii) the date the incentive payment was made; and

354 (iv) a statement that the reinstallation of lawn or turf or overhead spray irrigation
355 removed under an incentive payment may result in the imposition of a tax notice charge to
356 recover the incentive payment together with interest and administrative costs.

357 (b) Before certifying an amount under Subsection (2), the district or division shall
358 notify the owner of the property at the time notice is given:

359 (i) of the conditions on the property that are in violation of a condition to receive the
360 incentive payment;

361 (ii) providing contact information, including a telephone number, for the property
362 owner to contact the district or the division to obtain more information regarding the conditions
363 described in Subsection (3)(b)(i); and

364 (iii) notifying the property owner that:

365 (A) if the violation is not corrected within 45 days of the day notice is given, the
366 amount of the incentive together with applicable interest and administrative charges will be
367 included on the property tax notice required by Section 59-2-1317; and

368 (B) the failure to remedy the violation described in Subsection (3)(b)(i) has resulted in

369 a lien on the property in accordance with Subsection (2).

370 (c) To certify a lien under Subsection (2)(b) for a given calendar year, the district or the
371 division shall provide the notice required by this Subsection (3) to a property owner on or
372 before July 1.

373 (4) (a) If a district or the division certifies an unpaid amount in accordance with
374 Subsection (2)(a), the county treasurer shall include the unpaid amount on a property tax notice
375 issued in accordance with Section [59-2-1317](#).

376 (b) If an incentive payment, interest, or administrative cost is included on a property
377 tax notice in accordance with Subsection (4)(a), the county treasurer shall on the property tax
378 notice:

379 (i) state that the incentive payment, interest, or administrative cost is for a landscaping
380 conversion removal incentive provided by the district or an incentive provided by the division;
381 and

382 (ii) itemize the incentive payment, interest, or administrative cost separate from any
383 other tax, fee, interest, or penalty that is included on the property tax notice in accordance with
384 Section [59-2-1317](#).

385 (c) If current property tax notices have been mailed, the county treasurer may carry the
386 amount described in Subsection (2)(a) on the assessment and tax rolls to the following year.

387 (5) Nothing in this section may be construed to:

388 (a) waive or release the property owner's obligation to comply with the terms of a
389 landscaping conversion removal incentive program or other payment under Subsection
390 [73-10-37](#)(4); or

391 (b) nullify or terminate a valid lien.

392 (6) After the amounts owing under a lien established under this section are paid, a
393 district or the division shall file for record in the county recorder's office a release of the lien.

394 (7) Title 11, Chapter 60, Political Subdivision Lien Authority, applies to the division as
395 if the division were a political subdivision.

396 **Section 5. Effective date.**

397 If approved by two-thirds of all the members elected to each house, this bill takes effect
398 upon approval by the governor, or the day following the constitutional time limit of Utah
399 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

400 the date of veto override.