

Senator Scott D. Sandall proposes the following substitute bill:

WATER EFFICIENT LANDSCAPING INCENTIVES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Doug Owens

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



26 [59-2-1317](#), as last amended by Laws of Utah 2022, Chapter 463

27 [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]~~ \$10,000,000 aggregate annual cap, the division may:

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

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

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

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

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

212 (i) initiate and operate a landscaping conversion incentive program;
213 (ii) limit the disbursement of grant money in the district's landscaping conversion
214 incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 (A) the availability of grant money;

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

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

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

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

259 (d) A district awarded grant money under this Subsection (3) may not use grant money
260 to pay an incentive that exceeds the maximum amounts established by the division by rule
261 under Subsection (5)(c).

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

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

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

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

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

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

273 (4) (a) In an area without an existing landscaping conversion incentive program, the

274 division may provide an incentive to an owner to remove lawn or turf from land owned by the
275 owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

276 (b) If the division provides an incentive under this [~~section~~] Subsection (4), the
277 division shall provide the incentive in the order that an application for the incentive is filed.
278 The division may terminate an application if the division determines that the owner has not
279 completed the project within 12 months of the date on which the owner files the application for
280 the incentive.

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

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

283 [(i)] (A) have living lawn or turf, as determined by the entity providing the incentive,
284 on the land owned by the owner that the owner intends to replace with [~~drought resistant~~] water
285 efficient landscaping; and

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

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

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

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

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

295 (iii) the owner shall agree to:

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

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

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

304 (e) [~~The division may not provide an owner~~] An owner may not receive an incentive

305 under this ~~[section]~~ Subsection (4) in an amount ~~[greater than 50% of the cost of replacing the]~~
 306 that exceeds:

307 (i) the maximum amount established by the division in rule, as provided in Subsection
 308 (5) for each square foot of lawn or turf [with] [drought resistant] converted to water efficient
 309 landscaping; or

310 (ii) the maximum aggregate amount established by the division in rule as provided in
 311 Subsection (5).

312 ~~[(3)]~~ (5) The division ~~[may]~~ shall make rules, in accordance with Title 63G, Chapter 3,
 313 Utah Administrative Rulemaking Act:

314 (a) establishing the process by which:

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

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

317 (b) defining what constitutes ~~[drought resistant]~~ water efficient landscaping[-],
 318 including what irrigation is used after conversion to water efficient landscaping;

319 (c) establishing for funding under this section, the maximum incentive from grant
 320 money allowable for each square foot of lawn or turf converted to water efficient landscaping
 321 or a maximum aggregate amount; and

322 (d) establishing for purposes of this section regional-based water use efficiency
 323 standards designed to reduce water consumption and conserve culinary and secondary water
 324 supplies.

325 (6) This section does not prohibit a municipality or county from adopting landscaping
 326 standards that would result in greater water efficiency than provided by division rule made
 327 under Subsection (5) if the standards do not conflict with this section or division rules.

328 (7) The division shall maintain a public website that, at a minimum, provides the status
 329 of a municipal or county ordinance that implements regional-based water use efficiency
 330 standards as described in Subsection (4)(c)(ii).

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

332 **73-10-38. Lien for removal of water efficient landscaping.**

333 (1) As used in this section:

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

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

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

337 (i) a landscaping conversion incentive program; or

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

339 (d) "Landscaping conversion incentive program" means a program administered by a
340 district that pays an owner a financial incentive to remove lawn or turf from land owned by the
341 owner and replace the lawn or turf with water efficient landscaping, including an incentive paid
342 in whole or in part from a grant described in Section [73-10-37](#).

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

344 (2) (a) A district or the division may hold a lien on property in the amount of an
345 incentive payment together with interest in the amount of 8% per annum from the date the
346 incentive payment is made and administrative costs, if a person reinstalls lawn or turf or
347 overhead spray irrigation on the property in an area where the lawn or turf or overhead spray
348 irrigation was removed under Section [73-10-37](#).

349 (b) To hold the lien under this Subsection (2), the district or division shall certify,
350 subject to Subsection (3), to the treasurer of the county in which the property is located the
351 amount of the incentive payment and applicable interest and administrative costs.

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

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

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

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

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

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

366 (iv) a statement that the reinstallation of lawn or turf or overhead spray irrigation

367 removed under an incentive payment may result in the imposition of a tax notice charge to
368 recover the incentive payment together with interest and administrative costs.

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

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

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

376 (iii) notifying the property owner that:

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

380 (B) the failure to remedy the violation described in Subsection (3)(b)(i) has resulted in
381 a lien on the property in accordance with Subsection (2).

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

385 (4) (a) If a district or the division certifies an unpaid amount in accordance with
386 Subsection (2)(a), the county treasurer shall include the unpaid amount on a property tax notice
387 issued in accordance with Section 59-2-1317.

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

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

394 (ii) itemize the incentive payment, interest, or administrative cost separate from any
395 other tax, fee, interest, or penalty that is included on the property tax notice in accordance with
396 Section 59-2-1317.

397 (c) If current property tax notices have been mailed, the county treasurer may carry the

398 amount described in Subsection (2)(a) on the assessment and tax rolls to the following year.

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

400 (a) waive or release the property owner's obligation to comply with the terms of a

401 landscaping conversion removal incentive program or other payment under Subsection

402 [73-10-37\(4\)](#); or

403 (b) nullify or terminate a valid lien.

404 (6) After the amounts owing under a lien established under this section are paid, a

405 district or the division shall file for record in the county recorder's office a release of the lien.

406 (7) Title 11, Chapter 60, Political Subdivision Lien Authority, applies to the division as

407 if the division were a political subdivision.

408 **Section 5. Effective date.**

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

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

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

412 the date of veto override.