

SB0118S03 compared with SB0118

~~text~~ shows text that was in SB0118 but was deleted in SB0118S03.

text shows text that was not in SB0118 but was inserted into SB0118S03.

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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: ~~text~~ 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:

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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

ENACTS:

73-10-38, Utah Code Annotated 1953

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

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

11-60-102. Definitions.

As used in this chapter:

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

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

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

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

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

(4) "Political subdivision" means:

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

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

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

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- (d) a special service district, as that term is defined in Section 17D-1-102;
 - (e) an interlocal entity, as that term is defined in Section 11-13-103;
 - (f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;
 - (g) a local building authority, as that term is defined in Section 17D-2-102;
 - (h) a conservation district, as that term is defined in Section 17D-3-102; or
 - (i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.
- (5) "Political subdivision lien" means a lien that:
- (a) a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien[-]; or
 - (b) Section 73-10-38 authorizes the Division of Water Resources to hold and record in accordance with Section 73-10-38.
- (6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.
- (7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.
- (8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

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

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

- (1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.
- (2) Subject to the other provisions of this section, the county treasurer shall:
 - (a) collect the taxes and tax notice charges; and
 - (b) provide a notice to each taxpayer that contains the following:
 - (i) the kind and value of property assessed to the taxpayer;
 - (ii) the street address of the property, if available to the county;
 - (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;
 - (iv) the amount of taxes levied;

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

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

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

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

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

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

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

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

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

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

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

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

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

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax

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notice charge may not:

- (A) pay off the full amount the property owner owes to the tax notice entity; or
- (B) cause a release of the lien underlying the tax notice charge;
- (ix) the date the taxes and tax notice charges are due;
- (x) the street address at which the taxes and tax notice charges may be paid;
- (xi) the date on which the taxes and tax notice charges are delinquent;
- (xii) the penalty imposed on delinquent taxes and tax notice charges;
- (xiii) a statement that explains the taxpayer's right to direct allocation of a partial

payment in accordance with Subsection (9);

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

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

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

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

- (i) the amount constitutes a tax notice charge; and
- (ii) (A) the tax notice charge has the same priority as property tax; and
- (B) a delinquency of the tax notice charge triggers a tax sale, in accordance with

Section 59-2-1343.

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

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

- (a) mail the notice required by this section, postage prepaid; or
- (b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

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

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receive the notice by electronic mail.

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

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

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

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

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

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

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

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

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

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

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

(i) the total amount due for property tax;

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(2) ~~(a)~~ Subject to a ~~{a}~~\$5,000,000 \$10,000,000 aggregate annual cap ~~{f}~~ amounts appropriated by the Legislature, the division may:

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

(b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from

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a project area on land owned by the owner in an area without a landscaping conversion incentive program.

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

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

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

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

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

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

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

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

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

(v) file an application with the division that:

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

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

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

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

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

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

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

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

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

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

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

(A) the availability of grant money;

(B) the priority or importance of the grant proposal in relation to availability of grant money, the division's landscaping conversion incentive program under this Subsection (~~4~~3), other landscaping conversion incentive program grant requests, and regional needs and goals;

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

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

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

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

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

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

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

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

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

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

(4) (a) In an area without an existing landscaping conversion incentive program, the division may provide an incentive to an owner to remove lawn or turf from land owned by the owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

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

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

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

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

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

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

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

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

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

(iii) the owner shall agree to:

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

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

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

(e) ~~[The division may not provide an owner]~~ An owner may not receive an incentive under this ~~[section]~~ Subsection (4) in an amount ~~[greater than 50% of the cost of replacing the]~~ that exceeds:

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

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

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

(a) establishing the process by which:

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

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

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

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

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

(6) This section does not prohibit a municipality or county from adopting landscaping standards that would result in greater water efficiency than provided by division rule made

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under Subsection (5) if the standards do not conflict with this section or division rules.

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

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

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

(1) As used in this section:

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

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

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

(i) a landscaping conversion incentive program; or

(ii) an incentive described in Subsection 73-10-37(4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) notifying the property owner that:

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

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

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

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

(b) If an incentive payment, interest, or administrative cost is included on a property

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tax notice in accordance with Subsection (4)(a), the county treasurer shall on the property tax notice:

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

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

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

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

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

(b) nullify or terminate a valid lien.

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

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

Section 5. Effective date.

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