

Representative Doug Owens 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 efficient use of water including 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;
- ▶ addresses tracking of local government implementation of water use efficiency

standards; 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:



26 10-9a-536, as enacted by Laws of Utah 2022, Chapter 230

27 17-27a-532, as enacted by Laws of Utah 2022, Chapter 230

28 73-10-37, as enacted by Laws of Utah 2022, Chapter 50

29

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

31 Section 1. Section 10-9a-536 is amended to read:

32 **10-9a-536. Water wise landscaping.**

33 (1) As used in this section:

34 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
35 grasses.

36 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left
37 loose and applied to the soil.

38 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
39 through a nozzle.

40 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
41 exposed leaf area of a plant or group of plants at full maturity.

42 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the
43 exposed leaf area of a tree or trees.

44 (e) "Water wise landscaping" means any or all of the following:

45 (i) installation of plant materials suited to the microclimate and soil conditions that
46 can:

47 (A) remain healthy with minimal irrigation once established; or

48 (B) be maintained without the use of overhead spray irrigation;

49 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
50 and water application; or

51 (iii) use of other landscape design features that:

52 (A) minimize the need of the landscape for supplemental water from irrigation; or

53 (B) reduce the landscape area dedicated to lawn or turf.

54 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that
55 prohibits, or has the effect of prohibiting, a property owner from incorporating water wise
56 landscaping on the property owner's property.

57 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality
58 from requiring a property owner to:

59 (i) comply with a site plan review or other review process before installing water wise
60 landscaping;

61 (ii) maintain plant material in a healthy condition; and

62 (iii) follow specific water wise landscaping design requirements adopted by the
63 municipality, including a requirement that:

64 (A) restricts or clarifies the use of mulches considered detrimental to municipal
65 operations;

66 (B) imposes minimum or maximum vegetative coverage standards; or

67 (C) restricts or prohibits the use of specific plant materials.

68 (b) A municipality may not require a property owner to install or keep in place lawn or
69 turf in an area with a width less than eight feet.

70 (4) A municipality shall report to the Division of Water Resources the existence,
71 enactment, or modification of an ordinance, resolution, or policy that implements
72 regional-based water use efficiency standards established by the Division of Water Resources
73 by rule under Section [73-10-37](#).

74 Section 2. Section **17-27a-532** is amended to read:

75 **17-27a-532. Water wise landscaping.**

76 (1) As used in this section:

77 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
78 grasses.

79 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left
80 loose and applied to the soil.

81 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
82 through a nozzle.

83 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
84 exposed leaf area of a plant or group of plants at full maturity.

85 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the
86 exposed leaf area of a tree or trees.

87 (e) "Water wise landscaping" means any or all of the following:

88 (i) installation of plant materials suited to the microclimate and soil conditions that
89 can:

90 (A) remain healthy with minimal irrigation once established; or

91 (B) be maintained without the use of overhead spray irrigation;

92 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
93 and water application; or

94 (iii) the use of other landscape design features that:

95 (A) minimize the need of the landscape for supplemental water from irrigation; or

96 (B) reduce the landscape area dedicated to lawn or turf.

97 (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits,
98 or has the effect of prohibiting, a property owner from incorporating water wise landscaping on
99 the property owner's property.

100 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from
101 requiring a property owner to:

102 (i) comply with a site plan review or other review process before installing water wise
103 landscaping;

104 (ii) maintain plant material in a healthy condition; and

105 (iii) follow specific water wise landscaping design requirements adopted by the county,
106 including a requirement that:

107 (A) restricts or clarifies the use of mulches considered detrimental to county
108 operations;

109 (B) imposes minimum or maximum vegetative coverage standards; or

110 (C) restricts or prohibits the use of specific plant materials.

111 (b) A county may not require a property owner to install or keep in place lawn or turf in
112 an area with a width less than eight feet.

113 (4) A county shall report to the Division of Water Resources the existence, enactment,
114 or modification of an ordinance, resolution, or policy that implements regional-based water use
115 efficiency standards established by the Division of Water Resources by rule under Section
116 73-10-37.

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

118 **73-10-37. Incentives to use water efficient landscaping.**

119 (1) As used in this section:

120 (a) "District" means a water conservancy district, as that term is defined in Section
121 73-10-32.

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

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

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

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

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

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

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

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

137 (2) ~~[(a) Subject to a \$5,000,000 aggregate annual cap, the]~~ The division may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 (A) the availability of grant money;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

215 The division may terminate an application if the division determines that the owner has not
216 completed the project within 12 months of the date on which the owner files the application for
217 the incentive.

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

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

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

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

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

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

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

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

232 (iii) the owner shall agree to:

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

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

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

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

243 that exceeds:

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

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

249 ~~[(3)]~~ (5) The division [may] shall make rules, in accordance with Title 63G, Chapter 3,
250 Utah Administrative Rulemaking Act:

251 (a) establishing the process by which;

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

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

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

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

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

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

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

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

268 **Section 4. Effective date.**

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