

## SB0118S05 compared with SB0118S04

~~deleted text~~ shows text that was in SB0118S04 but was deleted in SB0118S05.

inserted text shows text that was not in SB0118S04 but was inserted into SB0118S05.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

**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

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#### **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.

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### Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2024:

▶ to the Department of Natural Resources - Water Resources, as an ongoing appropriation:

• from the General Fund, \$3,000,000; and

▶ to the Department of Natural Resources - Water Resources, as a one-time appropriation:

• from the General Fund, One-time, \$11,200.

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(iii) use of other landscape design features that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 golf course, park, athletic field, or 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 \$5,000,000 aggregate annual cap, the]~~ The division may:

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(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 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

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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:

(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 (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 amounts established by the division by rule under Subsection (5)(c).

(e) Nothing in this section prohibits a district from expending non-grant money,

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including matching money, under the district's landscaping conversion incentive program to:

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

(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



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efficiency standards established by the division under Subsection (5)(d); and

(iii) the owner shall agree to:

(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.

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(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 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, resolution, or policy that implements regional-based water use efficiency standards as described in Subsection (4)(c)(ii).

### Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

#### To Department of Natural Resources - Water Resources

From General Fund 3,000,000

From General Fund, One-time 11,200

#### Schedule of Programs:

Planning 3,011,200

The Legislature intends that the Division of Water Resources use the \$3,000,000 ongoing appropriation for incentives to use water efficient landscaping as outlined in Section 73-10-37.

### Section ~~(4)~~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.