

**WATER EXACTIONS AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill addresses exactions for a water interest.

**Highlighted Provisions:**

This bill:

► modifies provisions related to determining the basis for an exaction for a water interest imposed by a municipality, county, county's water authority, or local district; and

► makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-508**, as last amended by Laws of Utah 2016, Chapter 350

**17-27a-507**, as last amended by Laws of Utah 2013, Chapter 309

**17B-1-120**, as enacted by Laws of Utah 2011, Chapter 205

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

Section 1. Section **10-9a-508** is amended to read:



28           **10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to**  
29 **original owner property acquired by exaction.**

30           (1) A municipality may impose an exaction or exactions on development proposed in a  
31 land use application, including, subject to Subsection (3), an exaction for a water interest, if:

32           (a) an essential link exists between a legitimate governmental interest and each  
33 exaction; and

34           (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
35 the proposed development.

36           (2) If a land use authority imposes an exaction for another governmental entity:

37           (a) the governmental entity shall request the exaction; and

38           (b) the land use authority shall transfer the exaction to the governmental entity for  
39 which it was exacted.

40           (3) (a) (i) ~~[A]~~ Subject to the requirements of this Subsection (3), a municipality shall  
41 base ~~any~~ an exaction for a water interest on the culinary water authority's established  
42 calculations of projected water interest requirements.

43           (ii) A municipality shall base an exaction for a water interest for residential culinary  
44 use according to dwelling type.

45           (iii) A water interest exaction for residential culinary use may not exceed the  
46 immediate past five-year historical average in the municipality of annual consumption by  
47 dwelling type.

48           (iv) If a municipality has no local water consumption data by dwelling type, to  
49 establish an exaction, the municipality may use data from other municipalities in the state, as  
50 collected by the Division of Drinking Water.

51           (v) A municipality shall, at a minimum, base exactions for water interests on the  
52 following dwelling types:

53           (A) single family home;

54           (B) apartment or townhome, studio;

55           (C) apartment or townhome, one bedroom;

56           (D) apartment or townhome, two bedroom; and

57           (E) apartment or townhome, three bedroom.

58           ~~[(i)]~~ (vi) Upon an applicant's request, the culinary water authority shall provide the

59 applicant with the basis for the culinary water authority's calculations under Subsection  
60 (3)(a)(i) on which an exaction for a water interest is based.

61 (b) A municipality may not impose an exaction for a water interest if the culinary water  
62 authority's existing available water interests exceed the water interests needed to meet the  
63 reasonable future water requirement of the public, as determined under Subsection  
64 73-1-4(2)(f).

65 (4) (a) If a municipality plans to dispose of surplus real property that was acquired  
66 under this section and has been owned by the municipality for less than 15 years, the  
67 municipality shall first offer to reconvey the property, without receiving additional  
68 consideration, to the person who granted the property to the municipality.

69 (b) A person to whom a municipality offers to reconvey property under Subsection  
70 (4)(a) has 90 days to accept or reject the municipality's offer.

71 (c) If a person to whom a municipality offers to reconvey property declines the offer,  
72 the municipality may offer the property for sale.

73 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by  
74 a community reinvestment agency.

75 Section 2. Section 17-27a-507 is amended to read:

76 **17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to**  
77 **original owner property acquired by exaction.**

78 (1) A county may impose an exaction or exactions on development proposed in a land  
79 use application, including, subject to Subsection (3), an exaction for a water interest, if:

80 (a) an essential link exists between a legitimate governmental interest and each  
81 exaction; and

82 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
83 the proposed development.

84 (2) If a land use authority imposes an exaction for another governmental entity:

85 (a) the governmental entity shall request the exaction; and

86 (b) the land use authority shall transfer the exaction to the governmental entity for  
87 which it was exacted.

88 (3) (a) (i) ~~[A]~~ Subject to the requirements of this Subsection (3), a county or, if  
89 applicable, the county's culinary water authority shall base any exaction for a water interest on

90 the culinary water authority's established calculations of projected water interest requirements.

91 (ii) A county or the county's water authority shall base an exaction for a water interest  
92 for residential culinary use according to dwelling type.

93 (iii) A water interest exaction for residential culinary use may not exceed the  
94 immediate past five-year historical average in the county of annual consumption by dwelling  
95 type.

96 (iv) If a county or the county's culinary water authority has no local water consumption  
97 data by dwelling type, to establish an exaction, the county or the county's culinary water  
98 authority may use data from other counties in the state, as collected by the Division of Drinking  
99 Water.

100 (v) A county or the county's culinary water authority shall, at a minimum, base  
101 exactions for water interests on the following dwelling types:

102 (A) single family home;

103 (B) apartment or townhome, studio;

104 (C) apartment or townhome, one bedroom;

105 (D) apartment or townhome, two bedroom; and

106 (E) apartment or townhome, three bedroom.

107 ~~[(†)]~~ (vi) Upon an applicant's request, the culinary water authority shall provide the  
108 applicant with the basis for the culinary water authority's calculations under Subsection  
109 (3)(a)(i) on which an exaction for a water interest is based.

110 (b) A county or its culinary water authority may not impose an exaction for a water  
111 interest if the culinary water authority's existing available water interests exceed the water  
112 interests needed to meet the reasonable future water requirement of the public, as determined  
113 under Subsection 73-1-4(2)(f).

114 (4) (a) If a county plans to dispose of surplus real property under Section 17-50-312  
115 that was acquired under this section and has been owned by the county for less than 15 years,  
116 the county shall first offer to reconvey the property, without receiving additional consideration,  
117 to the person who granted the property to the county.

118 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has  
119 90 days to accept or reject the county's offer.

120 (c) If a person to whom a county offers to reconvey property declines the offer, the

121 county may offer the property for sale.

122 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by  
123 a community development or urban renewal agency.

124 Section 3. Section **17B-1-120** is amended to read:

125 **17B-1-120. Exactions -- Exaction for water interest -- Requirement to offer to**  
126 **original owner property acquired by exaction.**

127 (1) A local district may impose an exaction on a service received by an applicant,  
128 including, subject to Subsection (2), an exaction for a water interest if:

129 (a) the local district establishes that a legitimate local district interest makes the  
130 exaction essential; and

131 (b) the exaction is roughly proportionate, both in nature and extent, to the impact of the  
132 proposed service on the local district.

133 (2) (a) (i) [~~A~~] Subject to the requirements of this Subsection (2), a local district shall  
134 base an exaction for a water interest on the culinary water authority's established calculations of  
135 projected water interest requirements.

136 (ii) A local district shall base an exaction for a water interest for residential culinary  
137 use according to dwelling type.

138 (iii) A water interest exaction for residential culinary use may not exceed the  
139 immediate past five-year historical average in the local district of annual consumption by  
140 dwelling type.

141 (iv) If a local district has no local water consumption data by dwelling type, to  
142 establish an exaction, the local district may use data from other local districts in the state, as  
143 collected by the Division of Drinking Water.

144 (v) A local district shall, at a minimum, base exactions for water interests on the  
145 following dwelling types:

146 (A) single family home;

147 (B) apartment or townhome, studio;

148 (C) apartment or townhome, one bedroom;

149 (D) apartment or townhome, two bedroom; and

150 (E) apartment or townhome, three bedroom.

151 [~~(f)~~] (vi) If requested by a service applicant, the culinary authority shall provide the

152 basis for the culinary water authority's calculations described in Subsection (2)(a)(i).

153 (b) A local district may not impose an exaction for a water interest if the culinary water  
154 authority's existing available water interests exceed the water interests needed to meet the  
155 reasonable future water requirement of the public, as determined in accordance with Section  
156 73-1-4.

157 (3) (a) If a local district plans to dispose of surplus real property that was acquired  
158 under this section and has been owned by the local district for less than 15 years, the local  
159 district shall offer to reconvey the surplus real property, without receiving additional  
160 consideration, first to a person who granted the real property to the local district.

161 (b) The person described in Subsection (3)(a) shall, within 90 days after the day on  
162 which a local district makes an offer under Subsection (3)(a), accept or reject the offer.

163 (c) If a person rejects an offer under Subsection (3)(b), the local district may sell the  
164 real property.