

Senator Michael K. McKell proposes the following substitute bill:

WATER EXACTIONS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Stephen L. Whyte

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 culinary 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



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

27 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) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
44 an exaction for a culinary water interest on:

45 (A) consideration of the system-wide minimum sizing standards established for the
46 culinary water authority by the Division of Drinking Water pursuant to Section [19-4-114](#); and

47 (B) the number of equivalent residential connections associated with the culinary water
48 demand for each specific development proposed in the development's land use application,
49 applying lower exactions for developments with lower equivalent residential connections as
50 demonstrated by at least five years of usage data for like land uses within the municipality.

51 (iii) A municipality may impose an exaction for a culinary water interest that results in
52 less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the
53 municipality, at the municipality's sole discretion, determines there is good cause to do so.

54 (iv) A municipality shall make public the methodology used to comply with Subsection
55 (3)(a)(ii)(B).

56 ~~[(†)]~~ (v) Upon an applicant's request, the culinary water authority shall provide the

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

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

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

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

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

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

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

74 **17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to**
75 **original owner property acquired by exaction.**

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

78 (a) an essential link exists between a legitimate governmental interest and each
79 exaction; and

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

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

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

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

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

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

89 (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base
90 an exaction for a culinary water interest on:

91 (A) consideration of the system-wide minimum sizing standards established for the
92 culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

93 (B) the number of equivalent residential connections associated with the culinary water
94 demand for each specific development proposed in the development's land use application,
95 applying lower exactions for developments with lower equivalent residential connections as
96 demonstrated by at least five years of usage data for like land uses within the county.

97 (iii) A county or culinary water authority may impose an exaction for a culinary water
98 interest that results in less water being exacted than would otherwise be exacted under
99 Subsection (3)(a)(ii) if the county or culinary water authority, at the county's or culinary water
100 authority's sole discretion, determines there is good cause to do so.

101 (iv) A county shall make public the methodology used to comply with Subsection
102 (3)(a)(ii)(B).

103 ~~[(ii)]~~ (v) Upon an applicant's request, the culinary water authority shall provide the
104 applicant with the basis for the culinary water authority's calculations under Subsection
105 (3)(a)(i) on which an exaction for a water interest is based.

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

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

114 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has
115 90 days to accept or reject the county's offer.

116 (c) If a person to whom a county offers to reconvey property declines the offer, the
117 county may offer the property for sale.

118 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by

119 a community development or urban renewal agency.

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

121 **17B-1-120. Exactions -- Exaction for water interest -- Requirement to offer to**
122 **original owner property acquired by exaction.**

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

125 (a) the local district establishes that a legitimate local district interest makes the
126 exaction essential; and

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

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

132 (ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base
133 an exaction for a culinary water interest on:

134 (A) consideration of the system-wide minimum sizing standards established for the
135 culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

136 (B) the number of equivalent residential connections associated with the culinary water
137 demand for each specific development proposed in the development's land use application,
138 applying lower exactions for developments with lower equivalent residential connections as
139 demonstrated by at least five years of usage data for like land uses within the local district.

140 (iii) A local district may impose an exaction for a culinary water interest that results in
141 less water being exacted than would otherwise be exacted under Subsection (2)(a)(ii) if the
142 local district, at the local district's sole discretion, determines there is good cause to do so.

143 (iv) A local district shall make public the methodology used to comply with Subsection
144 (2)(a)(ii)(B).

145 ~~[(iv)]~~ (v) If requested by a service applicant, the culinary authority shall provide the
146 basis for the culinary water authority's calculations described in Subsection (2)(a)(i).

147 (b) A local district may not impose an exaction for a water interest if the culinary water
148 authority's existing available water interests exceed the water interests needed to meet the
149 reasonable future water requirement of the public, as determined in accordance with Section

150 73-1-4.

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

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

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