

SB0158S01 compared with SB0158

~~deleted text~~ shows text that was in SB0158 but was deleted in SB0158S01.

inserted text shows text that was not in SB0158 but was inserted into SB0158S01.

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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: _____

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

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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:

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

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

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

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

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

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

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

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

(ii) ~~{A municipality}~~ Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a {water interest for residential culinary use according to dwelling type:

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

~~_____ (iv) If a municipality has no local water consumption data by dwelling type, to establish an exaction, the municipality may use data from other municipalities in the state, as~~

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~~collected~~ culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water;

~~(v)~~ pursuant to Section 19-4-114; and

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

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

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

~~(A) single family home;~~

~~(B) apartment or townhome, studio;~~

~~(C) apartment or townhome, one bedroom;~~

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

~~(E) apartment or townhome, three bedroom;~~ make public the methodology used to comply with Subsection (3)(a)(ii)(B).

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

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

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

(b) A person to whom a municipality offers to reconvey property under Subsection

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(4)(a) has 90 days to accept or reject the municipality's offer.

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

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

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

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

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

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

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

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

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

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

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

~~(ii) {A county or the county's} Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a {water interest for residential culinary use according to dwelling type:~~

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

~~—— (iv) If a county or the county's} culinary water interest on:~~

~~(A) consideration of the system-wide minimum sizing standards established for the culinary water authority {has no local water consumption data by dwelling type, to establish an exaction, the county or the county's culinary water authority may use data from other counties~~

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~~in the state, as collected }~~by the Division of Drinking Water pursuant to Section 19-4-114; and

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

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

~~(A) single family home;~~

~~(B) apartment or townhome, studio;~~

~~(C) apartment or townhome, one bedroom;~~

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

~~(E) apartment or townhome, three bedroom}~~ may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the county's or culinary water authority's sole discretion, determines there is good cause to do so.

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

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

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

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

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

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

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county may offer the property for sale.

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

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

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

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

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

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

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

~~(ii) A local district~~ Except as described in Subsection (2)(a)(iii), a culinary water authority shall base an exaction for a ~~water interest for residential culinary use according to dwelling type:~~

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

~~(iv) If a local district has no local water consumption data by dwelling type, to establish an exaction, the local district may use data from other local districts in the state, as collected~~ culinary water interest on:

(A) ~~consideration of the system-wide minimum sizing standards established for the culinary water authority~~ by the Division of Drinking Water~~;~~

~~(v) pursuant to Section 19-4-114; and~~

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

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

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

~~— (A) single family home;~~

~~— (B) apartment or townhome, studio;~~

~~— (C) apartment or townhome, one bedroom;~~

~~— (D) apartment or townhome, two bedroom; and~~

~~— (E) apartment or townhome, three bedroom;~~ make public the methodology used to comply with Subsection (2)(a)(ii)(B).

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

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

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

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

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