

1 **WATER CONSERVATION AND AUGMENTATION**

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Scott D. Sandall**

6 House Sponsor: Casey Snider

7

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses the optimal use of water in the state.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the purposes for which money in the Water Infrastructure Restricted
- 14 Account may be used;
- 15 ▶ codifies a grant program for agricultural water optimization, including:
 - 16 • defining terms;
 - 17 • creating the Agricultural Water Optimization Committee;
 - 18 • providing powers and duties of the committee which includes rulemaking;
 - 19 • directing the process by which grants are to be issued; and
 - 20 • providing a sunset date;
- 21 ▶ provides for public information and reporting regarding the grant program;
- 22 ▶ addresses agricultural water optimization change applications and water savings;
- 23 ▶ repeals provisions related to the Agricultural Water Optimization Task Force; and
- 24 ▶ makes technical and conforming changes.

25 **Money Appropriated in this Bill:**

26 This bill appropriates in fiscal year 2024:

- 27 ▶ to General Fund Restricted – Agricultural Water Optimization Account, as a



28 one-time appropriation:

- 29 • from General Fund, One-time, \$200,000,000; and
- 30 ▶ to Department of Agriculture and Food – Resource Conservation, as a one-time
- 31 appropriation:

- 32 • from Agricultural Water Optimization Account, One-time, \$125,000,000.

33 **Other Special Clauses:**

34 This bill provides a special effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **63I-1-273**, as last amended by Laws of Utah 2022, Chapters 68, 79

38 **73-10g-104**, as last amended by Laws of Utah 2016, Chapter 309

39 **73-10g-204**, as last amended by Laws of Utah 2022, Chapter 79

40 ENACTS:

41 **73-10g-203.5**, Utah Code Annotated 1953

42 **73-10g-205**, Utah Code Annotated 1953

43 **73-10g-206**, Utah Code Annotated 1953

44 **73-10g-207**, Utah Code Annotated 1953

45 **73-10g-208**, Utah Code Annotated 1953

46 REPEALS:

47 **73-10g-202**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

48 **73-10g-203**, as last amended by Laws of Utah 2020, Chapter 33



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

51 Section 1. Section **63I-1-273** is amended to read:

52 **63I-1-273. Repeal dates: Title 73.**

53 (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed
54 January 1, 2031.

55 (2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1,
56 2028.

57 [~~(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, on~~
58 ~~July 1, 2025:]~~

59 ~~[(a) Section 73-10g-202 is repealed; and]~~

60 ~~[(b) Section 73-10g-203 is repealed.]~~

61 (3) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint
62 an advisory council that includes in the advisory council's duties advising on boating policies,
63 is repealed July 1, 2024.

64 (4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1,
65 2027.

66 (5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

67 (a) Subsection 73-1-4(2)(e)(xi) is repealed;

68 (b) Subsection 73-10-4(1)(h) is repealed; and

69 (c) Title 73, Chapter 31, Water Banking Act, is repealed.

70 Section 2. Section 73-10g-104 is amended to read:

71 **73-10g-104. Authorized use of the Water Infrastructure Restricted Account.**

72 Money in the restricted account is to be used for:

73 (1) the development of the state's undeveloped share of the Bear and Colorado rivers,
74 pursuant to existing interstate compacts governing both rivers as described in Chapter 26, Bear
75 River Development Act, and Chapter 28, Lake Powell Pipeline Development Act;

76 (2) repair, replacement, or improvement of federal water projects for local sponsors in
77 the state of Utah when federal funds are not available; ~~and~~

78 (3) study and development of rules, criteria, targets, processes, and plans, as described
79 in Subsection 73-10g-105(3)[-]; and

80 (4) projects that benefit the Colorado River drainage in Utah, including projects for
81 water reuse, desalinization, building of dams, or water conservation.

82 Section 3. Section 73-10g-203.5 is enacted to read:

83 **73-10g-203.5. Definitions.**

84 As used in this part:

85 (1) "Account" means the Agricultural Water Optimization Account created in Section
86 73-10g-204.

87 (2) "Agricultural water optimization" means the implementation of agricultural and
88 water management practices that maintain viable agriculture while reducing water depletion to
89 enhance water availability and minimize impacts on water supply, water quality, and the

90 environment.

91 (3) "Change application" means an application filed under Section 73-3-3.

92 (4) "Committee" means the Agricultural Water Optimization Committee created in
93 Section 73-10g-205.

94 (5) "Conservation commission" means the conservation commission created in Section
95 4-18-104.

96 (6) "Department" means the Department of Agriculture and Food.

97 (7) "Depletion reduction" means a net decrease in water consumed accomplished by
98 implementing water optimization practices during beneficial use of water under an approved
99 water right.

100 (8) "Diversion reduction" means a decrease in net diversion amount accomplished by
101 implementation of water optimization practices from that allowed under a water right.

102 (9) "Funding application" means an application filed under Section 73-10g-206.

103 (10) "Saved water" means the water quantified as depletion reduction or diversion
104 reduction in a final order approving a change application filed in conjunction with an
105 agricultural water optimization project.

106 Section 4. Section **73-10g-204** is amended to read:

107 **73-10g-204. Agricultural Water Optimization Account.**

108 [~~(1) As used in this section:~~]

109 [~~(a) "Account" means the Agricultural Water Optimization Account created in~~
110 ~~Subsection (2):]~~

111 [~~(b) "Agricultural water optimization" means the implementation of agricultural and~~
112 ~~water management practices that maintain or increase viable agriculture while minimizing~~
113 ~~negative impacts on water supply, water quality, and the environment.]~~

114 [~~(c) "Department" means the Department of Agriculture and Food:]~~

115 [~~(2)~~] (1) There is created a restricted account within the General Fund called the
116 "Agricultural Water Optimization Account."

117 [~~(3)~~] (2) The account consists of:

118 (a) appropriations from the Legislature;

119 (b) federal funds; and

120 (c) grants or donations from other public or private sources.

121 ~~[(4)]~~ (3) Subject to appropriation, the ~~[department]~~ conservation commission may use
 122 money in the account to issue grants in accordance with Section 73-10g-206 to improve
 123 agricultural water optimization.

124 ~~[(5)]~~ (4) Until December 31, 2024, the department may loan up to \$3,000,000 of
 125 General Fund money in the account to the Agriculture Resource Development Fund, subject to
 126 the conditions described in Section 4-18-106.

127 ~~[(6)]~~ (5) (a) The department shall maintain the ~~[Agriculture Water Optimization~~
 128 ~~Account]~~ account and record ~~[all]~~ the debits and credits made to the account by the department.

129 (b) The Office of the Treasurer shall deposit interest and other earnings derived from
 130 investment of money in the ~~[Agriculture Water Optimization Account]~~ account into the
 131 account.

132 Section 5. Section **73-10g-205** is enacted to read:

133 **73-10g-205. Agricultural Water Optimization Committee.**

134 (1) There is created in the department a committee known as the "Agricultural Water
 135 Optimization Committee" that consists of:

136 (a) the commissioner of the department, or the commissioner's designee;

137 (b) the director of the division, or the director's designee;

138 (c) the director of the Division of Water Rights, or the director's designee;

139 (d) the dean of the College of Agriculture and Applied Science from Utah State
 140 University, or the dean's designee;

141 (e) one individual representing local conservation districts created by Title 17D,
 142 Chapter 3, Conservation District Act, appointed by the executive director of the Department of
 143 Natural Resources;

144 (f) one individual representing water conservancy districts, appointed by the executive
 145 director of the Department of Natural Resources; and

146 (g) three Utah residents representing the interests of the agriculture industry appointed
 147 by the executive director of the Department of Natural Resources.

148 (2) (a) An individual appointed under Subsection (1) shall serve for a term of four
 149 years.

150 (b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the
 151 Department of Natural Resources shall, at the time of appointment or reappointment, adjust the

152 length of terms to ensure that the terms of appointed members are staggered so that
153 approximately half of the appointed members are appointed every two years.

154 (3) (a) The presence of five members constitutes a quorum.

155 (b) The vote of five members constitutes the transaction of business by the committee.

156 (c) The committee shall select one of the committee's members to be chair. The
157 committee may select a member to be vice chair to act in place of the chair:

158 (i) during the absence or disability of the chair; or

159 (ii) as requested by the chair.

160 (d) The committee shall convene at the times and places prescribed by the chair.

161 (4) A member may not receive compensation or benefits for the member's service, but
162 may receive per diem and travel expenses in accordance with:

163 (a) Section [63A-3-106](#);

164 (b) Section [63A-3-107](#); and

165 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
166 [63A-3-107](#).

167 (5) The department shall provide administrative support to the committee.

168 (6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah
169 Administrative Rulemaking Act, establishing:

170 (a) eligibility requirements for a grant issued under Section [73-10g-206](#), except that the
171 eligibility requirements shall:

172 (i) require at least a match for grant money of 50% of the total costs;

173 (ii) consider the statewide need to distribute grant money;

174 (iii) require a grant recipient to construct or install and maintain one or more measuring
175 devices as necessary to comply with Section [73-5-4](#) and rules adopted by the Division of Water

176 Rights regarding installation, use, and maintenance of devices to measure water use and to
177 demonstrate water use in accordance with a project funded by a grant; and

178 (iv) require a grant recipient to report water diversion and use measurements to the
179 state engineer pursuant to Section [73-5-4](#) and rules made by the state engineer, in accordance
180 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and
181 reporting;

182 (b) the process for applying for a grant issued under Section [73-10g-206](#); and

183 (c) preliminary screening criteria to be used by the department under Subsection
184 73-10g-206(2)(d).

185 (7) The committee shall, in coordination with the division:

186 (a) as of July 1, 2023, assume oversight of all remaining research and contracts of the
187 previous Agricultural Water Optimization Task Force activities;

188 (b) post research to address and account for farm economics at the enterprise and
189 community level that affect agricultural water optimization and encourage market behavior that
190 financially rewards agricultural water optimization practices;

191 (c) oversee research to identify obstacles to and constraints upon optimization of
192 agricultural water use, and to recommend management tools, technologies, and other
193 opportunities to optimize agricultural water use as measured at the basin level; and

194 (d) facilitate benefits for farmers who optimize water use and protect water quality.

195 (8) The committee shall comply with Section 73-10g-206 related to grants issued under
196 this part.

197 Section 6. Section 73-10g-206 is enacted to read:

198 **73-10g-206. Agricultural water optimization grants -- Demonstration of water**
199 **savings.**

200 (1) The conservation commission may issue a grant described in Subsection
201 73-10g-204(3) in accordance with the procedures in this section.

202 (2) (a) The committee shall establish funding application periods during which a
203 person may apply for a grant under this part.

204 (b) During a funding application period, a person may file a funding application with
205 the department for preliminary screening of eligibility to receive a grant under this part,
206 including requisite water savings.

207 (c) The department shall screen the funding applications for eligibility.

208 (d) If the department determines that an applicant meets eligibility requirements and
209 proposes water savings, the department shall provide the applicant preliminary approval.

210 (e) After receiving preliminary approval under Subsection (2)(d), the applicant shall
211 engage in a pre-filing consultation with the Division of Water Rights under Subsection
212 73-3-3(2) to determine whether a change application is required to accomplish the project
213 proposed in the funding application or to quantify saved water that may be made available for

214 beneficial use by the project.

215 (f) Once the Division of Water Rights determines whether the person is required to file
216 a change application, the person may complete the funding application process and file the
217 completed funding application with the committee.

218 (g) The committee shall review completed funding applications to rank the funding
219 applications and recommend to the conservation commission which applicants should receive a
220 grant under this part for the relevant funding application period.

221 (h) The conservation commission may issue a grant under this section only after receipt
222 of the recommendations of the committee.

223 (3) If the conservation commission issues a grant under this part, before the grant
224 recipient may receive the grant money, the grant recipient shall:

225 (a) enter into a contract with the department that includes:

226 (i) the expectations for the grant recipient;

227 (ii) the life expectancy of a project;

228 (iii) the process of certifying completion; and

229 (iv) design requirements;

230 (b) file any needed change application and obtain a final order from the state engineer
231 approving the change application, including any judicial review of the state engineer's order;
232 and

233 (c) comply with the requirements of the final order approving the related change
234 application.

235 (4) A grant recipient shall comply with the monitoring and reporting requirements
236 under the contract described in Subsection (3).

237 (5) The department shall:

238 (a) monitor the grant related activities of a grant recipient;

239 (b) certify a project funded by a grant once the project is complete;

240 (c) determine whether there are funding sources other than the account to fund the
241 grant; and

242 (d) provide information needed by the division or the Division of Water Rights to
243 fulfill the division's or Division of Water Rights' statutory duties, including those designated in
244 this chapter.

- 245 (6) The department may:
246 (a) conduct outreach campaigns related to the grant program, including the program's
247 purpose and expectations for grant recipients;
248 (b) solicit funding applications and assist persons in applying for a grant under this
249 part;
250 (c) assist grant recipients in developing a project; and
251 (d) coordinate with federal agencies and the division for evaluation of funding
252 applications and for assistance with implementing projects for which funding has been
253 provided under this part.

254 (7) Grant money may be used by the department or a grant recipient for the hiring of
255 third-party consultants as appropriate to complete a project funded by grant money.

256 Section 7. Section **73-10g-207** is enacted to read:

257 **73-10g-207. Division public information and reporting.**

258 (1) The division shall, in coordination with the department and the Division of Water
259 Rights, annually compile and publish a report on:

- 260 (a) completed projects;
261 (b) saved water made available from agricultural water optimization projects; and
262 (c) the effectiveness of the agricultural water optimization funding programs
263 established by this part.

264 (2) On or before November 30 of each year, the committee, division, and the Division
265 of Water Rights shall jointly present the annual report to:

- 266 (a) the Legislative Water Development Commission;
267 (b) the Natural Resources, Agriculture, and Environment Interim Committee;
268 (c) the Utah Water Task Force within the Department of Natural Resources; and
269 (d) the Utah Watersheds Council.

270 (3) The division, on request from the committee, may assist with evaluation of funding
271 applications and implementation of projects funded under this part.

272 (4) The division shall publish reports from research described in Subsection
273 73-10g-205(7).

274 Section 8. Section **73-10g-208** is enacted to read:

275 **73-10g-208. Water use pursuant to a water optimization change application.**

276 (1) A person entitled to file a change application under Section 73-3-3 may file a
277 change application in connection with an agricultural water optimization project, regardless of
278 whether the agricultural water optimization project is funded under this part:

279 (a) to change the nature of use of the depletion reduction amount of an agricultural
280 water right to saved water;

281 (b) to quantify saved water; and

282 (c) to allow beneficial use of saved water separate from the agricultural use, so long as
283 there is no enlargement of depletion or diversion amounts.

284 (2) A person may file a nonuse application under Section 73-1-4 for saved water
285 resulting from an agricultural water optimization project, including depletion reduction and
286 diversion reduction.

287 (3) The state engineer may make rules as provided under Section 73-2-1 and Title 63G,
288 Chapter 3, Utah Administrative Rulemaking Act, regarding implementation of this section.

289 Section 9. **Repealer.**

290 This bill repeals:

291 Section **73-10g-202, Agricultural Water Optimization Task Force.**

292 Section **73-10g-203, Duties of the task force.**

293 Section 10. **Appropriation.**

294 The following sums of money are appropriated for the fiscal year beginning July 1,
295 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
296 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
297 Act, the Legislature appropriates the following sums of money from the funds or accounts
298 indicated for the use and support of the government of the state of Utah.

299 ITEM 1

300 To General Fund Restricted -- Agricultural Water Optimization Account

301 From General Fund, One-time 200,000,000

302 Schedule of Programs:

303 Agricultural Water Optimization Account 200,000,000

304 ITEM 2

305 To Department of Agriculture and Food -- Resource Conservation

306 From Agricultural Water Optimization Account, One-time 125,000,000

307 Schedule of Programs:

308 Water Quantity 125,000,000

309 The Legislature intends that the \$125,000,000 one-time appropriation from the
310 Agricultural Water Optimization Account provided by this item be expended as follows:

311 (1) \$25,000,000 on general water optimization;

312 (2) \$25,000,000 on subsurface drip irrigation;

313 (3) \$25,000,000 on surge irrigation;

314 (4) \$25,000,000 on telemetry and delivery; and

315 (5) \$25,000,000 on canal improvements.

316 Section 11. **Effective date.**

317 This bill takes effect on July 1, 2023.