

WATER MEASURING AND ACCOUNTING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Michael K. McKell

LONG TITLE

Committee Note:

The Legislative Water Development Commission recommended this bill.

Membership: 13 legislators 11 non-legislators

Total Vote: 7 voting for 1 voting against 5 absent

Legislative Vote: 7 voting for 1 voting against 5 absent

General Description:

This bill addresses water measurement and accounting.

Highlighted Provisions:

This bill:

- ▶ modifies the state water policy to address telemetry;
- ▶ grants rulemaking authority regarding measurement and accounting; and
- ▶ makes technical changes, including repealing outdated language.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-21, as last amended by Laws of Utah 2022, Chapter 27

73-2-1, as last amended by Laws of Utah 2023, Chapter 16



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

Section 1. Section **73-1-21** is amended to read:

73-1-21. State water policy.

(1) It is the policy of the state that:

(a) Utah shall pursue adequate, reliable, affordable, sustainable, and clean water resources, recognizing that Utah is one of the most arid states in the nation and as such, there is, and will continue to be, a need to ensure Utah's finite water resources are used beneficially;

(b) Utah will promote:

(i) water conservation, efficiency, and the optimal use of water resources, while identifying intended and unintended consequences to ensure appropriate choice and implementation of particular strategies;

(ii) water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development;

(iii) compliance with state statutes regarding Lake Powell pipeline development and Bear River development;

(iv) the timely replacement of aging or inefficient water resource, drinking water, wastewater, and storm water infrastructure;

(v) the optimal use of agricultural water to sustain and improve food production and the productive capacity of agricultural lands;

(vi) water quality in rivers and lakes that:

(A) complies with state clean water and safe drinking water statutes; and

(B) protects public health;

(vii) water pricing and funding mechanisms that:

(A) provide revenue stability while encouraging conservation, efficiency, and optimization efforts;

(B) adequately cover infrastructure needs; and

(C) balance social, economic, public interest, and environmental values;

(viii) respect for water rights;

(ix) standards for accurate water use measurement, telemetry, tracking, enforcement, and reporting;

- 59 (x) efforts to educate and engage the public in:
- 60 (A) individual actions that protect water quality, including preventing and mitigating
61 water pollution; and
- 62 (B) conservation practices and the efficient and optimal use of water resources;
- 63 (xi) the implementation of cyber security and physical security measures for water
64 infrastructure;
- 65 (xii) the study and consideration of mechanisms for increased flexibility in water use
66 such as water banking and split season uses;
- 67 (xiii) continued improvements in the management of water resources through
68 protection, restoration, and science-based evaluation of Utah watersheds, increased reservoir
69 capacity, and aquifer recharge or aquifer storage and recovery;
- 70 (xiv) the development and beneficial use of Utah's allocated share of interstate rivers,
71 including Utah's allocations under the 1922 and 1948 Colorado River Compacts and the 1980
72 Amended Bear River Compact;
- 73 (xv) the study and development of strategies and practices necessary to address
74 declining water levels and protect the water quality and quantity of the Great Salt Lake, Utah
75 Lake, and Bear Lake, taking into consideration natural climate change, natural weather systems
76 and patterns, and normal cyclic water level change over time, while balancing economic,
77 social, and environmental needs;
- 78 (xvi) regulations and practices, including voluntary practices, that maintain sufficient
79 stream flows and lake levels to provide reasonable access to recreational activities and protect
80 and restore water quality, quantity, and healthy ecosystems, including protecting groundwater
81 and surface water sources from pollution;
- 82 (xvii) equitable access to safe, affordable, and reliable drinking water to protect public
83 health;
- 84 (xviii) regulations and practices that encourage effective treatment of wastewater to
85 maximize its availability for beneficial use and minimize depletion and the further degradation
86 of other waters;
- 87 (xix) the control of invasive species that threaten or degrade waters of the state;
- 88 (xx) coordination among the state, water providers, water users, local governments,
89 government agencies, and researchers in the study of ways weather and climate will impact

90 future water supplies, demand, and quality;

91 (xxi) water laws, rules, and enforcement that are consistent with this Subsection (1)

92 and encourage transparency, order, and certainty in the use of public water;

93 (xxii) the support and funding of research, science, and technology necessary to

94 achieve the provisions of this Subsection (1); and

95 (xxiii) the collaboration, cooperation, and engagement of stakeholders in the

96 identification and advancement of actions that support the provisions of this Subsection (1);

97 and

98 (c) Utah supports the timely and appropriate negotiated settlement of federally reserved

99 water right claims for both Native American trust lands and other existing federal reservations,

100 and opposes any future designation of public lands that does not quantify any associated

101 federally reserved water rights.

102 (2) State agencies are encouraged to conduct agency activities consistent with

103 Subsection (1) and implement policies established by the Legislature that promote the near-

104 and long-term stewardship of water quality and water resources.

105 (3) This section does not create a cause of action against the state's or a state agency's

106 action that is inconsistent with Subsection (1) and does not waive governmental immunity

107 under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

108 (4) The Natural Resources, Agriculture, and Environment Interim Committee shall

109 review the state water policy annually and recommend priority balancing and any other changes

110 to the Legislature.

111 Section 2. Section **73-2-1** is amended to read:

112 **73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**

113 (1) There shall be a state engineer.

114 (2) The state engineer shall:

115 (a) be appointed by the governor with the advice and consent of the Senate;

116 (b) hold office for the term of four years and until a successor is appointed; and

117 (c) have five years experience as a practical engineer or the theoretical knowledge,

118 practical experience, and skill necessary for the position.

119 (3) (a) The state engineer shall be responsible for the general administrative

120 supervision of the waters of the state and the measurement, appropriation, apportionment, and

121 distribution of those waters.

122 (b) The state engineer may secure the equitable apportionment and distribution of the
123 water according to the respective rights of appropriators.

124 (4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah
125 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,
126 regarding:

127 (a) reports of water right conveyances;

128 (b) the construction of water wells and the licensing of water well drillers;

129 (c) dam construction and safety;

130 (d) the alteration of natural streams;

131 (e) geothermal resource conservation;

132 (f) enforcement orders and the imposition of fines and penalties;

133 (g) the duty of water; and

134 (h) standards for written plans of a public water supplier that may be presented as
135 evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

136 (5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah
137 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,
138 governing:

139 (a) water distribution systems and water commissioners;

140 (b) water measurement, telemetry, and reporting;

141 (c) groundwater recharge and recovery;

142 (d) wastewater reuse;

143 (e) the form, content, and processing procedure for a claim under Section 73-5-13 to
144 surface or underground water that is not represented by a certificate of appropriation;

145 (f) the form and content of a proof submitted to the state engineer under Section
146 73-3-16;

147 (g) the determination of water rights;

148 [~~(h) preferences of water rights under Section 73-3-21.5; or~~]

149 [~~(i)~~] (h) the form and content of applications and related documents, maps, and
150 reports~~[-]; or~~

151 (i) water distribution accounting.

- 152 (6) The state engineer may bring suit in courts of competent jurisdiction to:
- 153 (a) enjoin the unlawful appropriation, diversion, and use of surface and underground
- 154 water without first seeking redress through the administrative process;
- 155 (b) prevent theft, waste, loss, or pollution of surface and underground waters;
- 156 (c) enable the state engineer to carry out the duties of the state engineer's office; and
- 157 (d) enforce administrative orders and collect fines and penalties.
- 158 (7) The state engineer may:
- 159 (a) upon request from the board of trustees of an irrigation district under Title 17B,
- 160 Chapter 2a, Part 5, Irrigation District Act, or another special district under Title 17B, Limited
- 161 Purpose Local Government Entities - Special Districts, or a special service district under Title
- 162 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a
- 163 water survey to be made of the lands proposed to be annexed to the district in order to
- 164 determine and allot the maximum amount of water that could be beneficially used on the land,
- 165 with a separate survey and allotment being made for each 40-acre or smaller tract in separate
- 166 ownership; and
- 167 (b) upon completion of the survey and allotment under Subsection (7)(a), file with the
- 168 district board a return of the survey and report of the allotment.
- 169 (8) (a) The state engineer may establish water distribution systems and define the water
- 170 distribution systems' boundaries.
- 171 (b) The water distribution systems shall be formed in a manner that:
- 172 (i) secures the best protection to the water claimants; and
- 173 (ii) is the most economical for the state to supervise.
- 174 (9) The state engineer may conduct studies of current and novel uses of water in the
- 175 state.
- 176 (10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the
- 177 depth of a water production well exempt the water production well from regulation under this
- 178 title or rules made under this title related to the:
- 179 (a) drilling, constructing, deepening, repairing, renovating, cleaning, developing,
- 180 testing, disinfecting, or abandonment of a water production well; or
- 181 (b) installation or repair of a pump for a water production well.
- 182 Section 3. **Effective date.**

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This bill takes effect on May 1, 2024.