

Senator Michael K. McKell proposes the following substitute bill:

WATER EFFICIENCY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses programs for water efficiency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for incentives to use water efficient landscaping in new residential development;
- ▶ grants rulemaking authority;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-273, as enacted by Laws of Utah 2020, Chapter 418

ENACTS:



26 [73-10-37.5](#), Utah Code Annotated 1953

27

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

29 Section 1. Section **63I-2-273** is amended to read:

30 **63I-2-273. Repeal dates: Title 73.**

31 [~~Section 73-1-20 is repealed on July 1, 2021~~]

32 Section [73-10-37.5](#), addressing incentives to use water efficient landscaping in new
33 residential property, is repealed on July 1, 2027.

34 Section 2. Section **73-10-37.5** is enacted to read:

35 **73-10-37.5. Incentives to use water efficient landscaping in new residential**
36 **development.**

37 (1) As used in this section:

38 (a) "District" means a water conservancy district, as that term is defined in Section
39 [73-10-32](#).

40 (b) "Division" means the Division of Water Resources.

41 (c) "Great Salt Lake basin" means the area within:

42 (i) the surveyed meander line of the Great Salt Lake;

43 (ii) the drainage areas of the Bear River or the Bear Rivers tributaries;

44 (iii) the drainage areas of Bear Lake or Bear Lakes tributaries;

45 (iv) the drainage areas of the Weber River or the Weber Rivers tributaries;

46 (v) the drainage areas of the Jordan River or the Jordan Rivers tributaries;

47 (vi) the drainage areas of Utah Lake or Utah Lakes tributaries;

48 (vii) other water drainages lying between the Bear River and the Jordan River that are

49 tributary to the Great Salt Lake and not included in the drainage areas described in Subsections

50 (1)(c)(ii) through (vi); and

51 (viii) the drainage area of Tooele Valley.

52 (d) (i) Except as provided in Subsection (1)(d)(ii), "lawn or turf" means nonagricultural
53 land planted in closely mowed, managed grasses.

54 (ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

55 (e) "New construction landscaping incentive program" means a program administered
56 by a district that pays a qualifying applicant a financial incentive to install water efficient

57 landscaping in a project area.

58 (f) "Owner" means a person who:

59 (i) contracts with a person who is licensed as a contractor or is exempt from licensure
60 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an
61 owner-occupied residence upon real property that the person:

62 (A) owns; or

63 (B) purchases after the person enters into a contract described in this Subsection

64 (1)(f)(i) and before completion of the owner-occupied residence;

65 (ii) contracts with a real estate developer to buy a residence upon completion of the
66 construction on the owner-occupied residence; or

67 (iii) purchases a residence from a real estate developer after completion of the
68 construction on the owner-occupied residence.

69 (g) "Program guidelines" means guidelines adopted by a district for the district's new
70 construction landscaping incentive program.

71 (h) "Project area" means the area of residential property in which a qualifying applicant
72 installs water efficient landscaping.

73 (i) "Qualifying applicant" means a person who is:

74 (i) an owner; or

75 (ii) a real estate developer.

76 (j) "Real estate developer" means a person having an ownership interest in real
77 property who:

78 (i) contracts with a person who is licensed as a contractor or is exempt from licensure
79 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a
80 residence that is offered for sale to the public; or

81 (ii) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades
82 Licensing Act, who engages in the construction of a residence that is offered for sale to the
83 public.

84 (k) "Residential property" means the real property on which one of the following is
85 constructed:

86 (i) single family detached housing, including single family detached housing with an
87 accessory dwelling unit; or

88 (ii) a duplex or twin home.

89 (2) For residential property within the Great Salt Lake basin, the division may:

90 (a) award a grant under Subsection (3) to a district to fund a financial incentive
91 provided through a new construction landscaping incentive program administered by the
92 district; and

93 (b) provide an incentive under Subsection (4) in an area without a new construction
94 landscaping incentive program to a qualifying applicant to install water efficient landscaping in
95 a project area.

96 (3) (a) (i) A district may obtain a grant from the division to help fund a financial
97 incentive provided to a qualifying applicant through a new construction landscaping incentive
98 program administered by the district.

99 (ii) Both the award and use of a grant under this Subsection (3) are subject to
100 Subsections (3)(b), (c), and (d).

101 (b) To obtain a grant, a district shall:

102 (i) initiate and operate a new construction landscaping incentive program;

103 (ii) limit the disbursement of grant money in the district's new construction landscaping
104 incentive program to qualifying applicants that satisfy the minimum requirements of
105 Subsections (4)(c) and (d) and:

106 (A) rules made by the division under Subsection (5)(b); or

107 (B) program guidelines approved by the division under Subsection (3)(f);

108 (iii) use the grant exclusively to fund financial incentives provided to a qualifying
109 applicant that installs water efficient landscaping in a project area in the district's new
110 construction landscaping incentive program;

111 (iv) provide matching funds for the district's new construction landscaping incentive
112 program in an amount provided in rules made by the division under Subsection (5) from
113 sources other than the grant money the district receives under this section;

114 (v) file an application with the division that:

115 (A) describes the district's new construction landscaping incentive program, including
116 verification that the new construction landscaping incentive program can and shall implement
117 the minimum requirements of Subsections (4)(c) and (d) and either rules made by the division
118 under Subsection (5)(b) or program guidelines approved by the division under Subsection

119 (3)(f);
120 (B) includes a copy of the program guidelines governing the district's new construction
121 landscaping incentive program;
122 (C) if the district wants to be subject to program guidelines in lieu of division rules
123 made under Subsection (5)(b), requests that the division approve the district's program
124 guidelines under Subsection (3)(f); and
125 (D) provides additional information requested by the division; and
126 (vi) enter into a contract with the division that requires the district to:
127 (A) verify that qualifying applicants comply with and landscaping projects proposed,
128 undertaken, and completed by qualifying applicants under the district's new construction
129 landscaping incentive program satisfy the requirements in this Subsection (3) and any contract
130 before using grant money for a financial incentive;
131 (B) agree not to use grant money for a financial incentive in any landscaping project
132 that fails to satisfy the requirements of this Subsection (3) and either rules made by the division
133 or program guidelines approved by the division under Subsection (3)(f);
134 (C) submit to the division quarterly reports on funding status; and
135 (D) prepare and submit an annual accounting to the division on the use of grant money
136 for financial incentives in the district's new construction landscaping incentive program.
137 (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an
138 accounting on the use of that grant money, a district may apply for additional grant money in
139 accordance with Subsection (3)(b).
140 (ii) The division may award a district an additional grant based on:
141 (A) the availability of grant money;
142 (B) the priority or importance of the grant proposal in relation to availability of grant
143 money, the district's new construction landscaping incentive program under this Subsection (3),
144 other new construction landscaping incentive program grant requests, and regional needs and
145 goals;
146 (C) the effectiveness of the district's new construction landscaping incentive program
147 in incentivizing qualified applicants to install water efficient landscaping;
148 (D) the district's previous compliance with this Subsection (3) and contract terms and
149 conditions; and

150 (E) any matter bearing on the district's ability to responsibly handle and disburse grant
151 money consistent with this Subsection (3) and contract terms and conditions.

152 (d) A district awarded grant money under this Subsection (3) may not use grant money
153 to pay an incentive that exceeds the maximum amounts established by the division by rule
154 under Subsection (5)(c).

155 (e) Nothing in this section prohibits a district from expending non-grant money,
156 including matching funds, under the district's new construction landscaping incentive program
157 to:

158 (i) assist an applicant that does not satisfy Subsection (4)(c) or (d); or

159 (ii) provide an incentive that exceeds a maximum amount established by the division
160 for grant money under Subsection (3)(d).

161 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to
162 use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the
163 division determines that the district's program guidelines will:

164 (i) result in at least as much water use savings as rules made under Subsection (5)(b);
165 and

166 (ii) accomplish the same objectives as rules made under Subsection (5)(b).

167 (4) (a) In an area without a new construction landscaping incentive program, the
168 division may provide an incentive to a qualifying applicant to install water efficient
169 landscaping in a project area.

170 (b) (i) If the division provides an incentive under this Subsection (4), the division shall
171 provide the incentive in the order that an application for the incentive is filed.

172 (ii) The division may terminate an application if the division determines that the
173 qualifying applicant has not completed the project within 12 months of the date on which the
174 qualifying applicant files the application for the incentive.

175 (c) To be eligible for an incentive under this Subsection (4):

176 (i) the residential property where the project area is located is within:

177 (A) a municipality that implements regional-based water efficiency standards
178 established by the division under Subsection 73-10-37(5)(d); or

179 (B) an unincorporated area of a county that implements regional-based water efficiency
180 standards established by the division under Subsection 73-10-37(5)(d);

181 (ii) the qualifying applicant shall at the time the qualifying applicant applies for the
182 incentive demonstrate that:

183 (A) the construction on the residential property is new;

184 (B) lawn or turf has not been installed on the project area; and

185 (C) water efficient landscaping is to be installed on the project area; and

186 (iii) the qualifying applicant shall agree to comply with Subsection (4)(f).

187 (d) A qualifying applicant may not receive an incentive under this section if the
188 qualifying applicant has previously received an incentive under this section for the same project
189 area.

190 (e) The amount of an incentive paid to a qualifying applicant under this Subsection (4)
191 may not exceed:

192 (i) the maximum amount established by the division in rule, as provided in Subsection
193 (5) for each square foot of water efficient landscaping installed in the project area; or

194 (ii) the maximum aggregate amount for the residential property established by the
195 division in rule as provided in Subsection (5).

196 (f) (i) If a qualifying applicant is not the owner, the qualifying application shall:

197 (A) require the owner of the residential property to maintain water efficient
198 landscaping and a drip irrigation system installed in the project area and not install lawn or turf
199 or overhead spray irrigation in the project area; or

200 (B) return to the division or to a district the payments received for installation of water
201 efficient landscaping in the project area.

202 (ii) If a qualifying applicant is the owner, the owner shall:

203 (A) maintain water efficient landscaping and a drip irrigation system and not install
204 lawn or turf or overhead spray irrigation in the project area; or

205 (B) return to the division or to a district the payments received for installation of water
206 efficient landscaping in the project area.

207 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
208 Administrative Rulemaking Act:

209 (a) establishing the process by which:

210 (i) a district obtains a grant under Subsection (3); or

211 (ii) a qualifying applicant applies for and obtains an incentive under Subsection (4);

212 (b) defining what constitutes:
213 (i) water efficient landscaping, including what irrigation is used after installation of
214 water efficient landscaping; and
215 (ii) new construction;
216 (c) establishing for funding under this section:
217 (i) the maximum incentive allowable for each square foot of installed water efficient
218 landscaping within a project area from grant money or money provided to a qualified applicant
219 under Subsection (4); and
220 (ii) a maximum aggregate incentive from grant money or money provided to a
221 qualified applicant under Subsection (4); and
222 (d) establishing the amount of matching funds, which may include labor or other
223 services in lieu of money, a district is required to provide to receive a grant under this section.
224 Section 3. **Effective date.**
225 This bill takes effect on May 1, 2024.