

## SB0118S04 compared with SB0118S03

~~deleted text~~ shows text that was in SB0118S03 but was deleted in SB0118S04.

inserted text shows text that was not in SB0118S03 but was inserted into SB0118S04.

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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: Calvin R. Musselman

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#### 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:

This bill appropriates in fiscal year 2025:

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- ▶ to Department of Natural Resources - Water Resources - Planning as a one-time appropriation:
  - from the General Fund, One-time, \$1,000,000

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

ENACTS:

**73-10-37.5**, Utah Code Annotated 1953

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

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

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

[Section 73-1-20 is repealed on July 1, 2021]

Section 73-10-37.5, addressing incentives to use water efficient landscaping in new residential property, is repealed on July 1, 2027.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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(vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii) through (vi); and

(viii) the drainage area of Tooele Valley.

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

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

(e) "New construction landscaping incentive program" means a program administered by a district that pays a qualifying applicant a financial incentive to install water efficient landscaping in a project area.

(f) "Owner" means a person who:

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

(A) owns; or

(B) purchases after the person enters into a contract described in this Subsection (1)(f)(i) and before completion of the owner-occupied residence;

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

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

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

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

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

(i) an owner; or

(ii) a real estate developer.

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

(i) contracts with a person who is licensed as a contractor or is exempt from licensure

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under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or

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

(k) "Residential property" means the real property on which single family detached housing or single family attached housing ~~{ is constructed }~~, as ~~{ authorized }~~ **further defined** by the division by rule ~~{ made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act }~~ **under Subsection (5), is constructed.**

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

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

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

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

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

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

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

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

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

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

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

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

(v) file an application with the division that:

(A) describes the district's new construction landscaping incentive program, including verification that the new construction landscaping incentive program can and shall implement the minimum requirements of Subsections (4)(c) and (d) and either rules made by the division under Subsection (5)(b) or program guidelines approved by the division under Subsection (3)(f);

(B) includes a copy of the program guidelines governing the district's new construction landscaping incentive program;

(C) if the district wants to be subject to program guidelines in lieu of division rules made under Subsection (5)(b), requests that the division approve the district's program guidelines under Subsection (3)(f); and

(D) provides additional information requested by the division; and

(vi) enter into a contract with the division that requires the district to:

(A) verify that qualifying applicants comply with and landscaping projects proposed, undertaken, and completed by qualifying applicants under the district's new construction landscaping incentive program satisfy the requirements in this Subsection (3) and any contract before using grant money for a financial incentive;

(B) agree not to use grant money for a financial incentive in any landscaping project that fails to satisfy the requirements of this Subsection (3) and either rules made by the division or program guidelines approved by the division under Subsection (3)(f);

(C) submit to the division quarterly reports on funding status; and

(D) prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's new construction landscaping incentive program.

(c) (i) Upon expenditure of 70% of the grant money awarded to a district and an accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsection (3)(b).

(ii) The division may award a district an additional grant based on:

(A) the availability of grant money;

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(B) the priority or importance of the grant proposal in relation to availability of grant money, the district's new construction landscaping incentive program under this Subsection (3), other new construction landscaping incentive program grant requests, and regional needs and goals;

(C) the effectiveness of the district's new construction landscaping incentive program in incentivizing qualified applicants to install water efficient landscaping;

(D) the district's previous compliance with this Subsection (3) and contract terms and conditions; and

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

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

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

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

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

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

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

and

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

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

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

(ii) The division may terminate an application if the division determines that the

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qualifying applicant has not completed the project within 12 months of the date on which the qualifying applicant files the application for the incentive.

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

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

(A) a municipality that implements regional-based water efficiency standards

established by the division under Subsection 73-10-37(5)(d); or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) establishing the process by which:

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

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

(b) defining what constitutes:

(i) water efficient landscaping, including what irrigation is used after installation of water efficient landscaping; ~~f. and~~

(ii) new construction; and

(iii) single family detached housing or single family attached housing;

(c) establishing for funding under this section:

(i) the maximum incentive allowable for each square foot of installed water efficient landscaping within a project area from grant money or money provided to a qualified applicant under Subsection (4); and

(ii) a maximum aggregate incentive from grant money or money provided to a qualified applicant under Subsection (4); ~~f. and~~

(d) establishing the amount of matching funds, which may include labor or other services in lieu of money, a district is required to provide to receive a grant under this section ~~f.;~~ and

(e) establishing a minimum project area size for which an incentive from grant money or money provided to a qualified applicant under Subsection (4) may be paid.

### **Section 3. FY 2025 Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

#### **Subsection 3(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the



