

1 **WATER MEASURING AND ACCOUNTING AMENDMENTS**

 2024 GENERAL SESSION

 STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

 Senate Sponsor: Michael K. McKell

2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses water measurement and accounting.

6 **Highlighted Provisions:**

7 This bill:

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- 10 ▸ makes technical changes, including repealing outdated language.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 AMENDS:

17 **73-1-21**, as last amended by Laws of Utah 2022, Chapter 27

18 **73-2-1**, as last amended by Laws of Utah 2023, Chapter 16

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

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

22 **73-1-21 . State water policy.**

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

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

28 (b) Utah will promote:

- 29 (i) water conservation, efficiency, and the optimal use of water resources, while
30 identifying intended and unintended consequences to ensure appropriate choice
31 and implementation of particular strategies;
- 32 (ii) water resource development and the creation of new water infrastructure
33 necessary to meet the state's growing demand and promote economic development;
- 34 (iii) compliance with state statutes regarding Lake Powell pipeline development and
35 Bear River development;
- 36 (iv) the timely replacement of aging or inefficient water resource, drinking water,
37 wastewater, and storm water infrastructure;
- 38 (v) the optimal use of agricultural water to sustain and improve food production and
39 the productive capacity of agricultural lands;
- 40 (vi) water quality in rivers and lakes that:
41 (A) complies with state clean water and safe drinking water statutes; and
42 (B) protects public health;
- 43 (vii) water pricing and funding mechanisms that:
44 (A) provide revenue stability while encouraging conservation, efficiency, and
45 optimization efforts;
46 (B) adequately cover infrastructure needs; and
47 (C) balance social, economic, public interest, and environmental values;
- 48 (viii) respect for water rights;
- 49 (ix) standards for accurate water use measurement, telemetry, tracking, enforcement,
50 and reporting;
- 51 (x) efforts to educate and engage the public in:
52 (A) individual actions that protect water quality, including preventing and
53 mitigating water pollution; and
54 (B) conservation practices and the efficient and optimal use of water resources;
- 55 (xi) the implementation of cyber security and physical security measures for water
56 infrastructure;
- 57 (xii) the study and consideration of mechanisms for increased flexibility in water use
58 such as water banking and split season uses;
- 59 (xiii) continued improvements in the management of water resources through
60 protection, restoration, and science-based evaluation of Utah watersheds,
61 increased reservoir capacity, and aquifer recharge or aquifer storage and recovery;
- 62 (xiv) the development and beneficial use of Utah's allocated share of interstate rivers,

- 63 including Utah's allocations under the 1922 and 1948 Colorado River Compacts
64 and the 1980 Amended Bear River Compact;
- 65 (xv) the study and development of strategies and practices necessary to address
66 declining water levels and protect the water quality and quantity of the Great Salt
67 Lake, Utah Lake, and Bear Lake, taking into consideration natural climate change,
68 natural weather systems and patterns, and normal cyclic water level change over
69 time, while balancing economic, social, and environmental needs;
- 70 (xvi) regulations and practices, including voluntary practices, that maintain sufficient
71 stream flows and lake levels to provide reasonable access to recreational activities
72 and protect and restore water quality, quantity, and healthy ecosystems, including
73 protecting groundwater and surface water sources from pollution;
- 74 (xvii) equitable access to safe, affordable, and reliable drinking water to protect
75 public health;
- 76 (xviii) regulations and practices that encourage effective treatment of wastewater to
77 maximize its availability for beneficial use and minimize depletion and the further
78 degradation of other waters;
- 79 (xix) the control of invasive species that threaten or degrade waters of the state;
- 80 (xx) coordination among the state, water providers, water users, local governments,
81 government agencies, and researchers in the study of ways weather and climate
82 will impact future water supplies, demand, and quality;
- 83 (xxi) water laws, rules, and enforcement that are consistent with this Subsection (1)
84 and encourage transparency, order, and certainty in the use of public water;
- 85 (xxii) the support and funding of research, science, and technology necessary to
86 achieve the provisions of this Subsection (1); and
- 87 (xxiii) the collaboration, cooperation, and engagement of stakeholders in the
88 identification and advancement of actions that support the provisions of this
89 Subsection (1); and
- 90 (c) Utah supports the timely and appropriate negotiated settlement of federally reserved
91 water right claims for both Native American trust lands and other existing federal
92 reservations, and opposes any future designation of public lands that does not
93 quantify any associated federally reserved water rights.
- 94 (2) State agencies are encouraged to conduct agency activities consistent with Subsection
95 (1) and implement policies established by the Legislature that promote the near- and
96 long-term stewardship of water quality and water resources.

97 (3) This section does not create a cause of action against the state's or a state agency's action
98 that is inconsistent with Subsection (1) and does not waive governmental immunity
99 under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

100 (4) The Natural Resources, Agriculture, and Environment Interim Committee shall review
101 the state water policy annually and recommend priority balancing and any other changes
102 to the Legislature.

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

104 **73-2-1 . State engineer -- Term -- Powers and duties -- Qualification for duties.**

105 (1) There shall be a state engineer.

106 (2) The state engineer shall:

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

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

109 (c) have five years experience as a practical engineer or the theoretical knowledge,
110 practical experience, and skill necessary for the position.

111 (3) (a) The state engineer shall be responsible for the general administrative supervision
112 of the waters of the state and the measurement, appropriation, apportionment, and
113 distribution of those waters.

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

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

119 (a) reports of water right conveyances;

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

121 (c) dam construction and safety;

122 (d) the alteration of natural streams;

123 (e) geothermal resource conservation;

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

125 (g) the duty of water; and

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

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

- 131 (a) water distribution systems and water commissioners;
- 132 (b) water measurement, telemetry, and reporting;
- 133 (c) groundwater recharge and recovery;
- 134 (d) wastewater reuse;
- 135 (e) the form, content, and processing procedure for a claim under Section 73-5-13 to
- 136 surface or underground water that is not represented by a certificate of appropriation;
- 137 (f) the form and content of a proof submitted to the state engineer under Section 73-3-16;
- 138 (g) the determination of water rights;
- 139 [~~h~~] ~~preferences of water rights under Section 73-3-21.5; or~~
- 140 [~~+~~] (h) the form and content of applications and related documents, maps, and reports[-] ;
- 141 or
- 142 (i) water distribution accounting.
- 143 (6) The state engineer may bring suit in courts of competent jurisdiction to:
 - 144 (a) enjoin the unlawful appropriation, diversion, and use of surface and underground
 - 145 water without first seeking redress through the administrative process;
 - 146 (b) prevent theft, waste, loss, or pollution of surface and underground waters;
 - 147 (c) enable the state engineer to carry out the duties of the state engineer's office; and
 - 148 (d) enforce administrative orders and collect fines and penalties.
- 149 (7) The state engineer may:
 - 150 (a) upon request from the board of trustees of an irrigation district under Title 17B,
 - 151 Chapter 2a, Part 5, Irrigation District Act, or another special district under Title 17B,
 - 152 Limited Purpose Local Government Entities - Special Districts, or a special service
 - 153 district under Title 17D, Chapter 1, Special Service District Act, that operates an
 - 154 irrigation water system, cause a water survey to be made of the lands proposed to be
 - 155 annexed to the district in order to determine and allot the maximum amount of water
 - 156 that could be beneficially used on the land, with a separate survey and allotment
 - 157 being made for each 40-acre or smaller tract in separate ownership; and
 - 158 (b) upon completion of the survey and allotment under Subsection (7)(a), file with the
 - 159 district board a return of the survey and report of the allotment.
- 160 (8) (a) The state engineer may establish water distribution systems and define the water
- 161 distribution systems' boundaries.
- 162 (b) The water distribution systems shall be formed in a manner that:
 - 163 (i) secures the best protection to the water claimants; and
 - 164 (ii) is the most economical for the state to supervise.

- 165 (9) The state engineer may conduct studies of current and novel uses of water in the state.
166 (10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth
167 of a water production well exempt the water production well from regulation under this
168 title or rules made under this title related to the:
- 169 (a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing,
170 disinfecting, or abandonment of a water production well; or
 - 171 (b) installation or repair of a pump for a water production well.

172 Section 3. **Effective date.**

173 This bill takes effect on May 1, 2024.