

Senator Jacob L. Anderegg proposes the following substitute bill:

SECONDARY WATER METERING REQUIREMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses the metering of pressurized secondary water.

10 **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a secondary water supplier to report certain information to the Division of Water Rights each year;
- ▶ requires a secondary water provider:
 - that begins design work for new secondary water services to certain users on or before July 1, 2019, to meter the use of water;
 - to meter the use of all of the secondary water provider's commercial, industrial, institutional, and residential users by 2039;
 - to develop and submit to the Division of Water Rights a strategy for meeting the metering requirement; and
 - to provide educational material to certain users;
- ▶ authorizes the Division of Water Rights to make, in conjunction with the Division of Natural Resources, rules regarding the requirements of and the procedure for preparing a required report or strategy;



26 ▶ requires a secondary water supplier to finance at least 25% of the total cost to meet
27 secondary water metering requirements through means other than those provided for
28 in this bill;

29 ▶ requires the Board of Water Resources to make \$20,000,000 in loans and grants
30 available each year for the financing of secondary water metering;

31 ▶ authorizes the Board of Water Resources and the Division of Water Resources to
32 make rules regarding loans and grants for financing secondary water metering and
33 exemptions;

34 ▶ creates the Secondary Water Metering Restricted Account (account);
35 ▶ requires the Division of Water Resources to make grants from the account to assist
36 secondary water suppliers to finance metering of the use of secondary water; and
37 ▶ authorizes the Division of Water Resources to make rules for the administration of
38 the account.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 ENACTS:

45 [73-10-34](#), Utah Code Annotated 1953

46 [73-10-35](#), Utah Code Annotated 1953

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

48 Section 1. Section [73-10-34](#) is enacted to read:

49 **73-10-34. Secondary water metering.**

50 **(1) As used in this section:**

51 **(a) "Board"** means the Board of Water Resources created in Section [73-10-1.5](#).

52 **(b) (i) "Commercial user"** means a secondary water user that is a place of business.

53 **(ii) "Commercial user"** does not include a multi-family residence, an agricultural user,
54 or a customer that falls within the industrial or institutional classification.

55 **(c) "Connection"** means a connection between a pressurized secondary water supply

57 system and a user.

58 (d) (i) "Industrial user" means a secondary water user that manufactures or produces
59 materials.

60 (ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a
61 mining company.

62 (e) (i) "Institutional user" means a secondary water user that is dedicated to public
63 service, regardless of ownership.

64 (ii) "Institutional user" includes a school, church, hospital, park, golf course, and
65 government facility.

66 (f) (i) "Residential user" means a secondary water user in a residence.

67 (ii) "Residential user" includes a single-family or multi-family home, apartment,
68 duplex, twin home, condominium, or planned community.

69 (g) "Secondary water" means water that is:

70 (i) not culinary or agricultural water; and

71 (ii) delivered to and used by an end consumer for the irrigation of landscaping or a
72 garden.

73 (h) "Secondary water supplier" means an entity that supplies pressurized secondary
74 water.

75 (2) A secondary water supplier that begins design work for new service on or after July
76 1, 2019, to a commercial, industrial, institutional, or residential user shall meter the use of
77 pressurized secondary water by the users receiving that new service.

78 (3) (a) Each secondary water supplier that supplies pressurized secondary water to a
79 commercial, industrial, institutional, or residential user shall meter the use of the pressurized
80 secondary water by December 31, 2039.

81 (b) Each secondary water supplier shall finance at least 25% of the supplier's total cost
82 to comply with this Subsection (3) without the use of:

83 (i) a loan described in Subsection (6); or

84 (ii) a grant described in Section 73-10-35.

85 (c) If a secondary water provider acquires a metering device that has the ability to
86 provide flow data, usage data, or both in real-time, the secondary water provider shall make the
87 data available to the user in an open-source format upon request.

88 (4) A secondary water supplier shall:

89 (a) on or before March 31 of each year, report to the Division of Water Rights:

90 (i) for commercial, industrial, institutional, and residential users whose pressurized

91 secondary water use is metered, the number of acre feet of pressurized secondary water the

92 secondary water supplier supplied to the commercial, industrial, institutional, and residential

93 users during the preceding 12-month period;

94 (ii) the number of secondary water meters within the secondary water supplier's service
95 boundary;

96 (iii) a description of the secondary water supplier's service boundary;

97 (iv) the number of connections in each of the following categories through which the
98 secondary water supplier supplies pressurized secondary water:

99 (A) commercial;

100 (B) industrial;

101 (C) institutional; and

102 (D) residential;

103 (v) for each size of connection, the number of connections in that size through which
104 the secondary water supplier supplies pressurized secondary water; and

105 (vi) the dates of service during the preceding 12-month period in which the secondary
106 water supplier supplied pressurized secondary water;

107 (b) on or before March 31, 2020, develop and submit to the Division of Water Rights
108 the secondary water supplier's strategy to comply with the metering requirement described in
109 Subsection (3); and

110 (c) each month that the secondary water supplier provides service, provide each of the
111 secondary water supplier's metered commercial, industrial, institutional, and residential users
112 with educational material regarding the user's pressurized secondary water use that shall
113 include:

114 (i) the user's pressurized secondary water use in relation to others in the area; and

115 (ii) one or more suggestions for conserving pressurized secondary water use.

116 (5) The Division of Water Rights in conjunction with the Division of Water Resources

117 shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

118 Act, establishing:

119 (a) the requirements of and the procedure for submitting a report under Subsection
120 (4)(a); and
121 (b) the requirements of and the procedure for submitting a strategy under Subsection
122 (4)(b).
123 (6) (a) Beginning July 1, 2019, and ending June 30, 2039, the board shall make at least
124 \$10,000,000 in loans available each year:
125 (i) from the Water Resources Conservation and Development Fund, created in Section
126 73-10-24; and
127 (ii) for financing, in conjunction with grants from the Secondary Water Metering
128 Restricted Account, created in Section 73-10-35, the cost of secondary water metering as
129 described in Subsection (3).
130 (b) The Division of Water Resources shall ensure that:
131 (i) in accordance with Subsection (3), the total amount available to a secondary water
132 supplier through:
133 (A) a loan described in this Subsection (6) does not exceed 25% of the supplier's total
134 cost to comply with Subsection (3); and
135 (B) a grant described in Section 73-10-35 does not exceed 50% of the supplier's total
136 cost to comply with Subsection (3); and
137 (ii) for the purpose of determining the amount of a loan under this Subsection (6) or a
138 grant described in Section 73-10-35, the calculation of a secondary water supplier's total cost to
139 comply with Subsection (3) includes secondary water metering costs the secondary water
140 supplier:
141 (A) incurs in or before May 2019; or
142 (B) finances through a loan, bond, grant, subsidy, program, or any other means not
143 described in this Subsection (6) or Section 73-10-35.
144 (c) The Division of Water Resources and board shall make rules in accordance with
145 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and
146 process for receiving a loan described in this Subsection (6).
147 (7) A commercial, industrial, institutional, or residential user may not use culinary
148 water for the regular irrigation of landscaping or a garden, if:
149 (a) the user has a connection to secondary water;

150 (b) the user's area is served with both culinary and secondary water; and
151 (c) the user's secondary water rates exceed the user's culinary water rates.

152 (8) The Division of Water Resources may exempt a secondary water supplier from the
153 requirements of this section if, after testing, there is no meter that a meter manufacturer will
154 warrant for the water in a specific location. In accordance with Title 63G, Chapter 3, Utah
155 Administrative Rulemaking Act, the Division of Water Resources may make rules for the
156 implementation of this Subsection (8).

157 Section 2. Section **73-10-35** is enacted to read:

158 **73-10-35. Creation of Secondary Water Metering Restricted Account --**

159 **Awarding of grants from the restricted account.**

160 (1) There is created with the General Fund a restricted account known as the Secondary
161 Water Metering Restricted Account.

162 (2) The restricted account consists of:

163 (a) any voluntary contributions received;
164 (b) appropriations the Legislature makes to the restricted account; and
165 (c) interest or other earnings accrued pursuant to Subsection (3)(b).

166 (3) The state treasurer shall:

167 (a) invest the money in the restricted account by following the procedures and
168 requirements of Title 51, Chapter 7, State Money Management Act; and
169 (b) deposit all interest or other earnings derived from those investments into the
170 restricted account.

171 (4) Upon appropriation from the Legislature, the Division of Water Resources shall
172 make grants from the Secondary Water Metering Restricted Account:

173 (a) to assist secondary water suppliers, as defined in Section **73-10-34**, to comply with
174 Subsection **73-10-34**(3);
175 (b) beginning July 1, 2019, and ending June 30, 2039, in the total amount of up to
176 \$10,000,000 each year; and

177 (c) in accordance with Subsection **73-10-34**(6)(b).

178 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
179 Division of Water Resources shall make rules establishing:
180 (a) criteria for awarding grants under this section; and

181 (b) criteria for determining eligibility for assistance under this section, specifically
182 including factors such as the size of the secondary water supplier's budget, the secondary water
183 supplier's ability to contribute to the cost of complying with Subsection 73-10-34(4), and the
184 water rates that would have to be charged to cover the secondary water supplier's contribution
185 to the costs.