

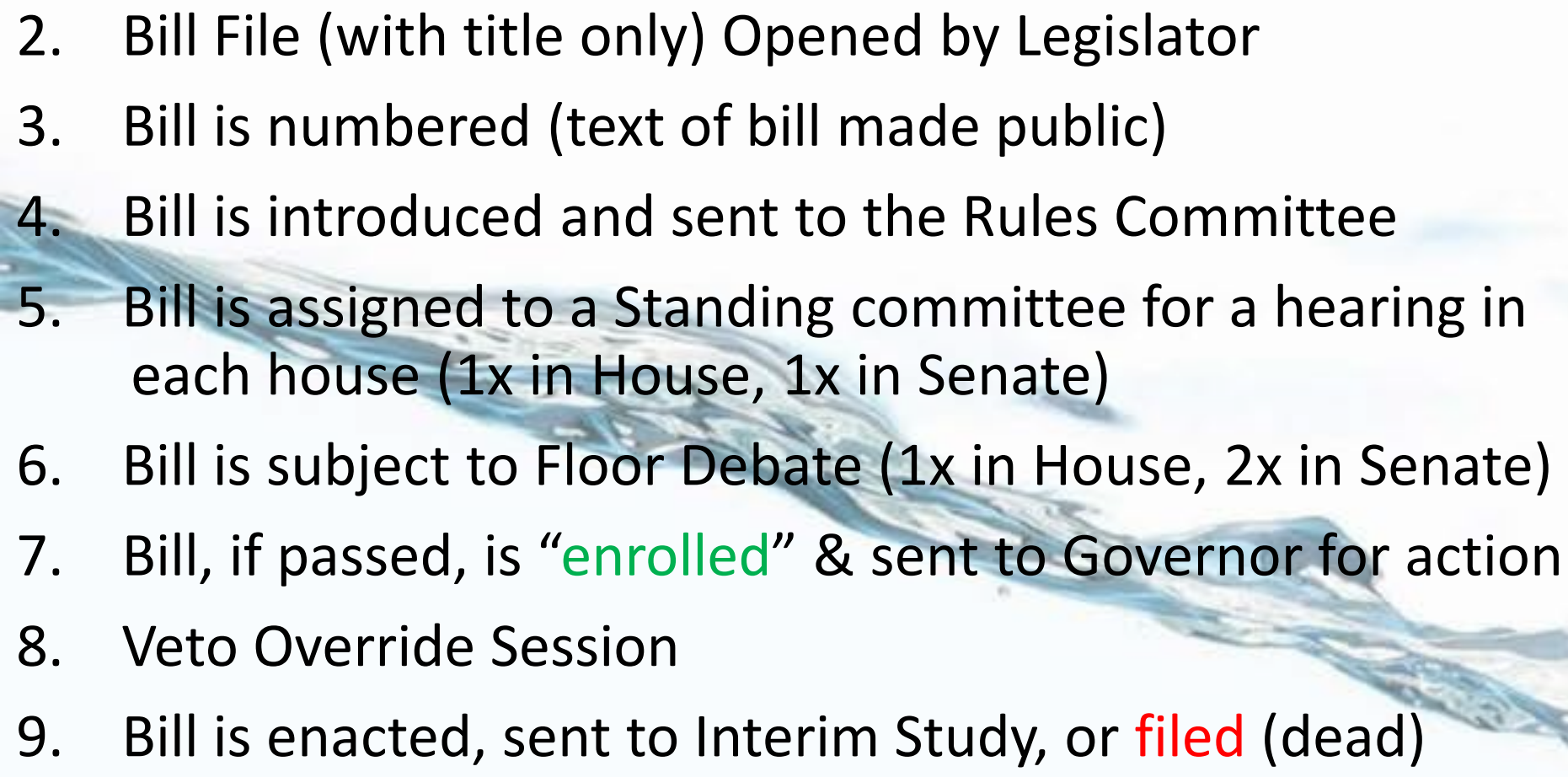
Rural Water Association of Utah
2019 Annual Conference

2019 Utah Legislative Update



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The Legislative Process – Steps for a Bill to become Law

1. Issue may be studied by an Interim Committee
 2. Bill File (with title only) Opened by Legislator
 3. Bill is numbered (text of bill made public)
 4. Bill is introduced and sent to the Rules Committee
 5. Bill is assigned to a Standing committee for a hearing in each house (1x in House, 1x in Senate)
 6. Bill is subject to Floor Debate (1x in House, 2x in Senate)
 7. Bill, if passed, is “enrolled” & sent to Governor for action
 8. Veto Override Session
 9. Bill is enacted, sent to Interim Study, or **filed** (dead)
 - 10 “38-15-1” Rule
- 
- A decorative graphic of a water splash in shades of blue and white, flowing from the right side of the slide towards the left, partially overlapping the text.

HB12 Instream Flow Water Rights Amendments

Utah law currently allows only 3 entities or groups to hold instream flow rights:

- Utah Division of Wildlife Resources
- Utah Division of Parks & Recreation, and
- A qualified “Fishing Group” that promotes fishing opportunities by protecting trout habitat

This Bill repeals the automatic repeal date for instream flow change applications filed for trout habitat. However, the statute still only allows for “fixed time” change applications for trout habitat.

- In 2018, this bill failed, but another bill extended the repeal date by one year to December 31, 2019
- This year, it passed unanimously every time a vote was taken

Rep. Hawkes
Sen. Sandall

Status

Enrolled

HJR1 Proposal to Amend Utah Constitution - Municipal Water Resources

This Joint Resolution proposes to amend the Utah Constitution as follows:

- A municipality may, by ordinance, define a water service area that includes land outside of its boundaries and serve those within that expanded service area on a permanent basis pursuant to reasonable terms and rates
- A municipality may contractually serve retail customers outside of its water service area if the water is in excess of what is needed to serve those within the water service area
- This proposal eliminates the prohibition against a municipality selling or leasing its water systems and waterworks and cleans up the language allowing a municipality to exchange water rights &/or sources

It also directs the Lt. Governor to place these proposed amendments on the ballot at the next general election and sets the effective date as January 1, 2021 if it passes

Rep. Stratton
Sen. Grover

Status

House 3rd #12

HB31

Water Supply and Surplus Water Amendments

This Bill describes the process by which a municipality may provide water service outside of its boundaries, including:

- Defining, by ordinance, the municipality's water service area outside of its municipal boundaries
- Creating a map showing the boundaries of both the municipality and the areas outside of municipality where it provides water service, and
 - Providing a copy of that map to the Utah Division of Water Rights for its website, and
 - Posting that map on the municipality's website if it has 500+ customers
- Establishing, by ordinance, reasonable rates and any regulations applicable to water service area outside of its boundaries
- Providing water service to all customers in a manner consistent with principals of equal protection
- Rationing water in times of shortage to all customers in the same manner

This bill also prohibits a municipality from selling its water system, in whole or in part, except to a public entity as defined in UCA 73-1-4

The effective date is January 1, 2021, IF the Constitutional Amendment proposed in HJR 1 is approved by voters

Rep. Coleman
Sen. _____

Status

House 3rd #10

HB125

Quantity Impairment Modifications

This Bill changes/clarifies the trigger for a rebuttable presumption in the Change Application review process that “quantity impairment” exists

- “There is a rebuttable presumption of quantity impairment ... to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; ~~and~~or

(B) beneficially used at the approved place of use.”

“ ‘Quantity impairment’ means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application.”

Rep. Albrecht

Sen. Hammert

Status

Enrolled

HB143

Water Conservation Plan Amendments

This Bill requires that Water Conservation Plans adopted after May 14, 2019 include:

- An evaluation of (1) what measures would be required to meet a target of 175 gallons per capita per day and (2) of the costs of doing so
- An evaluation of the costs of not reaching the 175 gpd target

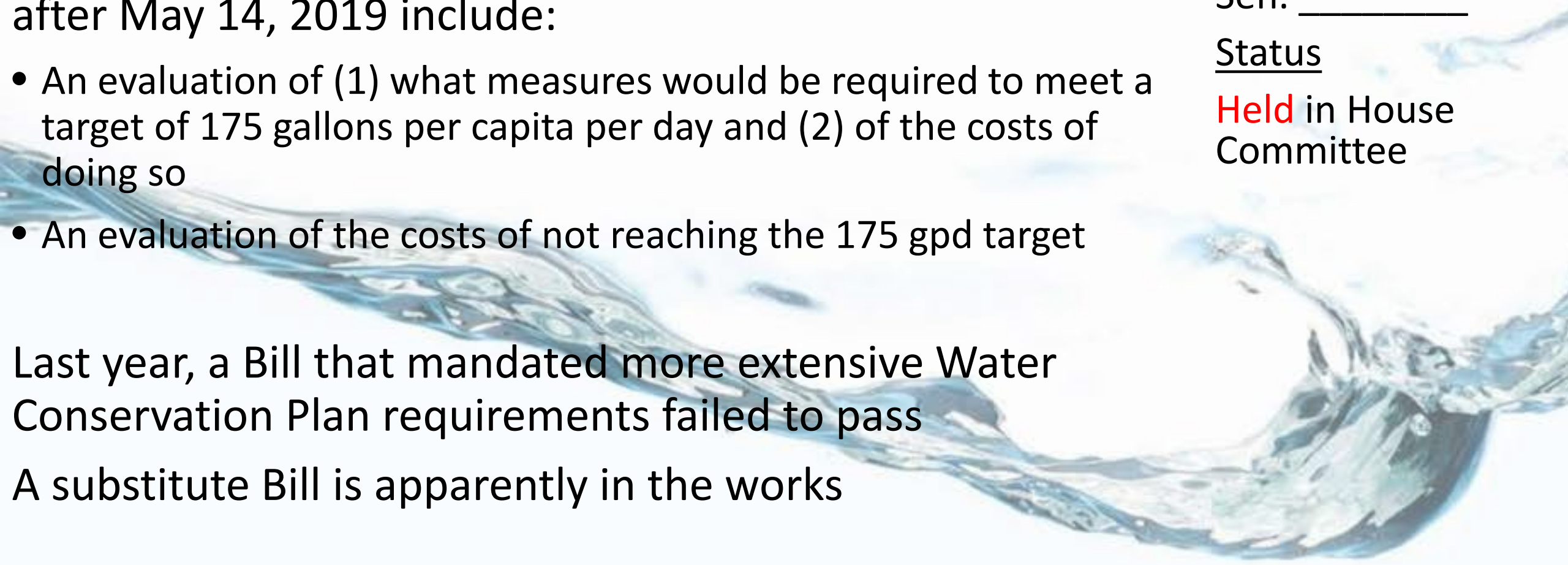
Last year, a Bill that mandated more extensive Water Conservation Plan requirements failed to pass

A substitute Bill is apparently in the works

Rep. Harrison
Sen. _____

Status

Held in House
Committee



HB355

Water General Adjudication Amendments

This is a General Adjudication cleanup bill that:

- Clarifies that the special process for proving up on pending “small domestic” applications adopted in 2009 does not override the General Adjudication process – owners of such rights must file claims in a General Adjudication or the rights will be forever barred
- Clarifies the appeals process by stating that a final ruling on an “Objection to a Proposed Determination” can be appealed without having to what for the final decree on the whole basis, division, or subdivision being adjudicated
- Clarifies the notice requirements for the List of Unclaimed Rights and includes simplified wording for the Summons for the General Adjudication

Rep. Ferry

Sen. _____

Status

House 3rd #55

HB360

School Water Testing Requirements

This Bill requires that:

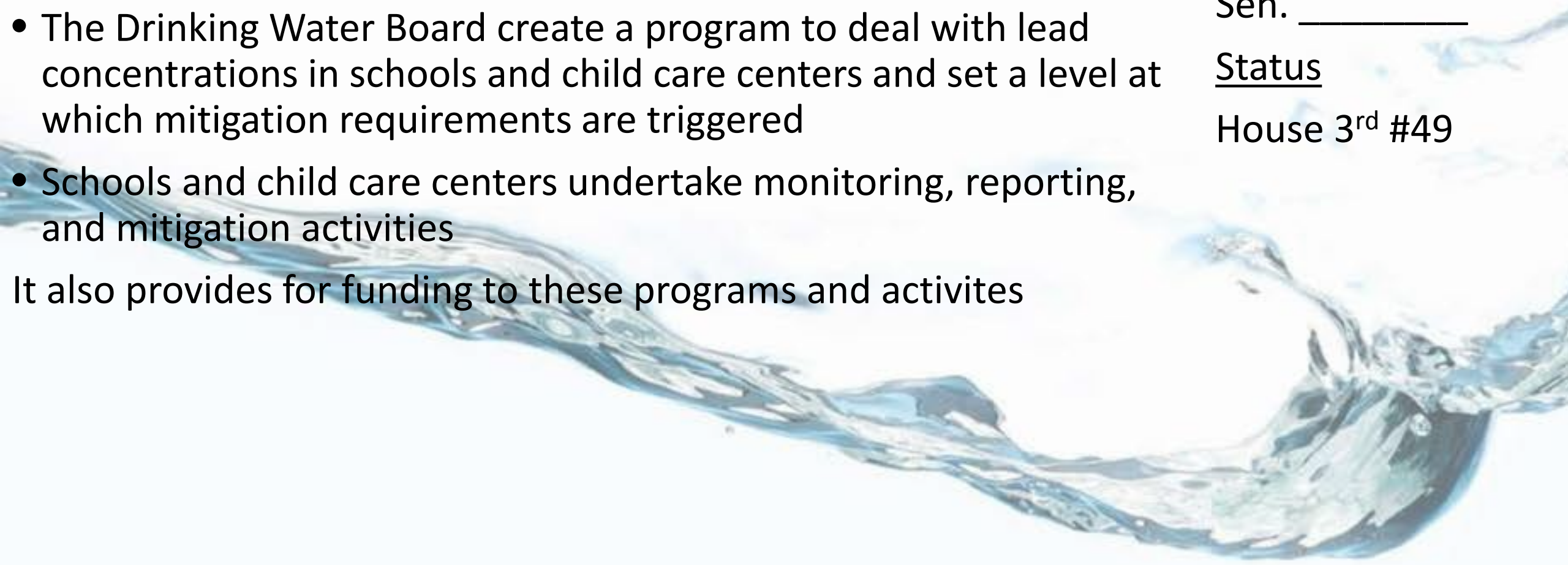
- The Drinking Water Board create a program to deal with lead concentrations in schools and child care centers and set a level at which mitigation requirements are triggered
- Schools and child care centers undertake monitoring, reporting, and mitigation activities

It also provides for funding to these programs and activities

Rep. Handy
Sen. _____

Status

House 3rd #49



HB377 Capitol Hill Water Usage Amendments

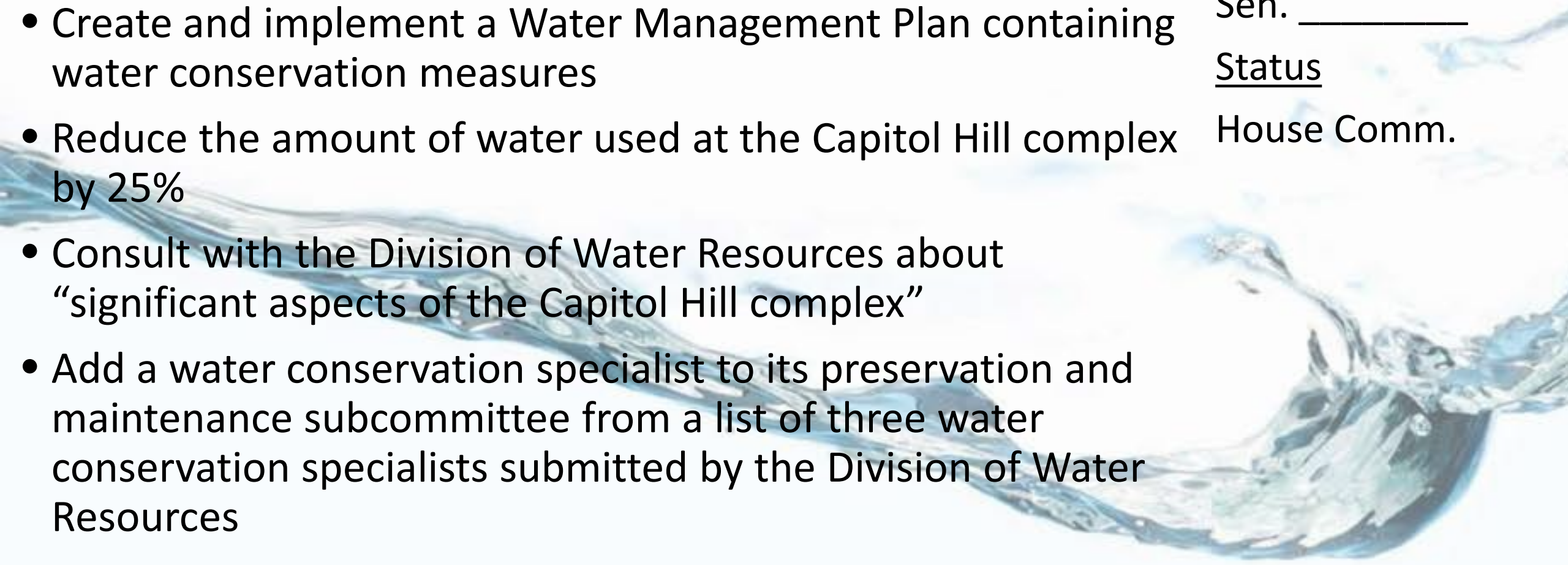
This Bill requires the State Capitol Preservation Board to:

- Create and implement a Water Management Plan containing water conservation measures
- Reduce the amount of water used at the Capitol Hill complex by 25%
- Consult with the Division of Water Resources about “significant aspects of the Capitol Hill complex”
- Add a water conservation specialist to its preservation and maintenance subcommittee from a list of three water conservation specialists submitted by the Division of Water Resources

Rep. Briscoe
Sen. _____

Status

House Comm.



HCR10 Concurrent Resolution to Address Declining Water Levels of the Great Salt Lake

This Concurrent Resolution recognizes:

- The critical importance of continued water flows into the Great Salt Lake
- The need for solutions to the declining water levels of the Lake while appropriately balancing economic, social, and environmental needs

Rep. Hawkes

Sen. Sandall

Status

Senate Comm.

The Resolution urges the Departments of Natural Resources and Environmental Quality to:

- Expeditiously, jointly, and collaboratively engage with a wide-range of stakeholders in the Great Salt Lake watershed to develop recommendations for policy and other solutions to ensure adequate water flows to Great Salt Lake and its wetlands
- Report back to the Governor and Legislature with findings, conclusions, and recommendations

HCR18

Concurrent Resolution concerning Bear Lake

This Concurrent Resolution recognizes the unique characteristics, benefits, and challenges of Bear Lake

Rep. Wilde
Sen. _____

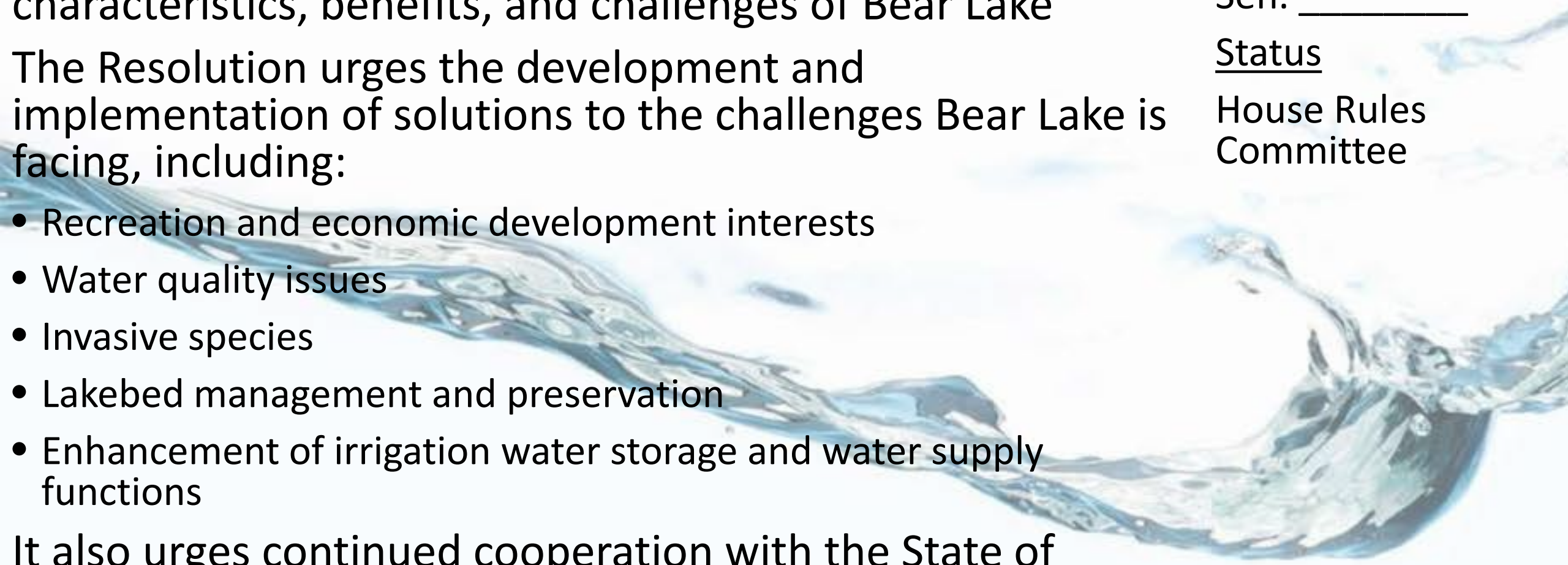
The Resolution urges the development and implementation of solutions to the challenges Bear Lake is facing, including:

Status

House Rules
Committee

- Recreation and economic development interests
- Water quality issues
- Invasive species
- Lakebed management and preservation
- Enhancement of irrigation water storage and water supply functions

It also urges continued cooperation with the State of Idaho and other stakeholders on these issues



HJR5

Joint Resolution Approving Notes to Water Rights Addenda

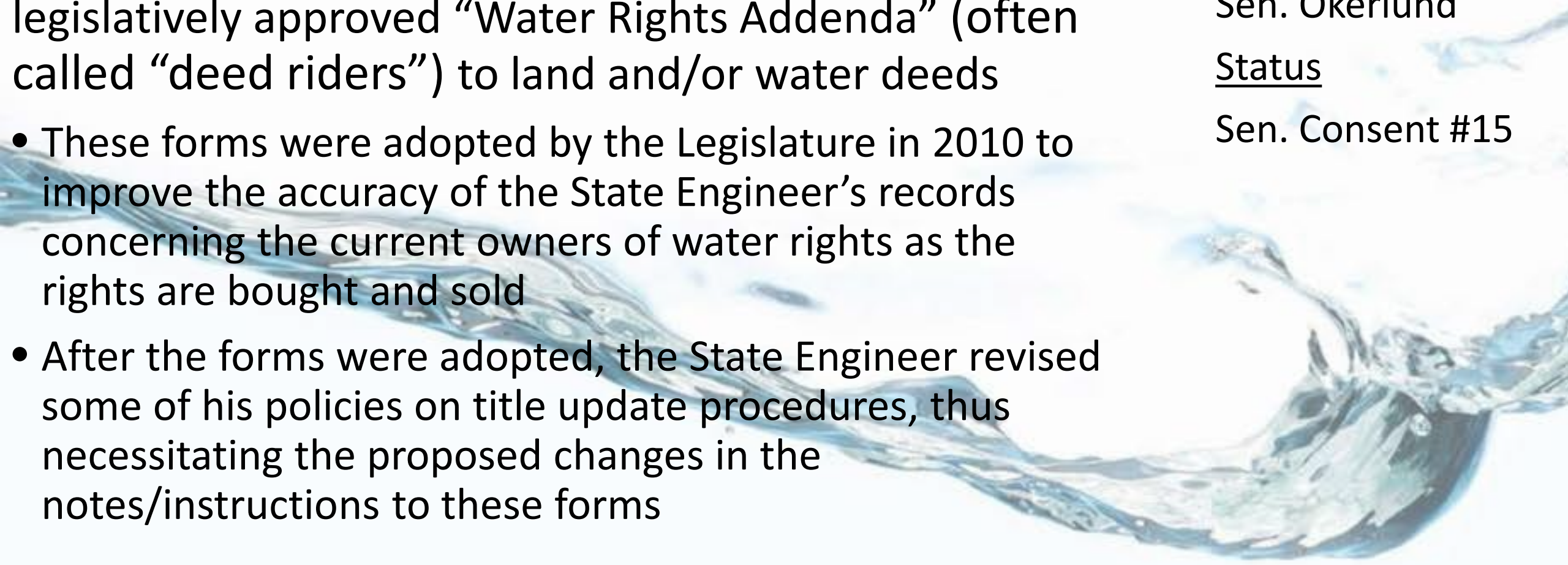
This Joint Resolution updates some notes in the legislatively approved “Water Rights Addenda” (often called “deed riders”) to land and/or water deeds

- These forms were adopted by the Legislature in 2010 to improve the accuracy of the State Engineer’s records concerning the current owners of water rights as the rights are bought and sold
- After the forms were adopted, the State Engineer revised some of his policies on title update procedures, thus necessitating the proposed changes in the notes/instructions to these forms

Rep. Owens
Sen. Okerlund

Status

Sen. Consent #15



This Bill:

- Confirms the extraterritorial jurisdiction of all municipalities to enact watershed protection ordinances that apply 15 miles upstream and 300 feet on each side of their source waters
- Confirms the extraterritorial jurisdiction of a municipality of the 1st Class to the entire watershed within its own county
- Provides that a municipality of the 1st Class may only exercise extraterritorial jurisdiction in its watershed located in other counties pursuant to a written agreement with all of the other affected counties and municipalities in that watershed
- Establishes a detailed notice and hearing procedure by which a municipality may adopt an ordinance or regulation under the municipality's extraterritorial jurisdiction

Sen. Okerlund
Rep. Hawkes

Status

Enrolled

SB52 S3 Secondary Water Metering Requirements

This Bill imposes a mandatory metering requirement on pressurized “secondary water” use in Counties of the of the 1st and 2nd Class (Weber, Davis, Salt Lake, and Utah Counties on the Wasatch Front along with Cache and Washington Counties)

- “Secondary Water” means water that is not used for culinary or on Farmland Assessment Act lands (i.e., “Greenbelt” tax lands)
- “A secondary water supplier that begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service”
- “Each secondary water supplier that supplies pressurized secondary water to a commercial, industrial, institutional, or residential user shall meter the use of the pressurized secondary water by December 31, 2039

There is a metering exemption (1) under certain circumstances where implementing this Bill will reduce recharge to culinary well; and (2) if the water is so dirty that meter manufacturers won’t warrant their meters if used with that water

The Bill also prohibits a water user from using culinary water for outdoor watering if this metering requirement causes the rates for secondary water to be higher than the rates for culinary water

It also states that the selling of surplus water is protected from forfeiture

Sen. Anderegg
Rep. Hawkes

Status

Senate 2nd #4
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SB52 S3 Secondary Water Metering Requirements (cont'd.)

The Fiscal Note on S2 estimates the cost of retrofitting the approximately 220,000 secondary water connections in the state, at a rate of \$1,300 per connection, to be \$286M. Therefore, the Bill proposes an annual appropriation for the State of \$20M over the next 20 years, \$10 per year for grants and \$10M per year for loans

- The local secondary water supplier will need to pay for, or finance on its own, at least 25% of the cost of the retrofitting project
- Up to 25% of the cost can be financed with a loan from the Board of Water Resources
- Up to 50% of the cost can be covered by grants from the Board of Water Resources

Once the meters are installed, the secondary water supplier is required to:

- Report monthly to each water user “the user's pressurized secondary water use in relation to others in the area; and one or more suggestions for conserving pressurized secondary water use”
- If the meters produce real-time data, that data is to be made available online to users on a real-time basis
- Report annually (by March 31st) to the Division of Water Rights detailed information about its metered system and secondary water usage

Sen. Anderegg
Rep. Hawkes

Status

Senate 2nd #25

SB66

Dam Safety Amendments

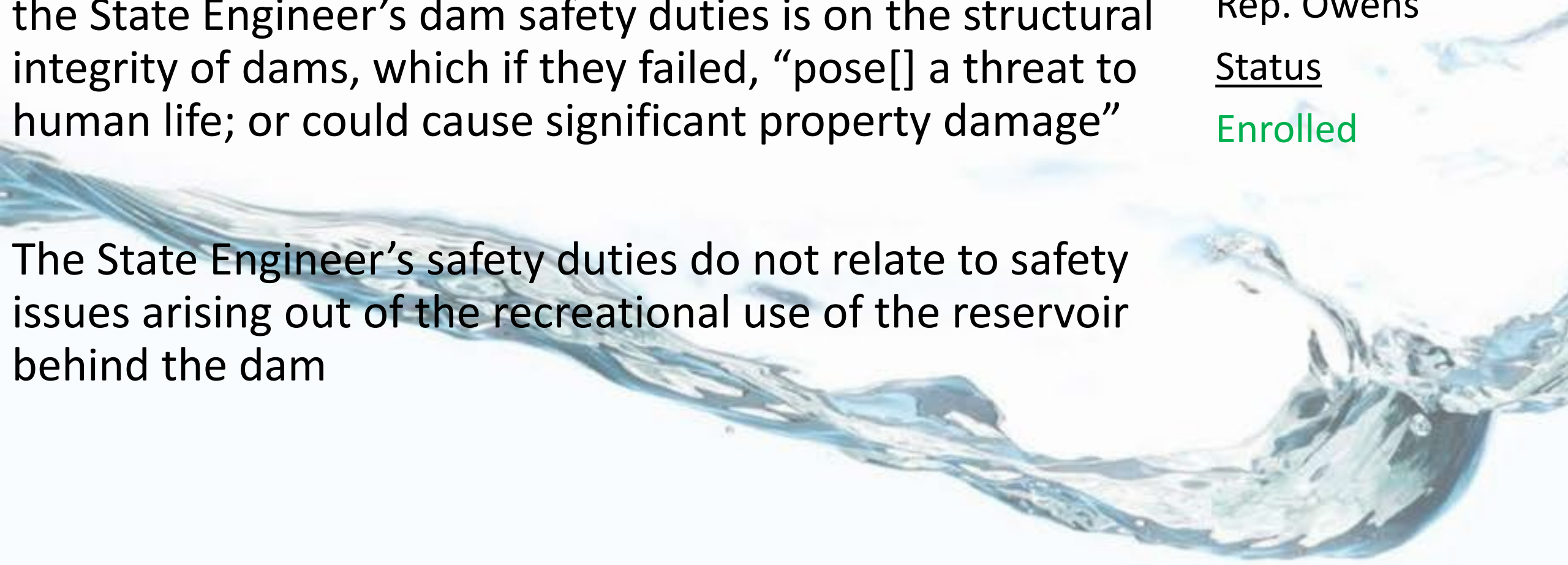
This is a cleanup Bill that expressly states that the focus of the State Engineer's dam safety duties is on the structural integrity of dams, which if they failed, "pose[] a threat to human life; or could cause significant property damage"

Sen. Sandall
Rep. Owens

Status

Enrolled

The State Engineer's safety duties do not relate to safety issues arising out of the recreational use of the reservoir behind the dam



SB189 Temporary Land Use Regulation Amendments

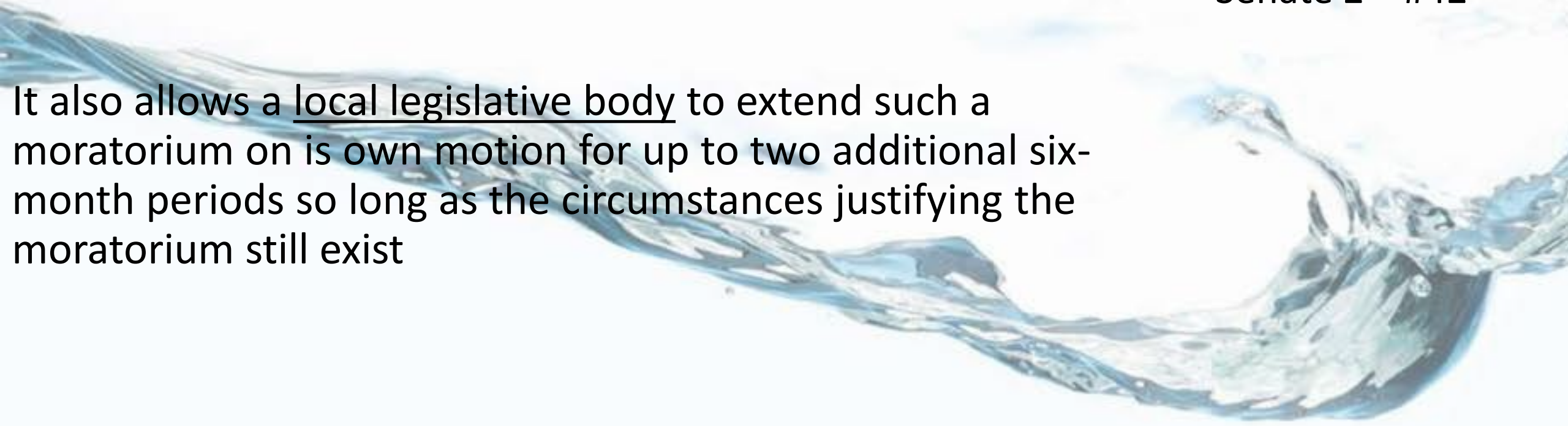
This Bill adds a study concerning water availability, capacity, and/or quality to the list of circumstances that might justify a local legislative body imposing a temporary (up to six months) prohibition or moratorium on development

Sen. Okerlund
Rep. _____

Status

Senate 2nd #42

It also allows a local legislative body to extend such a moratorium on its own motion for up to two additional six-month periods so long as the circumstances justifying the moratorium still exist



SCR9

Concurrent Resolution regarding Navajo Water Rights Settlement Agreement

This Concurrent Resolution declares support for the settlement agreement negotiated between the Navajo Nation, the United State, and the State of Utah on the federally reserved water rights for the Navajo Nation

It also encourages Congress and Utah's congressional delegation to enact legislation ratifying and funding this settlement agreement

Utah has already established and partially funded an account for its \$8M share of the funding required by the settlement agreement

Sen. Hinkins
Rep. _____

Status

Senate Consent #14

SJR1 Joint Resolution supporting the Study of Water Banking in Utah

This Joint Resolution encourages:

- The study of possible options to create and develop water banks as recommended in the 2017 State Water Strategy report
- The development of recommended water banking legislation for the 2020 General Session of the Legislature
- That such legislation should:
 - (1) recognize that the majority of water rights in Utah are agricultural in nature;
 - (2) incentivize agricultural water users to participate in water banking;
 - (3) protect against abandonment and forfeiture for water rights placed within a water bank;
 - (4) minimize the potential for water right impairment; and
 - (5) ensure that water placed within a water bank may be leased or otherwise used for any lawful purpose.

Sen. Iwamoto
Rep. Barlow

Status

Enrolled

2019 “Interim” Topics likely to be Discussed

Likely candidates include:

- Bills that do not pass in this session
- Water Banking
- Water Conservation & Conservation Plans
- Water Reuse
- Water Project Financing
- Regional Watershed Councils
- More Water Code clarifications and technical changes

Status

Discussion
pending



QUESTIONS ?



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Status

Session Over!