

Water & The Law

257 East 200 South, Suite 500 | Salt Lake City, UT 84111 | 801.413.1600

Legislative Preview 2021 Issue

[2021 Legislative Preview on
Water Related Bills](#)

[Cedar City Valley Groundwater
Management Plan](#)

[New Colorado River
Commissioner for Utah](#)

Contact Us

If you have any questions or if you would like to see something discussed in the future, please let us know by sending an e-mail to info@water.law

or contact one of us directly through the following links:

[Craig Smith](#)
[Jeffry Gittins](#)
[Nathan Bracken](#)
[Devin Bybee](#)
[Donald N. Lundwall](#)
[Ethan Smith](#)

To view previous newsletters, visit our website www.Water.law

Upcoming Conferences

Rural Water Association of Utah Annual Conference
March 1-5, 2021
St. George, UT
and Online
For more information click [here](#)

Water Blog

Greetings!

Welcome to the 2021 Legislative Preview Issue of *Water & The Law*. We hope you will find this newsletter to be helpful and informative. As always, we welcome your feedback. If you have questions or comments, please reply to this e-mail or call us at 801-413-1600.

Smith Hartvigsen, PLLC

2021 Legislative Preview on Water Related Bills

House Bills

H.B. 13 - School and Child Care Center Water Testing Requirements (Rep. Stephen G. Handy)

House Bill 13 requires each school and childcare center to test at least 20% of their water taps for lead by December 31, 2024. The samples must be submitted to a certified laboratory for testing. The schools and childcare centers may be eligible for reimbursement of the testing costs from the Division of Environmental Quality, subject to administrative rules to be drafted. If a test result shows actionable levels of lead, the school or childcare center must take steps to stop using the water tap or reduce the lead level below actionable levels. The bill seeks to appropriate \$2 million from the education fund to reimburse public schools for the required testing.

To read the full text of the bill, [click here](#)

H.B. 14 - Water Conservancy District Amendments (Rep. Stephen G. Handy)

House Bill 14 amends provisions of the Election Code by creating a process for filling a vacancy on the board of a Water Conservancy District located in more than one county. In particular, H.B. 14 requires: the board to give notice of the vacancy to the county legislative bodies that nominated the vacating trustee; the county legislative bodies that nominated the vacating trustee to compile a list of three (3) nominees to fill the vacancy; and the governor, with the advice and consent of the Senate, to appoint an individual to fill the vacancy from the nominees submitted.

To read the full text of the bill, [click here](#)

H.B. 24 - State Engineer Electronic Communications (Rep. Joel Ferry)

House Bill 24 allows the State Engineer to notify applicants who submit recovery permits, recharge permits, permanent change

To view more information about water law in Utah, visit our water blog at

utahwaterrights.blogspot.com



Connect with us on Facebook at

www.facebook.com/SmithHartvigsen

applications, temporary change applications, and proofs of appropriation through electronic notification if receipt is verifiable. Currently, the State Engineer must notify applicants through mail of due dates, approvals, rejections, notices of lapsing, and proofs of completion. This bill seeks to expand the traditional notification of mail and provide the ability of the State Engineer to "send notice electronically if receipt is verifiable." No definition or explanation is given of which kinds of electronic notifications with receipts would be utilized by the State Engineer.

To read the full text of the bill, [click here](#)

H.B. 29 - Statewide Aquatic Invasive Species Emergency Response Plan

(Rep. Keven Stratton)

House Bill 29 tasks the Division of Wildlife Resources with developing a plan to address the potential introduction and spread of aquatic invasive species across Utah, including Dreissena mussels. The Division of Wildlife Resources is required to develop the emergency response plan by August 1, 2021 and submit it to the Natural Resources, Agriculture, and Environment Interim Committee. The emergency response plan must include provisions for annual review, defining detection of aquatic invasive species, and designates the Division of Wildlife Resources as the agency that will coordinate the emergency response plan.

To read the full text of the bill, [click here](#)

H.B. 98 - Local Government Building Regulation

(Rep. Paul Ray)

House Bill 98 would prohibit a municipality or a county from regulating certain building design elements and landscaping requirements, effectively prohibiting land use authorities enacting water-efficient land use ordinances. The bill would also allow homebuilders to opt out of building inspection requirements and site plan reviews if the homebuilder hires a licensed inspector to conduct the inspections and perform the reviews. Private inspector hired by the homebuilder could also issue a certificate of occupancy after performing the necessary reviews and inspections. Most site plan reviews encompass a number of public safety and water-related considerations, including reviews to determine that the site plan complies with applicable stormwater requirements. HB 98 would also exempt repairs to buildings that have been damaged by a natural disaster from the requirements of the State Construction Code and building permit requirements.

To read the full text of the bill, [click here](#)

H.B. 107 - Subdivision Plat Amendments

Sponsor - Rep. Joel Ferry

House Bill 107 requires an owner of land to seek a municipality's or county's approval before recording a subdivision plat. Specifically, the owner of land must describe the utility conveyance facilities on the plat and notify the owners of these facilities before submitting the plat for approval. Utility conveyance facilities include an underground facility, a water conveyance facility, and any water conveyance facility that is located, entirely or partially, within 100 feet of the plat. After the plat is submitted, the municipality or county will contact the facility owner asking for information on access to the facility, maintenance of the facility, and other concerns.

To read the full text of the bill, [click here](#)

H.B. 131 - State Facility Energy Efficiency Amendments
(Rep. Stephen G. Handy)

House Bill 131 aims to improve the efficiency of utilities, including water use, at state facilities. By July 1, 2022, each state facility must provide the Division of Facilities Construction and Management with one year of water use information. The Division will use that information to identify projects that could increase water use efficiency at state facilities. The Division will then work with the identified facilities to complete the projects.

To read the full text of the bill, [click here](#)

H.B. 144 - Water Pricing Structure
(Rep. Carol Spackman Moss)

House Bill modifies how tiered water rates are structured by retail water providers. By no later than January 1, 2022, retail water suppliers must create a culinary water rate structure that considers the lot size of a customer receiving water from the retail water provider in creating a block unit if the retail water provider provides water that may be used by the customer for outdoor use. H.B. 144 also requires a retail water provider to provide the foregoing lot sizes used in creating block units in billing notices, or in a notice that is distributed to customers at least annually.

To read the full text of the bill, [click here](#)

H.B. 171 - Agricultural Land Use Regulation
(Rep. Scott Chew)

House Bill 171 seeks to restrict a municipality's or county's ability to regulate (1) crop type within certain areas and (2) industrial hemp producer licensees. First, HB 171 would prohibit a municipality or county from adopting a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in either an agricultural zone or in land that is assessed under the Farmland Assessment Act. Second, HB 171 would prohibit a municipality or county from regulating an industrial hemp producer licensee if the regulation were in conflict of the Hemp and Cannabinoid Act, applicable case law, among other legal authority.

To read the full text of the bill, [click here](#)

H.B. (unnumbered) - Merger of Department of Natural Resources and Department of Environmental Quality
(Rep. Casey Snider)

This bill proposes to merge the Department of Environmental Quality and the Department of Natural Resources into one agency. Proponents of the bill assert that both agencies share overlapping missions which result in redundancy and that by merging the agencies their processes could be simplified and streamlined. Opponents of the bill are concerned that this bill would diminish the authority of the officials protecting Utah's environment and that despite some overlap, these agencies have distinct and crucial missions and functions that may be lost in the merger. Currently, the Department of Environmental Quality has a budget of about \$81 million, employs 350 full-time and 43 part-time employees, and houses the Divisions of Water Quality, Air Quality, Drinking Water, Environmental Response and Remediation, and Waste Management and Radiation

Control. The Department of Natural Resources has a budget of about \$280 million and employs between 1,100 and 1,500 (depending on the number of seasonal employees) and houses the Divisions of Forestry, Fire, and State Lands; Geological Survey; Oil, Gas and Mining; State Parks; Water Rights; Water Resources; and Wildlife Resources. Additionally, the Public Lands Policy Coordinating Office, the Office of Energy Development, and the Office of Outdoor Recreation may also be consolidated in this bill.

To read the full text of the bill, [click here](#)

H.C.R. 1 - Concurrent Resolution Encouraging A Balanced Approach to the Release of Water from Flaming Gorge
(Rep. Scott Chew)

House Concurrent Resolution 1 is a resolution that calls on the Legislature and the Governor to support the creation of a new management plan for Flaming Gorge Dam to provide a "balanced approach to the release of water from the Flaming Gorge Dam." The resolution claims that the Bureau of Reclamation's current operation of the dam to support the Upper Colorado River Endangered Fish Recovery Program creates physical and economic impacts to the "Green River Stakeholders" group, which consists of local communities, recreational businesses, ranchers, farmers, landowners, and individuals within the Green River corridor. The resolution states that adverse impacts include the erosion of banks, issues with sediment, the sub-saturation of private land due to high water leases, and floods over banks of the river during high flows. The resolution proposes partnerships with private entities to compensate landowners for shore recovery and efforts to recover the endangered fish, so they are no longer endangered.

To read the full text of the bill, [click here](#)

Cedar City Valley Groundwater Management Plan

On January 11, 2021, the Utah Division of Water Rights formally adopted the Cedar City Valley Groundwater Management Plan. The primary objective of the Plan is to ensure that groundwater withdrawals in the area do not exceed the safe yield. To achieve this objective, water rights will be "phased out" over time based on priority dates. The Plan does allow for water users to agree to participate in a voluntary arrangement to manage groundwater withdrawals on a system other than by priority date.

The Plan is a significant development in the management of groundwater resources in the area and will affect water rights and water uses in the area for several decades to come. All groundwater users in the area should be well acquainted with the Plan and what it means for their individual water rights in the future.

To read the full Plan, click [here](#).

New Colorado River Commissioner for Utah

Utah Governor Spencer J. Cox has announced the appointment of Gene Shawcraft as the Utah Commissioner to the Upper Colorado River Commission. The Commission is an interstate water administrative agency of the upper basin states (Colorado, New Mexico, Utah, and Wyoming) that works to safeguard their respective

rights while meeting their obligations to the lower basin states (Arizona, California, and Nevada). Mr. Shawcraft currently serves as the general manager of the Central Utah Water Conservancy District, which is the largest diverter of Colorado River water for municipal and industrial uses in Utah. Mr. Shawcraft replaces Todd Adams, the director of the Utah Division of Water Resources, who previously served as the Utah Commissioner.

To read the full press release, [click here](#).

We welcome feedback and questions. Please contact us at info@Water.law
Or Visit us at www.Water.law

This newsletter and the information provided herein are for informational and/or advertising purposes only, and are neither offered nor meant as legal advice or opinion on any issue or matter. Receipt or review of this newsletter does not, nor is it intended to, create an attorney-client relationship with Smith Hartvigsen. A person should not rely or act on any particular matter based on the information included in this newsletter without seeking appropriate legal counsel or other appropriate advice.

Copyright 2021