

Effective 3/21/2022

Chapter 16
Great Salt Lake Watershed Enhancement Program

Part 1
General Provisions

65A-16-101 Definitions.

As used in this chapter:

- (1) "Conservation organization" means an institution, corporation, foundation, or association that is:
 - (a) private;
 - (b) nonprofit; and
 - (c) founded for the purpose of promoting conservation of natural resources.
- (2) "Council" means the Great Salt Lake Advisory Council created in Section 73-30-201.
- (3) "Division" means the Division of Forestry, Fire, and State Lands.
- (4) "Eligible applicant" means two or more conservation organizations that submit a joint grant application to the division under Section 65A-16-201 and meet the criteria listed in Subsection 65A-16-201(3)(a).
- (5) "Grant money" means money the division awards to an eligible applicant pursuant to this chapter.
- (6) "Grantee" means an eligible applicant that receives a grant authorized under this chapter.
- (7) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.
- (8) "Program" means the Great Salt Lake Watershed Enhancement Program created under Section 65A-16-201.

Enacted by Chapter 78, 2022 General Session

65A-16-102 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Subsection 65A-16-201(5)(c), the division may make rules to administer the program in accordance with this chapter.

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Part 2
Program Established

65A-16-201 Great Salt Lake Watershed Enhancement Program established.

- (1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue grant money to establish a water trust to implement projects, programs, or voluntary arrangements that:
 - (a) retain or enhance water flows to:
 - (i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and
 - (ii) improve water quality and quantity for the Great Salt Lake within the Great Salt Lake watershed;

- (b) conserve and restore upstream habitats that are key to protecting the hydrology and health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;
 - (c) attract or leverage other public or private funding to enhance and preserve the Great Salt Lake watershed;
 - (d) engage agricultural producers, local landowners, local planning authorities, and others to support the Great Salt Lake;
 - (e) support or benefit the Great Salt Lake's natural infrastructure;
 - (f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed that benefit hydrologic or ecosystem functions of the Great Salt Lake;
 - (g) support efforts to integrate water planning and management efforts that benefit the Great Salt Lake watershed;
 - (h) undertake assessments or studies as necessary, consistent with the goals of this Subsection (1);
 - (i) support projects or programs to respond to low water levels and rising salinity in the Great Salt Lake;
 - (j) require the creation and operation of one or more endowments to sustain the water trust and fulfill the purposes of this chapter; or
 - (k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect the Great Salt Lake.
- (2)
- (a) Subject to legislative appropriations, the division shall award a one-time grant to one eligible applicant to establish a water trust authorized under this section.
 - (b) The amount of the one-time grant under this Subsection (2) shall be equal to the entire appropriation made to the division to implement this chapter.
 - (c) Notwithstanding the requirements for the division issuing a one-time grant under this section, after the grant is issued, the division may receive additional appropriations to be used for the purposes of this chapter, including providing money to the water trust created under this chapter.
- (3) To be considered for the one-time grant under Subsection (2), an eligible applicant shall submit a written application to the division within 60 days of March 21, 2022, that:
- (a) demonstrates that the eligible applicant meets the following criteria that are necessary to submit a written application, that the eligible applicant:
 - (i) has offices and staff located in Utah; and
 - (ii) individually or collectively possesses:
 - (A) a history and ability to attract private funding to implement water and land conservation projects;
 - (B) knowledge and experience with the Great Salt Lake and the Great Salt Lake watershed;
 - (C) knowledge and experience managing wetlands in the vicinity of the Great Salt Lake;
 - (D) knowledge and experience in the creation of three or more water trusts or water funds;
 - (E) knowledge and experience in securing approval from the Division of Water Rights for water right applications that support the beneficial use of water in the Great Salt Lake;
 - (F) knowledge and experience with Utah water laws; and
 - (G) participation in the development of studies and reports on the Great Salt Lake and Utah water policy;
 - (b) how the applicant will accomplish the objectives of Subsection (1);
 - (c) how the applicant will satisfy Part 3, Water Trust; and

- (d) a description of the types of money, in-kind contributions, and other resources the applicant could contribute or attract to support the creation, operation, and administration of a water trust.
- (4) The division, in consultation with the council and the director of the Division of Water Quality, shall evaluate and rank the applications received under Subsection (3) according to each eligible applicant's experience and demonstrated ability to:
 - (a) attract and secure public and private funding to implement water and land conservation projects;
 - (b) address water quality and hydrology issues of the Great Salt Lake and within the Great Salt Lake watershed;
 - (c) create and operate water trusts;
 - (d) secure approval from the Division of Water Rights for water right applications that support beneficial use of water in the Great Salt Lake;
 - (e) understand, use, and work to improve Utah water laws in a manner that benefits the Great Salt Lake watershed while protecting other beneficial uses of water; and
 - (f) participate in collaborative efforts to develop strategies and recommendations to ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.
- (5)
 - (a) Within 90 days of March 21, 2022, the division shall select the highest ranking eligible applicant as the grantee.
 - (b) The division shall distribute the appropriated money to the grantee as soon as reasonably practicable following the execution of an agreement or agreements that satisfy the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2).
 - (c) The division shall issue the grant within the time period required under this Subsection (5) notwithstanding whether the division has adopted rules to administer the program under Section 65A-16-102.
- (6) If the division does not receive an application from an eligible applicant that satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for proposals under a competitive award process and shall select the most qualified applicant to receive the grant.

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65A-16-202 Oversight.

- (1) The division shall oversee whether a grantee and the water trust that the grantee establishes comply with this chapter.
- (2)
 - (a) The division, in consultation with the council and the Division of Water Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for a grantee or water trust that fails to comply with this chapter.
 - (b) The rules establishing interventions under Subsection (2)(a) shall include, among other actions, requiring the grantee or water trust to return unexpended grant money to the division for failure to comply with this chapter.
- (3) This section may not be construed as limiting the state auditor's enforcement authority under Section 51-2a-201.5.

Enacted by Chapter 78, 2022 General Session

65A-16-203 Grantee requirements.

A grantee that receives grant money under this chapter shall:

- (1) comply with Section 51-2a-201.5, Subsection 63J-1-220(2), and other applicable laws, regulations, ordinances, or rules; and
- (2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to operate the water trust in a manner required by Section 65A-16-301, provided that this chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

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**Part 3
Water Trust**

65A-16-301 Water trust -- Powers and duties -- Advisory councils.

- (1) The grantee under this chapter shall establish a water trust that:
 - (a) is organized:
 - (i) as a private nonprofit organization; or
 - (ii) as an agreement between two or more conservation organizations; and
 - (b) complies with this section.
- (2) A water trust created under this section shall:
 - (a) use a fiduciary to hold and administer grant money appropriated under this chapter;
 - (b) subject to Subsection (6):
 - (i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;
 - (ii) file with the state auditor on or before June 30 of each year the accounting report that:
 - (A) satisfies Subsection 51-2a-201.5(2);
 - (B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and
 - (C) includes an itemized accounting of the costs incurred under Subsection (3)(a);
 - (iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:
 - (A) the division;
 - (B) the Division of Water Quality;
 - (C) the council; and
 - (D) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;
 - (iv) file with the division on or before January 31 of each year a report that satisfies the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and
 - (v) provide a copy of the report described in Subsection (2)(b)(iv) to:
 - (A) the Division of Water Quality;
 - (B) the council; and
 - (C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and
 - (c) comply with applicable laws, regulations, ordinances, and rules.
- (3) A water trust established by a grantee under this section:

- (a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;
 - (b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and
 - (c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:
 - (i) invest and account for grant money and private money separately; and
 - (ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).
- (4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).
- (5)
- (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.
 - (b) At least one of the advisory councils shall consist of nine members with a representative from the following:
 - (i) agriculture;
 - (ii) a private land owner adjacent to the Great Salt Lake;
 - (iii) a conservation organization dedicated to the preservation of migratory waterfowl;
 - (iv) a conservation organization dedicated to the protection of non-game avian species;
 - (v) another conservation organization working on Great Salt Lake issues;
 - (vi) aquaculture;
 - (vii) mineral extraction;
 - (viii) a water conservancy district; and
 - (ix) wastewater treatment facilities.
- (6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

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