

1 **Rule Against Perpetuities Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Troy Shelley

Senate Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This bill amends provisions relating to the rule against perpetuities.

5 **Highlighted Provisions:**

6 This bill:

- 7
- 8 ▶ defines terms;
 - 9 ▶ provides that a water right subordination agreement does not create a nonvested right for
 - 10 purposes of the rule against perpetuities; and
 - 11 ▶ provides that the provisions this bill enacts apply retroactively.

12 **Money Appropriated in this Bill:**

13 None

14 **Other Special Clauses:**

15 None

16 **Utah Code Sections Affected:**

17 ENACTS:

18 **75-2-1210**, Utah Code Annotated 1953

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

20 Section 1. Section **75-2-1210** is enacted to read:

21 **75-2-1210 . Water right subordination agreements not subject to the rule against**

22 **perpetuities.**

23 (1) As used in this section:

24 (a) "Person with control of a water right" means:

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- 26 (i) the holder of a water right approved by the state engineer in accordance with Title
 - 27 73, Chapter 3, Appropriation;
 - 28 (ii) the record owner of a perfected water right; or
 - 29 (iii) a person who has written authorization from a person described in Subsection
 - 30 (1)(a)(i) or (ii) to enter into a water right subordination agreement.

- 31 (b) "Water right" means:
32 (i) a right to use water evidenced by any means identified in Section 73-1-10; or
33 (ii) a right under an application that the state engineer approves under Title 73,
34 Chapter 3, Appropriation:
35 (A) to appropriate water;
36 (B) for a change of use of water; or
37 (C) for the exchange of water.
- 38 (c) "Water right subordination agreement" means a written agreement in which a person
39 with control of a water right consents to a water right standing in order of priority
40 behind one or more water rights that would otherwise be junior in priority.
- 41 (2) A water right subordination agreement does not create a nonvested property interest that
42 is subject to:
43 (a) this chapter; or
44 (b) the common law rule against perpetuities.
- 45 (3) This section applies retroactively.
- 46 Section 2. **Effective Date.**
47 This bill takes effect on May 6, 2026.