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# Critics say water plan appears to move 90% of pipeline cost to Utah taxpayers

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**Lake Powell water • Regulators promise revision and more discussion; opponents say public input is lacking.**

(Leah Hogsten | The Salt Lake Tribune) Officials from the Federal Energy Regulatory Commission (FERC) visited Utah in September 2016, examining the 139-mile route of the proposed Lake Powell Pipeline. The public tour was so that FERC could view the pipeline's planned hydropower stations, proposed alignment and the environment the pipeline will cross.

Up to 90 percent of the cost of the Lake Powell Pipeline could fall to Utah taxpayers, critics say, if a set of newly proposed water rules remains unchanged.

The rules, discussed during a Tuesday meeting of the State Water Development Commission, are the first draft of guidelines for how to allocate money from the controversial Water Infrastructure Restricted Account (WIRA), funded by sales tax.

The guidelines now state that "beneficiaries of projects to develop the Colorado and Bear rivers as described in the Lake Powell Pipeline Development Act and Bear River Development Act will be required to provide at least 10 percent of the project cost."

Rep. Joel Briscoe, D-Salt Lake City, said he worried that if beneficiaries of such large water projects were required to repay only 10 percent of the costs, state taxpayers would end up footing the other 90 percent of the bill.

"That could end up being a max, instead of a minimum … the way I read that," he said.

Under the 2006 act authorizing construction of the Lake Powell Pipeline, recipients of the water — the Kane and Washington county water conservancy districts — must pay off at least 70 percent of the project costs within 50 years of when they begin taking the water.

Eric Millis, director of the Utah Division of Water Resources, told Briscoe that the clause in the proposed rules was intended to stipulate that the state would require the recipients of these projects to pay 10 percent of the project's costs upfront.

Briscoe also raised concerns about the final clause in the rules, in which the Board of Water Resources "reserves the right to consider each project on its own merits and may consider and authorize a project that does not meet all requirements of the guidelines."

"There are guidelines here — and I have some questions about the guidelines — but if they don't like the guidelines, the board of water resources can do whatever it wants," Briscoe said. "That's the way I'm reading that."

Briscoe urged his fellow legislators to "take a deep dive" into the proposed rules.

Sen. Margaret Dayton, R-Orem, told him that "nothing is going to happen real fast without a serious look into it."

She then said that the State Water Development Commission would not be taking public comments on the issue, although the meeting agenda called for "public comment as time allows" and the meeting ended before its scheduled duration.

Dayton said the State Water Development Commission already had many issues slated for discussion at its next meeting in November and that she wanted to be respectful of her fellow legislators' time.

She said discussion of the water funding rules would continue at the November meeting.

After the meeting, Briscoe was critical of the lack of public input, saying he believed the entire water funding proposal needed to be reconsidered in a more transparent fashion.

He also said he didn't believe Millis' representation of the proposal was accurate.

"I taught students constitutional law, and one of the things you look for in constitutional law is plain reading," he said. "I don't believe that the interpretation we heard today is the plain reading."

A controversial water funding bill passed this year diverted sales tax funds to WIRA, with critics questioning the reasoning behind setting aside so much money for unknown water projects. A companion bill required the state Board of Water Resources, the Division of Water Resources, and the State Water Development Commission to come up with a set of rules for vetting the water projects that receive those funds.

In a statement released just prior to Tuesday's meeting, Zach Frankel, executive director of the Utah Rivers Council and an outspoken opponent of the Lake Powell Pipeline, said the proposed rules set up Utah taxpayers to be suckers.

“The lobbyists on this legislative committee are being paid with tax money to advance $5 billion in taxpayer spending, and they’re only going to repay 10 percent,” he said in his statement.

Frankel and other representatives of the Utah Rivers Council attended the meeting but were not permitted to speak.

Afterward, Frankel confronted Millis, who conceded that the proposed rules were unclear and did not specify that the 10 percent was to be paid upfront Millis said he would ensure the rules would be revised.

A full revision of the rules, he said, is pending further study by the Utah Division of Water Resources, which he expected would be complete within a year.

Millis said that in addition to requiring a 10 percent payment upfront, the proposed rules require the recipients of water from the Colorado and Bear rivers to repay all the costs associated with developing those waterways.

He said beneficiaries such as the Washington County Water Conservancy District would be expected to repay those costs by buying water provided by the project from the state.

Then, once the state’s costs have been repaid with interest, he said the state has the option to turn over the ownership of the Lake Powell Pipeline to the water district.

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