

Representative Ryan D. Wilcox proposes the following substitute bill:

CHANGE APPLICATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill modifies the requirements for filing a change application on a federal reclamation project water right.

Highlighted Provisions:

This bill:

- ▶ requires certain signatures on a change application for a federal reclamation project water right; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-3, as last amended by Laws of Utah 2008, Chapter 311

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

Section 1. Section **73-3-3** is amended to read:



26 **73-3-3. Permanent or temporary changes in point of diversion, place of use, or**
27 **purpose of use.**

28 (1) For purposes of this section:

29 (a) "Permanent change" means a change for an indefinite period of time with an intent
30 to relinquish the original point of diversion, place of use, or purpose of use.

31 (b) "Temporary change" means a change for a fixed period of time not exceeding one
32 year.

33 (2) (a) ~~Any~~ Subject to Subsection (2)(c), a person entitled to the use of water may
34 make permanent or temporary changes in the:

35 (i) point of diversion;

36 (ii) place of use; or

37 (iii) purpose of use for which the water was originally appropriated.

38 (b) Except as provided by Section 73-3-30, a change may not be made if it impairs a
39 vested water right without just compensation.

40 (c) A change application on a federal reclamation project water right shall be signed
41 by:

42 (i) the local water users organization that is contractually responsible for:

43 (A) the operation and maintenance of the project; or

44 (B) the repayment of project costs; and

45 (ii) the record owner of the water right.

46 (3) A person entitled to use water shall change a point of diversion, place of use, or
47 purpose of water use, including water involved in a general adjudication or other suit, in the
48 manner provided in this section.

49 (4) (a) A person entitled to use water may not make a change unless the state engineer
50 approves the change application.

51 (b) A person entitled to use water shall submit a change application upon forms
52 furnished by the state engineer and shall set forth:

53 (i) the applicant's name;

54 (ii) the water right description;

55 (iii) the water quantity;

56 (iv) the stream or water source;

- 57 (v) if applicable, the point on the stream or water source where the water is diverted;
- 58 (vi) if applicable, the point to which it is proposed to change the diversion of the water;
- 59 (vii) the place, purpose, and extent of the present use;
- 60 (viii) the place, purpose, and extent of the proposed use; and
- 61 (ix) any other information that the state engineer requires.
- 62 (5) (a) The state engineer shall follow the same procedures, and the rights and duties of
- 63 the applicants with respect to applications for permanent changes of point of diversion, place of
- 64 use, or purpose of use shall be the same, as provided in this title for applications to appropriate
- 65 water.
- 66 (b) The state engineer may waive notice for a permanent change application involving
- 67 only a change in point of diversion of 660 feet or less.
- 68 (6) (a) The state engineer shall investigate all temporary change applications.
- 69 (b) If the state engineer finds that the temporary change will not impair a vested water
- 70 right, the state engineer shall issue an order authorizing the change.
- 71 (c) If the state engineer finds that the change sought might impair a vested water right,
- 72 before authorizing the change, the state engineer shall give notice of the application to any
- 73 person whose right may be affected by the change.
- 74 (d) Before making an investigation or giving notice, the state engineer may require the
- 75 applicant to deposit a sum of money sufficient to pay the expenses of the investigation and
- 76 publication of notice.
- 77 (7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a
- 78 permanent or temporary change application for the sole reason that the change would impair a
- 79 vested water right.
- 80 (b) If otherwise proper, the state engineer may approve a permanent or temporary
- 81 change application for part of the water involved or upon the condition that the applicant
- 82 acquire the conflicting water right.
- 83 (8) (a) A person holding an approved application for the appropriation of water may
- 84 change the point of diversion, place of use, or purpose of use.
- 85 (b) A change of an approved application does not:
- 86 (i) affect the priority of the original application; or
- 87 (ii) extend the time period within which the construction of work is to begin or be

88 completed.

89 (9) Any person who changes or who attempts to change a point of diversion, place of
90 use, or purpose of use, either permanently or temporarily, without first applying to the state
91 engineer in the manner provided in this section:

92 (a) obtains no right;

93 (b) is guilty of a crime punishable under Section 73-2-27 if the change or attempted
94 change is made knowingly or intentionally; and

95 (c) is guilty of a separately punishable offense for each day of the unlawful change.

96 (10) (a) This section does not apply to the replacement of an existing well by a new
97 well drilled within a radius of 150 feet from the point of diversion of the existing well.

98 (b) Any replacement well must be drilled in accordance with the requirements of
99 Section 73-3-28.