

1 **FORFEITED WATER RIGHT ALLOCATION**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Darin G. Peterson**

5 **This act modifies the Water and Irrigation Code to allow a water company to allocate water**
6 **rights lost by forfeiture.**

7 This act affects sections of Utah Code Annotated 1953 as follows:

8 ENACTS:

9 **73-1-4.5**, Utah Code Annotated 1953

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

11 Section 1. Section **73-1-4.5** is enacted to read:

12 **73-1-4.5. Authorization for water companies to allocate water rights lost by forfeiture**
13 **or nonuse -- Redemption and retirement of water shares.**

14 (1) (a) If a water right, to which a mutual water company holds title, ceases or is lost due
15 to forfeiture or abandonment for lack of beneficial use, in whole or in part, the water company
16 shall, through procedures consistent with this section, and as defined in the company's articles of
17 incorporation or bylaws, apportion the loss to each stockholder whose failure to make beneficial
18 use caused the loss of water right.

19 (b) The water company shall make an apportionment if the Utah Division of Water Rights
20 or a court of proper jurisdiction makes a final decision that a loss has occurred.

21 (c) The water company shall also reduce the amount of water provided to the shareholder
22 in proportion to the amount of the lost water right during an appeal of a decision that reduced the
23 company water rights, unless otherwise ordered by a court of proper jurisdiction.

24 (d) The water company may take any action under this Subsection (1), whether the loss
25 occurred:

26 (a) under Utah Code Annotated Section 73-1-4, including losses that occur as part of a
27 general determination under Title 73, Chapter 4, Determination of Water Rights; or



28 (b) through any other decision by a court of proper jurisdiction.
29 (2) (a) If the water company apportions a water right under Subsection (1), a sufficient
30 number of shares to account for the water right lost, including necessary transport or "carrier
31 water" losses, shall be treated by the water company as shares redeemed by the company from the
32 stockholder responsible for the loss.
33 (b) The number of shares owned by that shareholder shall be reduced accordingly on the
34 records of the company.
35 (c) Upon the redemption, the authorized shares of the company shall be reduced by the
36 amount of shares that were redeemed under this Subsection (2).
37 (3) The redemption and retirement under this section of shares belonging to a stockholder
38 does not relieve the stockholder of liability for unpaid assessments on the stock or debts the
39 shareholder may owe to the water company.

Legislative Review Note
as of 12-12-01 9:55 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.